

Resolution # 2023-3

A Resolution Adopting Changes to the Town of Lincoln Zoning Ordinance

The Town Board of Supervisors of the Town of Lincoln (“Town Board”), Kewaunee County, Wisconsin, does resolve to adopt the following changes to Ordinance #2023-2 Ordinance Adopting Changes to the Town of Lincoln zoning Ordinance for Storage Buildings, as follows:

Authority

The following changes to the Town of Lincoln’s Zoning Ordinance are adopted pursuant to the authority granted under Wis. Stats. §60.01 to “enter into contracts necessary for the exercise of its corporate powers”, §60.61 to adopt a zoning ordinance, and the Town’s exercise of Village Powers under §60.10 and 60.62.

10.0404 A-1 Exclusive Agricultural District

4. Conditional Uses

The following uses may be allowed in the A-1 District subject to a Site Plan Review and possibly the issuance of a Conditional Use Permit:

- (r) Mini-warehouses, warehouses, storage buildings, garages, and workshops exceeding 2400 square feet of new or added total square feet.
- (s) Storage buildings, garages, and workshops belonging to the property owner less than 2400 square feet of new or added total square feet are now designated Permitted Accessory Use Structures and do not require a Site Plan Review or a Conditional Use Permit
- (t) Shipping containers are not allowed without a Site Plan Review. (Above language added to the bottom of page 10-35).

10.0405 A-2 General Agricultural District

3. Conditional Uses

A conditional use in this district is to permit the following uses only after public meeting and approval of the Town Board.

- (h) “Warehouses, garages, shops, and storage areas” is deleted.
- (k) Mini-warehouses, warehouses, storage buildings, garages, and workshops in the A-2 District exceeding 2400 square feet of new or added total square feet are subject to a Site Plan Review and possibly a Conditional Use Permit.
- (l) Storage buildings, garages, and workshops belonging to the property owner less than 2400 square feet of new or added total square feet are now designated Permitted Accessory Use Structures and do not require a Site Plan Review.
- (m) Shipping containers are not allowed without a Site Plan Review. (Above language added to the bottom of page 10-40).

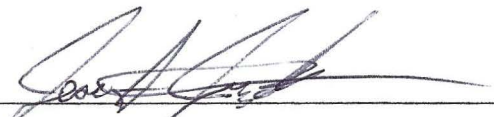
10.0407 B-1 Business District

4. Conditional Uses


- (k) Mini-warehouses, warehouses, ~~storage buildings~~, garages, and workshops. If any such proposed structure is replacing a previously existing structure that was razed or destroyed due to fire or a natural disaster, and the proposed structure does not exceed the dimensions of the razed or destroyed structure, then a Site Plan Review only shall be required. (Above language added to the top of page 10-46).

Enacted this 5th day of JUNE, 2023 by the Town Board of Supervisors of the Town of Lincoln.

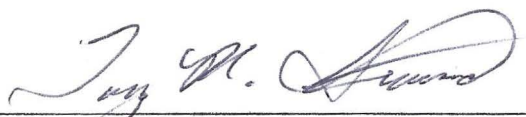
TOWN BOARD



Jesse Jerabek, Chairman



Dave Routhieaux, Supervisor #1

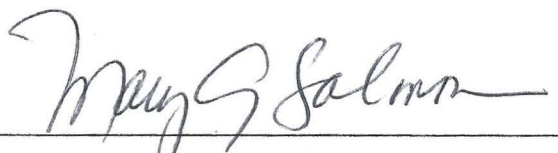


Tony Strnad, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing resolution was duly adopted by the Town Board of the Town of Lincoln on this

5th day of June, 2023



Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Ordinance 2023-1

Town Road and Right of Way Ordinance

The Town Board of the **Town of Lincoln, Kewaunee County, Wisconsin**, does ordain as follows:

1 TITLE: The title of this ordinance is the Town of Lincoln Road and Right of Ways Ordinance.

2 PURPOSE: The Purpose of the Town of Lincoln Road and Right of Way Ordinance is to establish the policy and procedures for all activities and construction within the Town's roads and right of ways. All such activities and construction shall be overseen and permitted by the Town Board of Supervisors through the Plan Commission.

3 AUTHORITY: This Ordinance is adopted pursuant to the authority granted to the Town of Lincoln under Wis. Stats. **§60.01** to "enter into contracts necessary for the exercise of its corporate powers", **§60.61** to adopt a zoning ordinance, and the Town's exercise of Village Powers under **§60.10, §60.22** and **§60.62**. Additional authority is cited in the body of the ordinance.

4 DEFINITIONS:

"Facility" shall mean "any culvert, pipes or pipelines, tile line, or any utility including electric or electric transmissions (where applicable), power, communications, light, telephone, fiber cables, or any conduits for the transmission of water, drainage, liquid manure, heat, or the placement of poles or other structures."

5 GENERAL REGULATIONS:

5.1 In the Town of Lincoln, the width of all town roads shall be presumed to be 66 feet by state statute (**Wisc. Stats. §82.18**). The burden of proof to prove otherwise (that a Town right of way is not 66 feet) shall be on the challenger.

5.2 The Town shall be responsible for maintenance of all Town roads and right of ways, including to remove, cut, or trim any trees, shrubs, or other vegetation in Town right of ways to provide safety to the user of the Town roads. (**Wisc. Stats. §66.1037(1)**). Removal, cutting or trimming shall be at the discretion of the Town board.

5.3 Trees that have fallen onto a Town road or right of way from a private property are the responsibility of the property owner to remove. If not removed by the property owner in a timely manner, such trees will be removed by the Town or a contractor authorized by the Town. (**Wisc. Stats. §86.03(1)**). This service may be charged to the landowner at the discretion of the town board. The resulting timber removed from the fallen tree shall be returned to the adjacent property by the Town or contractor. (**Wisc. Stats. §86.03(2)**).

5.4 No person shall plow, cultivate, alter, modify, or otherwise work the land within the right of way in such a way that a ditch or drainage may be affected. (**Wisc. Stats. §86.021**). If the Town incurs restoration costs, the person responsible shall be liable for such restoration costs.

5.5 No person shall operate farm machinery or other machinery on, over, along, or across any Town road or right of way in such a manner that it damages the Town road or right of way. **(Wisc. Stats. §86.021)**. If the Town incurs restoration costs, the person responsible shall be liable for such restoration costs.

5.6 Any person who damages a Town road or right of way by any means whatsoever shall be liable in triple the damages **(Wisc. Stats. §86.02)**.

5.7 No person may trench, excavate, bore, dig, or make any other alteration in a right of way or in or under a town road without a Site Plan Review and a Conditional Use Permit **(Wisc. Stats. §86.07)**.

5.8 No person may trench, excavate, bore, dig or make any other alteration in a right of way or in or under a town road for the installation of any "facility" without a Site Plan Review and a Conditional Use Permit, or a driveway culvert permit. **(Wisc. Stats. §86.16)**. The installation of electric or electric transmission by a commercial utility is not included in this Site Plan Review requirement although the public utility must provide the town with detailed maps showing the installation.

5.9 No person is authorized to lay out or install any manure hose, temporary or otherwise, in a road right of way that is affixed in any manner to a support structure such as a bridge or culvert without a Site Plan Review and Conditional Use Permit **(Wisc. Stats. §86.07.2b3)**.

5.10 Unfinished work that is left to the Town to complete shall be billed to the Building Permit holder.

5.11 Any debris or rubble left and abandoned from the completion of an excavation project shall become the property of the Town. **(Wisc. Stats. §86.10)**. Any money received from the sale of such materials shall be deposited into the highway maintenance fund. If there is a cost associated with the removal and disposal of such materials, the cost shall be billed to the contractor responsible for abandoning the material.

5.12 Any person who wishes to install a driveway culvert on a town road shall first obtain a driveway permit from the Town Zoning Administrator. **(Wisc. Stats. §66.0425 and §86.07)**. Any person who wishes to install a driveway culvert on a county road shall first obtain a driveway permit from the Kewaunee County Highway Department.

5.13 No Town road or right of way shall be encroached upon by any fence, stand, building, or other object. If such incidence occurs, the Town board shall order the person(s) responsible for the infraction to remove the non-compliant object for safety and legal reasons within 30 days of the time that notice is given. **(WI §86.04)**. If there is a more compelling danger, the Town shall seek immediate removal of the object. If the removal order is not obeyed, the Town will remove the object and recover the cost of such removal from the person(s) responsible (which may include putting the cost of removal on their real estate property tax bill) **(WI §66.0627)**.

5.14 No person shall place any obstruction in any right of way ditch that impedes drainage without first contacting the town board. **(Wisc. Stats. §86.021 and §86.022)**.

5.15 No property owner shall modify a right of way ditch in any manner. No person shall dispose of or deposit any soil, gravel, fill, rocks, tree limbs or timber, lumber, vegetation, or other debris or rubbish in any

right of way or ditch. Cost of removal of such items and restoring of the right of way to its original condition shall be billed to the responsible party. (**Wisc. Stats. §86.022**)

5.16 Mailboxes may be placed in the right of way but concrete, large timbers, and steel structures which could pose a driving hazard are not allowed. Property owners are responsible for their own mailboxes.

5.17 Signs are not allowed to be placed on any Town road or in any right of way.

5.18 Building and other setbacks from the road right of way can be found in the Town's Zoning Ordinance.

5.19 No person, partnership, utility, corporation, or their agents, or employees, or contractors shall make or cause alteration, extension, or addition on or to a Town road or right of way without submitting a Site Plan Review to the Plan Commission and receiving a Conditional Use Permit issued by the Town Board of Supervisors. A Conditional Use Permit allows the applicant to secure a Building Permit in order to proceed with work on the Town road or right of way.

5.20 All Site Plans submitted for review by the Plan Commission for any "facility" must include detailed maps depicting specific locations of the objects to be buried and their depths. The installation of electric or electric transmission by a public utility is not included in this Site Plan Review requirement although a public utility must provide the town with detailed maps. All such "facilities" shall be properly identified with underground tape and / or above ground markers as dictated by industry "best practices".

5.21 Before any person, partnership, utility, corporation, or their agents, or employees, or contractors are issued a Building Permit to perform any work on a Town road or right of way, they may be required to provide evidence of sufficient insurance as specified in the Conditional Use Permit. Any bonding requirement is at the discretion of the Town Board of Supervisors.

5.22 Upon completion of any work done on a Town road or right of way, all restoration must be completed within 30 days of the project completion to the satisfaction of the Town Board of Supervisors, weather permitting. In the event the applicant fails to timely complete the restoration, the Town may do so at the applicant's expense.

5.23 The Town Chair may authorize work on any Town road or right of way in what is deemed an "emergency situation."

5.24 Any entity that has installed any "facility" and intends to abandon such "facility" shall notify the Town of such intentions before said abandonment occurs.

6 PENALTIES: Any damage to a Town road or right of way due to intentional or unintentional action on the part of any party shall be repaired or reconstructed by a third party contracted by the Town, as will any clean up required. The bill for such repair, reconstruction, or clean up shall be sent to the party responsible for the damage or debris, or the Building Permit applicant. Failure to pay the full amount of the bill within 30 days will result in the balance due being charged to the party's real estate property tax bill. Damage to town roads or right of ways may result in a judgment of triple the damages (**Wisc. Stats. §86.02**).

7 ENFORCEMENT PROCEDURES: This ordinance shall be enforced by the Town of Lincoln Board of Supervisors.

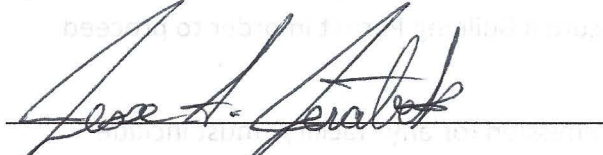
8 SEVERABILITY: If any portion of this ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this ordinance that can be given effect without the invalid provision or application, and to this end the provisions of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

9 EFFECTIVE DATE AND PUBLICATION:

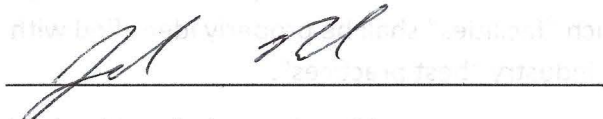
This ordinance shall become effective upon adoption and publication as required under Wisc. Stats. **§60.80.**

Adopted by a vote of 3 for and 0 against on this 3RD day of APRIL, 2023.

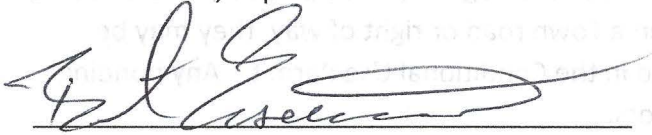
By the Town Board of Lincoln Town of Lincoln Board of Supervisors



Jesse Jerabek, Chairman



Jordan Nowak, Supervisor #1

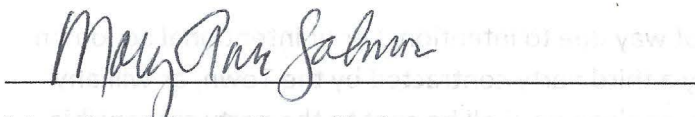


Brent Eisenman, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

3rd day of April, 2023



Mary Ann Salmon, Town Clerk

2-6-2023

Town of Lincoln, Kewaunee County, Wisconsin

Fee Schedule for the Township of Lincoln

Resolution # 2023-1

Building Permit (accessory building, remodel or addition to an existing residential structure) \$50.00 plus \$2.00 per \$1000 after \$25,000 of cost thereafter	
Deck Building Permit Fee	\$25
Building Permit Fee (residential new home, includes one driveway permit)	\$250
Fire Number Fee	\$100
Driveway Permit Fee other than for a new house	\$25
Zoning Change Fee (Rezoning Hearing Fee)	\$400
Site Plan Review Fee	\$250
Development Agreement Fee	\$400
Conditional Use Permit Fee	\$400
Additional Plan Commission meetings for Rezoning Hearings, Conditional Use Permits, Site Plan Reviews, or Development Agreements, per meeting	\$250
Additional Plan Commission meetings for Rezoning Hearings or Conditional Use Permits when the additional meeting requires a Class 2 notice	\$400
Additional Plan Commission Chairperson's time for research or developing Site Plan Reviews or materials, Rezoning materials, Development Agreements, Conditional Use Permits, or any other documents or reports for applicants, Plan Commission, or town board meetings in excess of the customary time spent on such documents	TBD
Variance and Appeals Fee	\$400
Town attorney or engineering consultation costs associated with any Site Plan Review, Rezoning, Development Agreement, Conditional Use Permit, Variance or Appeals, or any other action required of the Plan Commission or the Town Board of Supervisors due to a request by an applicant	TBD
Special Assessment Letter Fee	\$15
Quarry and Mine Conditional Use Permit Fee	\$400
Quarry and Mine Permit Annual Review Fee	\$300
Junk Yard / Salvage Yard Conditional Use Permit Fee	\$400
Junk Yard / Salvage Yard Permit Annual Review Fee	\$300
Livestock Facility Siting and Licensing Fee	\$1000
Sign Fee for signs over 100 square feet	\$1/square foot/side
Short Term Rental New Establishment/Change in Ownership Fee	\$200
Short Term Rental Annual Renewal Fee	\$100
Telecommunication Tower Conditional Use Permit Application Fee	\$3,000
Telecommunications Class 1 Co-Location on an Existing Tower Fee	\$3,000
Telecommunications Class 2 Co-Location on an Existing Tower Fee	\$500
Liquor Licenses are \$125 for owner / bar plus \$5 for each extra operator / bartender	

Now, therefore, be it Resolved, that the Lincoln Town Board assembled this 6 th day of

FEBRUARY, ²⁰²³~~2022~~, hereby approves and ratifies the Township of Lincoln Fee Schedule.

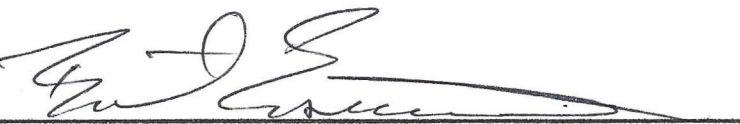
Chairman
Jesse Jerabek



Supervisor #1
Jordan Nowak



Supervisor #2
Brent Eisenman



CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing **Resolution** was duly enacted by the Town Board of the Town of Lincoln on

this 6th day of February, 2023



Mary Ann Salmon, Town Clerk

Lincoln Township Kewaunee County, Wisconsin Groundwater and Surface Water Protection Report and Recommendations

Adopted by the Lincoln Township Board of Supervisors

Cory Cochart, Chairman

Jesse Jerabek, Supervisor

Jordan Novak, Supervisor (opposed)

On March 1, 2021, Revised October 4, 2021

**Created and Approved by the
Lincoln Township Plan Commission**

Jodi Parins

Mick Sagrillo, Chair

Tim Strnad

Carol Wautlet

On February 24, 2021

Lincoln Township, Kewaunee County, Wisconsin

Groundwater and Surface Water Protection Report and Recommendations, March 1, 2021

Introduction

In 2017 Lincoln Township completed the Supplement to the Comprehensive Plan (S2CP) as mandated by State Statute. In town government, the Comprehensive Plan along with its Supplement serves as the overarching document guiding town administrators because “local programs and actions impacting land use must be consistent with that local government’s comprehensive plan”. (2001 Brian Ohm, UW Extension “Key Points of Wisconsin’s New Comprehensive and “Smart Growth” Law) The S2CP, by law, must allow for rigorous public input and scrutiny and must be adopted by Ordinance.

Protecting the Town’s groundwater and surface water quality and quantity was raised at those public meetings as the top concern of residents. In response the S2CP outlined numerous goals and objectives, one of which was the development and adoption of a “Groundwater and Surface Water Protection Plan” that would, as indicated, protect our ground and surface waters into the future. By law it is the responsibility of the Plan Commission to deliver such a plan. By stitching together the research, field work, studies, and reports from the past 13 years, this document addresses those concerns.

Over the course of the last 16 years more than 14 scientific experts from the federal to the local level, from the agricultural to the academic communities, have conducted numerous studies to quantify the contamination, identify the contaminants, identify the source of the contamination and its access to our groundwater and then identify solutions to abate the contamination. These experts scientifically, meticulously, and objectively documented the Town’s water quality, the underlying hydrogeology, waste management, population and agricultural trends. In addition, various individuals from the township have donated hundreds of hours of time on committees and work groups to help facilitate our understanding of Kewaunee County’s ground and surface waters.

The Plan Commission has used this research along with the recommendations included in them to provide what we believe is an objective and accurate plan for Lincoln Township. Critics may argue that this report could be considered “one sided” as it overwhelmingly points to agriculture as the predominant source of the contamination. We would like to be clear that it is the previously mentioned scientists, researchers, and experts and not members of the Plan Commission who have concluded that the predominant land use in the town is agriculture, that the predominant geology is shallow soil over fractured bedrock, that the predominant waste production is agricultural, and the predominant contamination is from bovine manure. It’s our obligation to the town residents to recognize and report the situation for what it is.

This report is science based and data driven. The report does not include news articles, TV reports, or personal opinion. It is worth noting that the science, much like our geology, is not stagnant. The experts are still working to understand our ever-evolving geology. As always, new technology and practices are being tested. Human populations are fluctuating and herd sizes are increasing. There are more recent efforts and studies being conducted that have yet to return measurable results to the scientific community. Town leadership should consider all new scientific findings and factors going into the future.

It is hoped that providing this information will give Lincoln Township residents a greater sense of ownership and instill heightened stewardship in two of their most precious resources that also add value to their properties and lives: our groundwater and surface waters.

Note: Corrections to this document were adopted on October 4, 2021 by a vote of 3 to 1 by Town of Lincoln Board of Supervisors Jesse Jerabek, Jordan Nowak, and Brent Eisenman. See pages 42 and 43.

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List of Acronyms Used in This Document

BLRPC	Bay Lakes Regional Plan Commission
BMP	Best Management Practices
CAFO	Confined Animal Feeding Operation
CP	Comprehensive Plan
DATCP	Department of Agriculture, Trade, and Consumer Protection
DNR	Department of Natural Resources
EDC	Endocrine Disrupting Compound
EPA	Environmental Protection Agency
GWPP	Ground Water Protection Plan
GW&SWR&R	Groundwater and Surface Water Report and Recommendations
KC	Kewaunee County
KC LWCD	Kewaunee County Land and Water Conservation Department
KCLWRMP	Kewaunee County Land and Water Resource Management Plan
LT	Lincoln Township
LWCD	Land and Water Conservation Department
LWRMP	Land and Water Resource Management Plan
N	Nitrogen
NRCS	Natural Resource Conservation Service
P	Phosphorus
S2CP	Supplement to the Comprehensive Plan
TMDL	Total Mean Daily Load
ToL	Town of Lincoln
USDA	United States Department of Agriculture
USFWS	United States Fish and Wildlife Service
UWGB	University of Wisconsin Green Bay
UWO	University of Wisconsin Oshkosh
UWSP	University of Wisconsin Stevens Point
UW-X	University of Wisconsin Extension
WDNR	Wisconsin Department of Natural Resources
WGNHS	Wisconsin Geological and Natural History Survey

The Groundwater Situation in Lincoln Township

The population of Lincoln Township has remained relatively stable over the past 50 years, having lost only about four percent of the township population over that time frame. The face of farming, on the other hand, has changed considerably. Small mom-and-pop family dairy farms, the mainstay of Lincoln Township's economy just 20 years ago, are all but history. They have been replaced by three large family-owned employee-operated dairy operations. With farm consolidation has come a very different type and scale of agriculture with subsequent impact on ground and surface waters.

According to nearly all sources, the two primary potential sources of groundwater and surface water contamination of concern are human waste from septic systems and animal waste from agricultural operations. While there are probably other minor sources of groundwater and surface water contamination in the township (chemical fertilizer runoff is moving to the fore), addressing these two sources has been established as the best and most reasonable approach to improving our essential groundwater and surface water resources in Lincoln Township. However, they are not equal sources of equal magnitude". This document will examine what is known about the sources of contamination, the issues around reducing them, and other potential and likely contaminants.

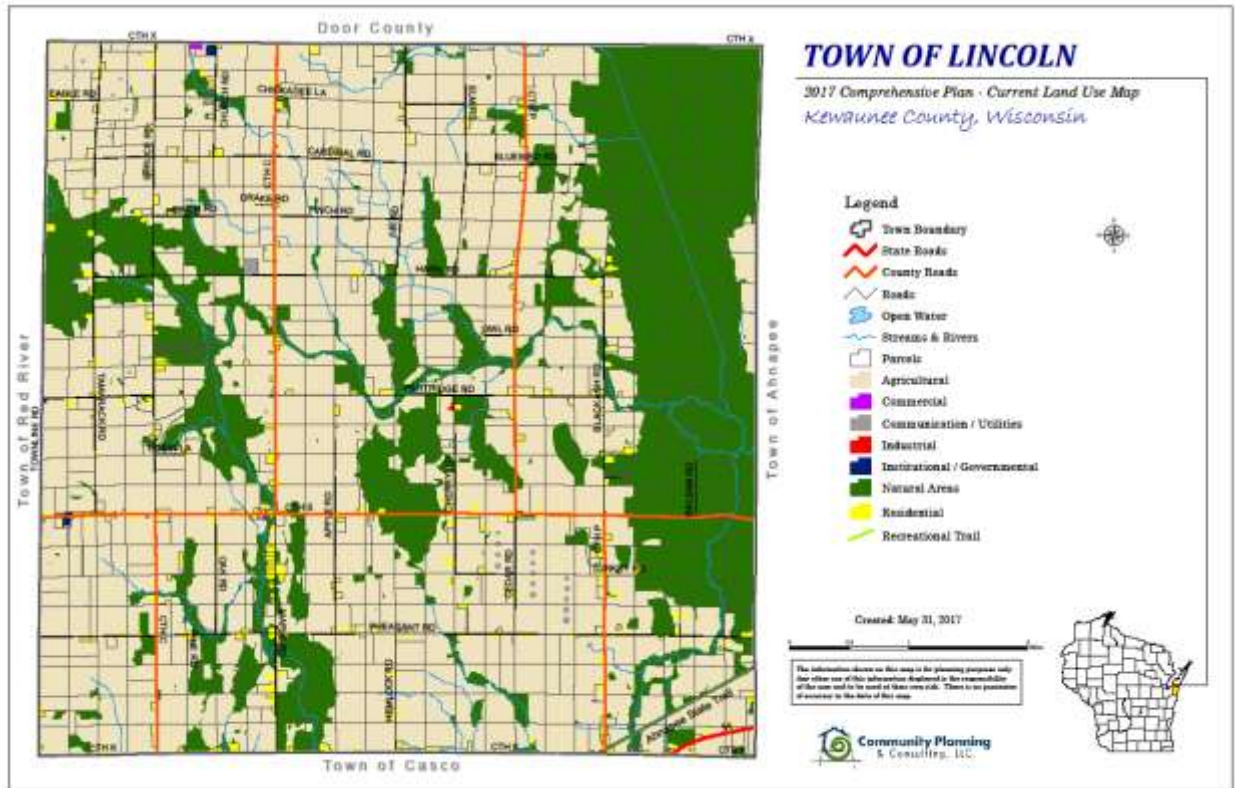
Lincoln Township Overview / Summary

Human

- Approximately 933 residents (January, 2020) All on private wells.
- As of December 31, 2020 there are 397 septic systems in Lincoln Township, 382 or 96% are code compliant with only 15 yet either to be inspected or non-compliant, based on numbers provided by Kewaunee County Land and Water Department.

Land use

- 75% tillable land zoned as A1 or A2 Agriculture
- 20% Forest and Wetlands
- 5% Residential and Commercial
- Below is the Lincoln Township's Current Land Use Map from the 2017 Comprehensive Plan



Agriculture

Based on numbers provided by Kewaunee County Land and Water Department for 2018, Lincoln Township hosts:

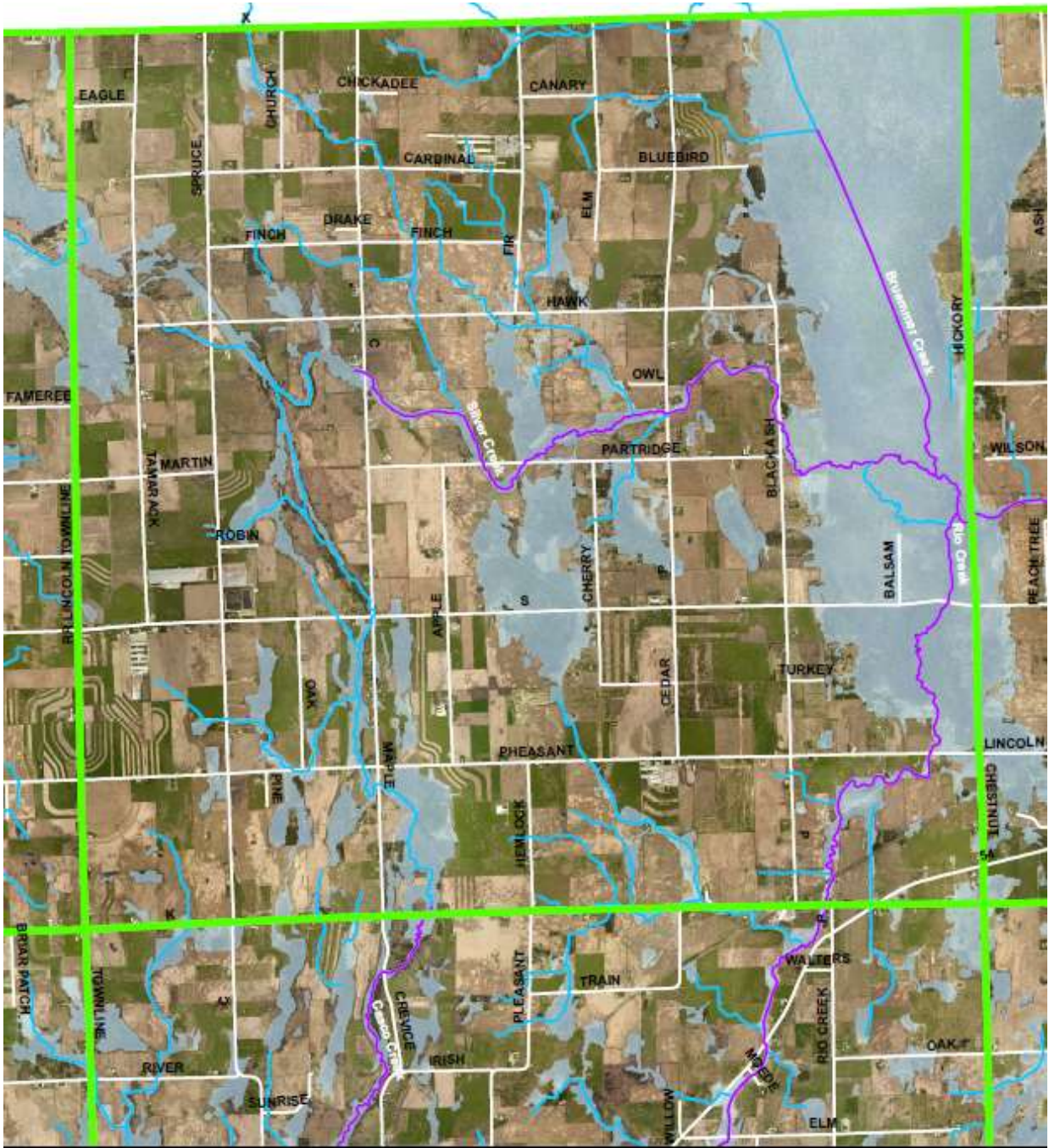
- Three Confined Animal Feeding Operations with WPDES permits.
- Two farms are considered “Large” farms (over 500 animals but under 1000 in confinement) but are not CAFOs.
- Approximately 13 other “family farms” with herd sizes ranging from 30 to 300 animals
- 19,312 cattle in Lincoln, 17,041 are on the three CAFOs (88%). (See LWCD spreadsheet on page 43)

Geological/Hydrogeological/Natural Resources

- “The Door Peninsula (on which Lincoln Township sits) rests on layers of dolomite rock first formed as sediment within the warm, shallow Silurian sea between 428 and 444 million years ago. Rain and snow-melt water erode the fractured and soluble bedrock made up primarily of calcium magnesium carbonate, forming enlarged fissures and other karst features. Characteristics of the bedrock are occasionally visible on the surface of the land as sinkholes, swallets, closed depressions, fracture traces, crevices, springs, seeps, and exposed dolomite pavement. These features, known as ‘Swiss cheese bedrock’, can act as direct conduits to ground water sources.”

Reference: *Best Management Practices to Protect Groundwater at Hines Emerald Dragonfly Larval Sites in Door County, Wisconsin.*

- 75% of the tillable land in Lincoln is “sensitive” hydro-geologically speaking due to a variety of unsuitable conditions (see CP Sensitive Areas Map on page 47)
- Lincoln township hosts three major tributaries of Lake Michigan watershed (all on DNR Impaired Waters List)



Lincoln Township Wetlands and Creeks

- Eastern edge of Lincoln Township is home to the unique Black Ash Swamp, the State’s largest hardwood swamp, home to endangered Hines Emerald Dragonfly, as well as several other endangered and rare species, from bald eagles to lady slipper orchids.
- The Glacial Lakes Conservancy, with the cooperation of Lincoln Township, sought to establish a landowner-initiated conservation easement on 420 acres on wooded land in the Black Ash Swamp. While Lincoln Township’s Town Board voted unanimously to support this effort based on town residents’ support, the Kewaunee County Board of Supervisors would not support the acquisition by GLC, and as of late 2020, GLC was subsequently unable to obtain DNR funding to preserve the land.

Public/Private Partnerships to Protect Residents & Ground and Surface Waters

Town of Lincoln residents have become increasingly involved with a number of local, state and federal agencies and researchers as CAFOs increased in size and water quality has been compromised. Below is a list of those partnerships developed in the attempt to find solutions for the residents of the town and surrounding region:

Researchers and Collaborators	Type	Affiliation
Kevin Masarik	Researcher	UW – Stevens Point Center for Watershed Science
Andrew Wallander	Conservationist (Retired)	Kewaunee County LWCD
Davina Bonness	Conservationist	Kewaunee County LWCD
Dr. Mark Borchardt	Microbiologist	USDA
Mike Parsen	Hydrogeologist	Wisconsin Geological and Natural History Survey
Dr. Ken Bradbury	Geologist	Director, Wisconsin Geological and Natural History Survey
Dr. Maureen Muldoon	Hydrogeologist	UW-Oshkosh, Wisconsin Geological and Natural History Survey
Kevin Erb	Program Director	UW-Extension
Dr. Krassimira Histrova	Professor, Researcher	Marquette University, Director of Marquette Global Water Center
Dr. John Luczaj	Professor, Researcher	UW- Green Bay
Dr. Kevin Fermanick	Professor, Researcher	UW-Green Bay
Dr. Angela Dantoin-Bauer	Professor, Researcher	UW-Green Bay
Kimberly Busse	Researcher	UW-Oshkosh

Organizations & Companies	Project	Timeframe
Stonehouse Technologies	Whole House Clean Water Pilot Project (terminated)	2016-2018
Algoma School District	Clean Water Kiosk for Residents	2015- current
Wisconsin DNR	5 DNR Workgroups, various matters	2012 – current
Wisconsin Department of Agriculture	Livestock Siting and Local Control over-ride	2014 -current
League of Conservation Voters	Revision of NR 151	2017
Wisconsin State Land and Water Conservation	Revision of NR151	2017
Kewaunee County Groundwater Taskforce	Solutions for Kewaunee County	2014-2015

Studies and Reports For and About Lincoln Township

Note: all studies and reports are available on the web and also archived by Lincoln Township. If the link provided does not work, type the title in the search engine and the report or study will come up. All of these are available in the public domain.

1 Northeast Wisconsin Karst Task Force Final Report

- On February 9, 2007, The Northeast Wisconsin Karst Task Force issued its Final Report. This workgroup was composed of a number of highly credentialed and extremely qualified professionals from across Wisconsin as well as representatives from the agricultural industry and farmers. While the Final Report made a number of recommendations especially apropos to Lincoln Township, probably the most significant recommendation was the establishment of soil depth to bedrock table (page 7 of the report) as an attenuation factor in mitigating groundwater contamination from anything applied to the soil at or near surface level (Table 1).
- The Final Report also made a series of recommendations in #5: Carbonate Aquifer Protection Strategies – Basic Recommendations (page 14 of the report). Note: These recommendations provide a good entry-level checklist for Lincoln Township and Kewaunee County. We believe that LWCD has either adopted or is implementing nearly all of them.

Table 1: Level of protection recommended based on vulnerability ranking and site specific criteria. Criteria are site specific, and multiple criteria may occur in the same agricultural field.

Level of protection required	Criteria	Relative vulnerability to contamination
1*	Less than 5 feet (60 inches) to carbonate bedrock, <i>and/or</i> closed depressions or any drainage areas that contribute water to sinkholes/bedrock openings	Extreme
2	5-15 feet to carbonate bedrock	High
3	>15-50 feet to carbonate bedrock	Significant
4	Greater than 50 feet to carbonate bedrock	Moderate

* Level 1 requires the most protection.

- Finally, the Final Report concludes with a series of recommendations in #6: Carbonate Aquifer Protection Strategies – Enhanced Strategies (page 15 of the report). Note: Lincoln Township should consider adopting the following recommendations in its final Groundwater Protection Plan:
 - Reduce water use in manure systems to create more solid manure;
 - Incorporate karst features and drainage tile mapping into local requirements for ATCP 51 (Livestock Siting);

Reference: *Northeast Wisconsin Karst Task Force Final Report* by Kevin Erb and Ron Stieglitz is available at <https://cdn.shopify.com/s/files/1/0145/8808/4272/files/G3836.pdf>

2 Well Testing: Beginning in 2004 and continuing to the present, Kewaunee County Land and Water Conservation Department has offered well testing to county residents. The purpose is twofold: to educate homeowners about the status of their wells while accumulating data on the wells and groundwater quality in the county. Testing is voluntary on the part of homeowners. However, “voluntary” testing has been criticized by some, suggesting that those who test are a self-selected pool, not a random sampling of wells. (The well testing and reports done by Drs. Muldoon and Borchardt addressed these criticisms.)

Reference: Kewaunee County well test report summaries are available electronically from the KC Land and Water Conservation Department

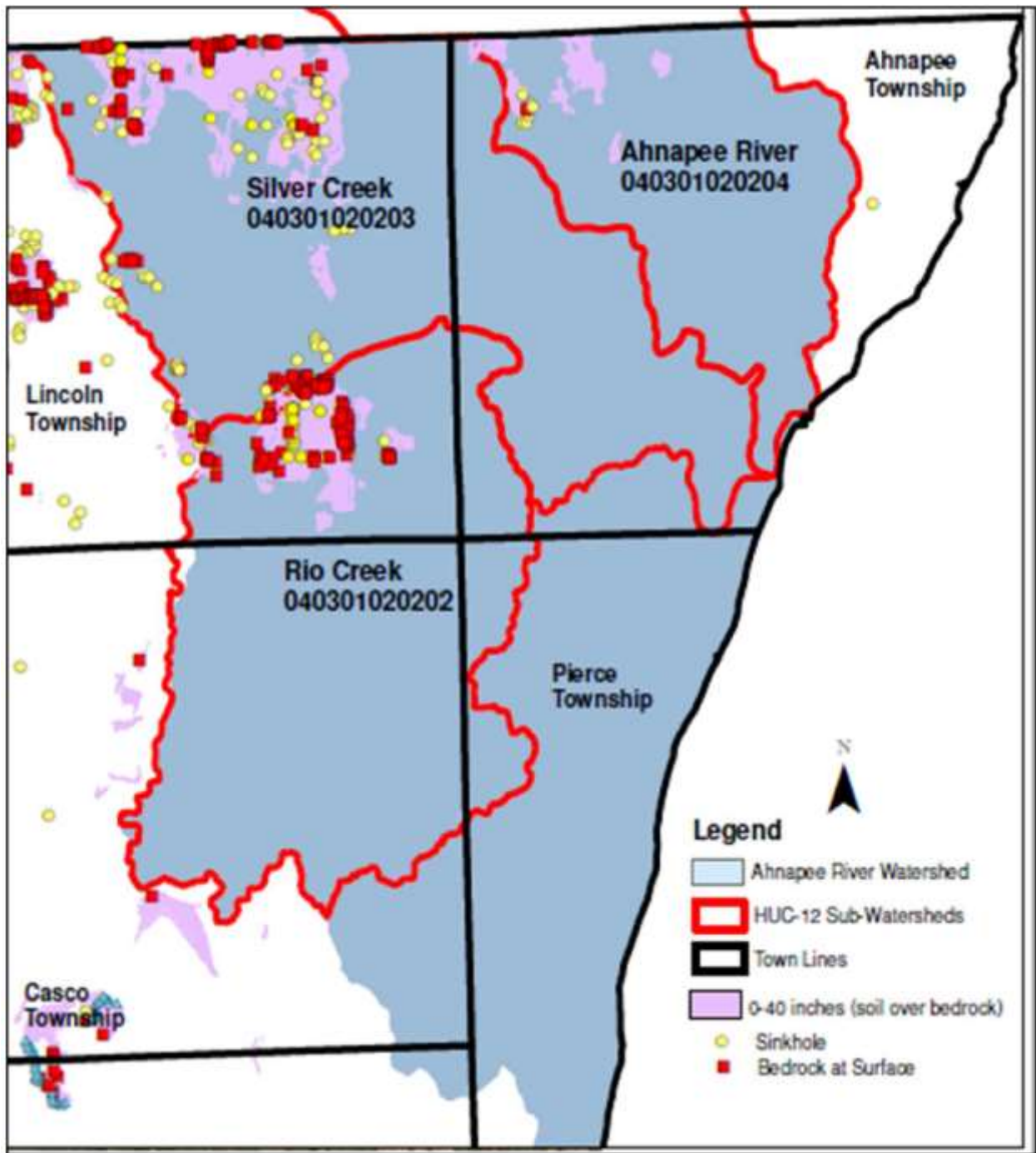
Jumping ahead to the *Ahnapee River Watershed 9-Key Element Plan*, Published by the Kewaunee County Land and Water Conservation Department in April, 2020, Davina Bonness called out the results for Lincoln Township in Table 5 of the report. Over the 15 years of well testing conducted by KC LWCD, Lincoln Township came in with a 33.2% excess nitrates or bacteria contamination rate for wells.

Table 5. Township Cumulative Well Testing Data (2004-2018)

Townships within selected HUC-12s	Total Number of Tested Wells	Total Unsafe Wells <i>Bacteria Present and/or Nitrates > 10 ppm</i>	
		Number	Percent
Ahnapee	85	22	25.9%
Casco & Village of Casco	191	50	26.2%
Lincoln	208	69	33.2%
Kewaunee County	1369	413	30.17%

On nitrates, the report states: “Nitrate-nitrogen is the most widespread groundwater contaminant in Wisconsin and because of its mobility through soils and groundwater, is **generally considered to be a good indicator of groundwater susceptibility and land-use impacts** (emphasis added). Background or natural levels of nitrate-nitrogen in groundwater are generally less than 1mg/l (milligrams per liter) or 1 ppm (parts per million). Concentrations above 1mg/l indicates influence by one or more of the following sources: nitrogen fertilizers, manure or other bio-solids (both application to land surface or leakage from storage), land applications of septage, or septic system drain fields.”

The report also states: “Fracture traces, sinkholes, and other direct conduits commonly found in karst settings can provide surface water and any associated nutrients or pathogens direct pathways to groundwater. LWCD has done an extensive job in identifying these karst features (**Map 3: Documented Karst Features**).” Again, Lincoln Township is highlighted but not by choice.



Map 3: HUC 12 Documented Karst Features

Reference: *Ahnapee River Watershed 9-Key Element Plan* is available from the KC Land & Water Conservation Department electronically on request.

3 Well Water in Karst Regions of Northeast Wisconsin Contains Estrogenic Factors, Nitrate, and Bacteria by Dr. Angela Dantoin-Bauer, was the first formal study of non-natural contaminants found in ten randomly chosen wells sampled in each of four counties, including Kewaunee County and Lincoln Township (2012). The wells were chosen based on the following criteria:

- They were cased into the Silurian aquifer;
- They were shallow in depth;
- Historical sampling data for bacteria and nitrate existed;
- The well owners agreed to participate in the study;
- And the wells were located in areas with suspected or known sources of agricultural contamination.

The report states: “Eight wells from each county were designated ‘susceptible’ to contamination based on past high levels of contamination, while two wells from each county were deemed ‘control’ wells based on low levels of past contamination.” Testing was done by UW-Oshkosh Halsey Science Center’s Environmental Microbiology Laboratory.

The sampling, conducted between 2008 and 2009, found the highest levels of endocrine disrupting compounds (EDCs) in Kewaunee County in a well in northern Lincoln Township, an area with known shallow depth to bedrock. The report states: “Results from the study indicate that groundwater contamination with EDCs, bacteria and nitrate is a common problem in karst areas of northeast Wisconsin. EDC contamination was greatest during the months of August and November.” The study did not identify the source of the groundwater contamination, only its existence, although the authors of the study speculated that the source was bovine, given the land use and population.

Reference: Assessing Levels of Endocrine Disrupting Chemicals in Groundwater Associated with Karst Areas in Northeast Wisconsin by Dr. Angela Dantoin-Bauer et al is available at: <https://www.wri.wisc.edu/wp-content/uploads/FinalWR08R004.pdf> or typed in the title of the research paper.

4 Investigating Inter-annual Variability of Well Water Quality in Lincoln Township by Davina Bonness and Kevin Masarik (2014) was a year-long study of ten wells commissioned and funded by Lincoln Township, co-funded with a \$2500 grant by the Lakeshore Natural Resources Partnership and cost-shared by Kewaunee County Land & Water Department.

The wells chosen were of various depths and construction. All wells were “code compliant.” To standardize the study, all sampling was done by Davina Bonness and all testing was done by UW-Stevens Point. Contrary to conventional wisdom, the results indicate that the depth of the well had no bearing on whether it could be contaminated. Conclusions include:¹

¹ The bolded and/or underlined text that follow indicates emphasis added.

- Groundwater contamination is traveling freely horizontally as well as vertically in the underlying dolomitic bedrock in Lincoln Township.
- Drilling a new or deeper well is no guarantee of safe water.

Table 1: Land-use within half-mile radius of selected wells

Well ID	Non-cropland (acres)	Non-cropland (%)	Total Cropland (acres)	Cropland (%)	Cropland with a Nutrient Management Plan (acres)	Cropland with a Nutrient Management Plan (%)	Fertilizer nitrogen (lbs/acre of cropland/yr)	Manure Nitrogen (lbs/acre of cropland/yr)	Total agricultural nitrogen (lbs/acre of cropland/yr)	Total nitrogen from agricultural sources (lbs)	# of septic systems	Nitrogen from septic systems (lbs)
1	134	27	368	73	295	80	31	27	58	21,432	6	150
2	314	63	188	37	178	95	31	28	59	11,073	7	175
3	181	36	321	64	321	100	26	39	65	20,881	11	275
4	117	23	385	77	385	100	16	63	78	30,130	7	175
5	132	26	370	74	370	100	13	70	83	30,684	1	25
6	107	21	395	79	395	100	29	51	79	31,383	6	150
7	127	25	375	75	185	49	26	44	69	25,916	9	225
8	293	58	209	42	191	91	13	33	47	9,762	14	350
9	45	9	457	91	337	74	38	54	92	41,943	11	275
10	134	27	368	73	368	100	33	51	83	30,706	14	350
Average	158	32	344	68	303	89	25	46	71	25,391	8.6	215

- Table 1 (Land-use within one half-mile radius of selected wells) indicates that, on average, **less than one percent of the nitrogen contribution originated from septic sources, with the balance of the nitrate coming from surrounding croplands.**
- However, the authors later state: **“Assuming that all of the septic systems N (nitrogen) and 5,075 lbs. N (or 20% of total N inputs) will end up in groundwater, we estimate that 96% of nitrate in groundwater around these wells is from agricultural sources while 4% is attributable to septic systems.”**
- In addition, the authors stated that, with “89% of the cropland under Nutrient Management Plans, we conclude that elevated nitrates are a result of acceptable agricultural management practices and not the result of gross mismanagement or negligence.”
- Further, **“if the goal is long-term reduction of nitrates in groundwater, then (farmers) need to reduce nitrogen inputs beyond the current source, rate, and timing (of) risk management strategies outlined in existing nutrient management plans.”**

“Nitrate, because of its mobility through soils and groundwater, is generally considered to be a good indicator of groundwater susceptibility and land use impacts.” – Kevin Masarik and Davina Bonness

Reference: *Investigating Inter-annual Variability of Well Water Quality in Lincoln Township* by Davina Bonness and Kevin Masarik (2014) is available from the KC Land & Water Conservation Department electronically on request.

5 *Monitoring of Non-point Source Pollutants in the Ahnapee River Watershed*, by Kimberly M. Busse, January 2014. Under supervision of Ms. Busse, a team of students sampled 20 sites in the Ahnapee Watershed on the Ahnapee River, Silver Creek and Rio Creek for E.coli bacteria and total phosphorus. Field samples were tested by UW-Oshkosh Environmental Research and Innovation Center. While the bulk of the 20 sampling sites were in Ahnapee Township, two sampling sites were in Lincoln Township on Rio Creek (sites #16 and #17) and three sampling sites were in Lincoln Township on Silver Creek (sites #18, #19 and #20).



Figure 1: *E. coli* and total phosphorus concentrations at each of the 20 open water sites throughout the Ahnapee River Watershed and Crescent Beach.

Sampling resulted in² a correlation between rainfall events and storm water runoff containing ***E. coli* and phosphorus**, which indicated an agricultural land source (known as non-point source pollution) particularly in the Silver Creek and Rio Creek watersheds. The statements in the site assessments from site #18 at Black Ash Road, site #19 at County Road P, and site #20 at Partridge Road, all intersecting Silver Creek, are telling of the findings: “This site appears to be heavily impacted by agriculture but has a large vegetative buffering area.” A further conclusion at site #20 is “The apparent sources of contamination at this site that impacted *E. coli* concentrations was total phosphorus. **The only parameter affecting total phosphorus concentrations at this site that was statistically valid was rainfall.** With the agricultural impact at this site it is no surprise the phosphorus levels are elevated and have an impact on *E. coli*

² The bolded and/or underlined text that follow indicates emphasis added.

concentrations. Since there is a large amount of mowed lawn and bare dirt, nutrients like phosphorus may be running directly into the creek especially after rain.”

Reference: *Monitoring of Non-point Source Pollutants in the Ahnapee River Watershed*, by Kimberly M. Busse, January 2014 is available from Lincoln Township electronically on request.

6 Kewaunee County Public Health and Groundwater Protection Ordinance was adopted on September 23, 2014 by the Kewaunee County Board of Supervisors after overwhelming support in a public referendum. The Ordinance does the following:

- Restricts the application of wastes, manure, septage or agricultural wastewater on land with 20 feet or less to bedrock from January 1st until April 15th unless exempted in writing by Land and Water;
- Restricts the application of wastes, manure, septage or agricultural wastewater on land with 20 feet or less to bedrock when the soil is frozen, snow covered, or saturated; when snow is actively melting such that water is flowing off the field; or precipitation capable of producing runoff is forecasted within 24 hours of application;
- Restricts application of wastes, manure, septage, or agricultural wastewater to direct conduits to groundwater, or allowed to drain to direct conduits to groundwater; and
- Restricts temporary stockpiling of wastes, manure, or septage on land with 20 feet or less to bedrock from January 1st until April 15th unless exempted in writing by Land and Water.

Lincoln Township should be particularly interested in the following sentence from the **Declaration of Policy and Findings** section of the Ordinance, Section 1(4)(f): **“Based on available data and past implementation experience in Kewaunee County, current generally accepted nonpoint source pollution abatement best management practices do not adequately protect the County’s groundwater resources from contamination with excessive nutrients, microbial pathogens, and pharmaceuticals present in waste applied to the land.”**

Reference: The *Kewaunee County Public Health and Groundwater Protection Ordinance* can be found on the Kewaunee County website at

<https://www.kewauneeeco.org/i/f/files/Ordinances/Chapter%2030.pdf>

7 Safe Drinking Water Act Petition to the Environmental Protection Agency: In October of 2014, Kewaunee County residents and concerned environmental groups took legal action in the form of a petition requesting that the EPA use its emergency powers under the SDWA, 42 U.S.C. § 300i, to identify and abate the source(s) of drinking water contamination. The petition stated “The contamination in Kewaunee County warrants emergency action under the Safe Drinking Water Act, 42 U.S.C. § 300i. Prompt and decisive emergency action from EPA under the SDWA is needed in Kewaunee County, Wisconsin.”

The Petition made the claims that:

- a. Contaminants are present in, and likely to continue to enter, an underground source of drinking water in Kewaunee County.
- b. Nitrate and bacteria contamination of Kewaunee County's drinking water is causing an imminent and substantial endangerment to public health
- c. Appropriate state and local authorities have not acted to protect the health of persons affected by groundwater contamination in Kewaunee County.

The Petition states: "Despite developing an understanding of the cause and extent of the bacteria and nitrate groundwater contamination within its borders, Kewaunee County has not been able to protect public health from threats of nitrate and bacteria pollution because it lacks sufficient authority and resources to do so. Importantly, state law limits local units of government such as Kewaunee County from taking decisive action to address pollution"

Believing that the petitioners had proven their case, the EPA started action with the DNR in an attempt to address the concerns raised by the petitioners. The resulting action was the creation of the DNR/Kewaunee County Collaboration Workgroups which in turn were the catalysts for revisions on NR151 and ATCP 50 and changes in the DNR Well Compensation Program. Additionally, new actions were taken by the Land and Water Conservation Department and USDA/NRCS to incentivize the use of cover crops, revise Nutrient Management plans and require manure haulers to carry Nutrient Management maps in vehicles. One Workgroup focused on determining the sensitive areas and adjusting application rates for manure in those areas. In Lincoln Township, the work done in this Workgroup and the lack of detailed maps delineating depth to bedrock and water tables prompted the town to commission its own Ground Water Mapping Project with the Wisconsin Geological and Natural History Survey specifically including a Sensitive Areas Map.

Reference: The EPA Petition can be found at:

https://midwestadvocates.org/assets/resources/Safe%20Drinking%20Water%20Act%20Petition/2014-10-22_Kewaunee_SDWA_Petition_to_EPA.pdf

Updated information on the EPA Petition case can be found at:

<https://midwestadvocates.org/search?q=EPA%20petition>

8 DNR Workgroup Final Report 2016

Given the unique hydrogeology in certain regions of the state, in particular the karst geology in northeast Wisconsin, the Wisconsin Department of Natural Resources (DNR) and a number of local, state and federal partners convened a Groundwater Workgroup to assess issues regarding land spreading and contamination of groundwater and drinking water wells.

The workgroup was established in response to concerns over contaminated drinking water wells in Kewaunee and Door counties, as well as a formal request from environmental groups and concerned citizens made to the U.S. Environmental Protection Agency (EPA), under the Safe Water Drinking Act, to investigate and address contaminated wells in Kewaunee County.

The charge of the workgroup was to develop recommendations to reduce risk to groundwater quality and public health in Kewaunee County, with the idea that many of the recommendations could also be applied across Wisconsin.

Five workgroups were established with Lincoln Township residents involved in all five workgroups:

- Short Term Solutions
- Compliance
- Best Management Practices / Sensitive Areas (contrary to the report, this workgroup never reached consensus on their recommendations)
- Communications
- Alternative Practices (still meeting to finalize fact sheets)

Many changes to existing processes and policies at both the state and county levels were made as a direct result of these Workgroups. Changes made and studies initiated included reduced income thresholds for the State's Well Compensation Program, new Silurian Dolomite Standards in NR151³, comprehensive well testing by the USDA to identify contamination level and source⁴, and the DNR ending the practice of permitting land spreading of human septage in Kewaunee County.

Reference: *The Groundwater Collaboration Workgroup Final Report* can be found on the Kewaunee County website at <https://www.kewauneeeco.org/i/f/files/Public%20Health/Groundwater%20Collaboration%20Workgroup%20FINAL%20REPORT%206-16.pdf>

On July 1, 2018, Wisconsin adopted standards and prohibitions specific to Silurian Dolomite bedrock, defined as "the area in Wisconsin where the bedrock consists of Silurian Dolomite with a depth of bedrock of 20 feet or less," which includes Kewaunee County.

On September 18, 2018, Kewaunee County locally adopted the Wisconsin Department of Natural Resources' NR151 Agricultural Performance Standards and Prohibitions as [Chapter 39](#). The "Agricultural Performance Standards" Ordinance, which includes the recently adopted Silurian Dolomite rules that address land application of manure on 20 feet or less to bedrock, allows Kewaunee County to enforce the standards and prohibitions.

Reference: <https://www.kewauneeeco.org/departments/land-water-conservation/nr151-state-agricultural-performance-standards/>

KC Chapter 39: <https://www.kewauneeeco.org/i/f/files/Ordinances/Chapter%2039.pdf>

³ See <https://www.kewauneeeco.org/departments/land-water-conservation/nr151-state-agricultural-performance-standards/>

⁴ See page 23 of this document for the first Borchardt report (#10) for initial findings and pages 32 and 33 of this document for the final Borchardt report (#13).

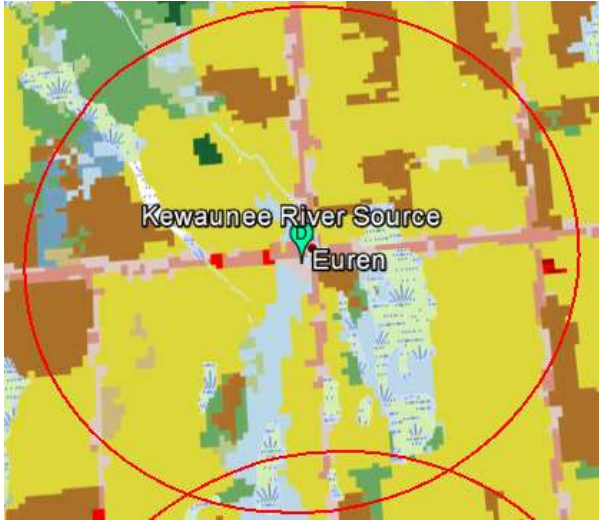
9 Kewaunee County: Using Research to Help Determine Contaminants and Risks to Human Health, by Dr. Krassimira Histova, Marquette University, September 2015. Water samples analyzed by Marquette Engineering, Pace Laboratories, and University of Illinois Champaign Urbana.

Research Questions (quoted directly from the report):

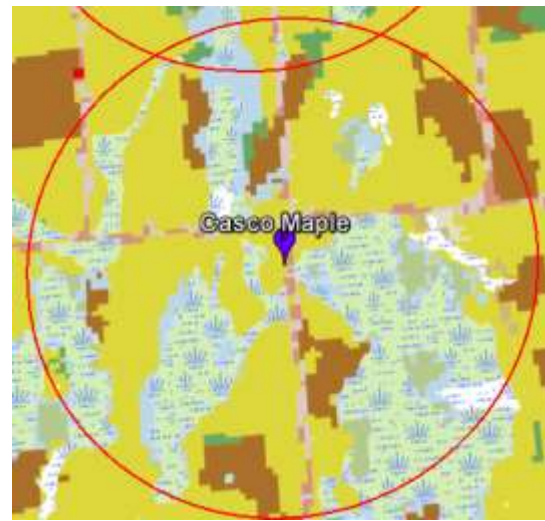
1. What is the level of nutrients and fecal pollution in Kewaunee County surface waters?
2. Are hormones and Pharmaceuticals Personal Care Products (PPCPs) present?
3. Are Antibiotic Resistance Genes (ARGs), coding for resistance to clinical antibiotics, present in Kewaunee County surface waters and sediment?
4. If present, does proximity to CAFO operations impact ARG levels?
5. Does seasonal manure application impact the dissemination of ARGs in Kewaunee County?

Findings from the 20 sites samples and analyzed (quoted directly from the report):

- E.coli and coliforms are present above EPA standards for recreational standards in Kewaunee County Rivers.
- Nitrate is above drinking water standards at multiple sites.
- Nitrogen positively correlates with percent of agricultural land use.
- E.coli correlates with agricultural land use.
- The presence of hormones (estrone) and pharmaceuticals (fluoxetine), which are a threat for chronic exposure to aquatic life and humans.
- Multidrug resistant and pathogenic bacteria are residing within river sediment
- Antibiotic Resistant Genes are present in Kewaunee County surface waters and sediment (sediment is an indicator of long-term contamination).
- Highest numbers were found in October; October copy numbers represent year-long accumulation after seasonal manure accumulation.
- Farming practices in Kewaunee County impact Antibiotic Resistant Genes on a seasonal scale.



Left map: Cty. Rd S and Maple Rd.



Right map: Pheasant Rd. and Maple Rd.

- The chemical and biological assessment confirms impairment of Kewaunee County surface water and poses concerns for fishing, recreation, and drinking water wells on local residents.

Reference: ***Kewaunee County: Using Research to Help Determine Contaminants and Risks to Human Health***, by Dr. Krassimira Histova, Marquette University, September, 2015, can be acquired by contacting Do. Histova through <https://www.marquette.edu/biology/directory/hristova.php>

10 Assessing Groundwater Quality in Kewaunee County, Wisconsin, a public presentation by Dr. Maureen Muldoon and Dr. Mark Borchardt in June, 2017.

Part one of a two part study laid out the objectives and preliminary findings for the Borchardt/Muldoon team's well water testing research in Kewaunee County.⁵

Objectives of the two part study:

- 1) Estimate the county-wide contamination rate for indicator bacteria and nitrate as related to depth of bedrock;
- 2) Characterize seasonal variation in recharge and groundwater quality;
- 3) Determine sources of fecal contamination in private wells using viruses and fecal markers capable of distinguishing septic system versus bovine fecal material;

⁵ See pages 32 and 33 for the final results and conclusion of the Borchardt study (#13).

4) Install an automated sampling system on one or more wells to determine the timing of peak transport for pathogens and indicator bacteria and identify those time periods/recharge conditions that lead to the highest pathogen loads;

5) Compare water-quality data from samples collected during this study to existing waterquality data for Kewaunee County;

6) Compare private well contamination rate of bovine manure-specific microbes with the risk predictions for surface water runoff from the Runoff Risk Advisory Tool.

Preliminary Summary:

- Depth to bedrock and contamination
 - Depth to bedrock is one of the most important factors related to private well contamination in Kewaunee County.
 - Wells located in the two shallowest depth-to bedrock categories used in the present study (less than 5 feet and 5 to 20 feet) had the highest contamination rates of coliform bacteria, E. coli, or nitrate-N greater than 10 mg/L.. **Statistical modeling reported elsewhere suggests the depth to bedrock must be greater than 50 feet for the risk of well contamination to be similar to the Wisconsin statewide averages for coliforms, E. coli, and nitrate.**⁶
 - About 2% of private wells in Kewaunee County are located where the depth to bedrock is less than 5 feet. While it might be encouraging (that) there are fewer wells considered highly vulnerable to contamination, the data show contamination vulnerability extends to much deeper depths to bedrock than originally thought (e.g., wells with 5 to 20 feet depth to bedrock are more likely to be contaminated than wells with bedrock depths greater than 20 feet).
 - The fecal wastes in private wells in Kewaunee County stemmed from both human and bovine sources. Septic systems and cattle manure are the two largest fecal sources on the 44 Kewaunee County rural landscape. Statistical modeling shows significant quantitative relationships between **septic system density** and well contamination with human fecal microbes, and similarly, quantitative relationships between **agricultural activities** and well contamination with bovine manure microbes.
- Tool for predicting private well contamination: The Runoff Risk Advisory Tool managed by the University of Wisconsin – Madison Department of Soil Science predicts when runoff to surface waters will occur. The proportion of private well sampled positive for

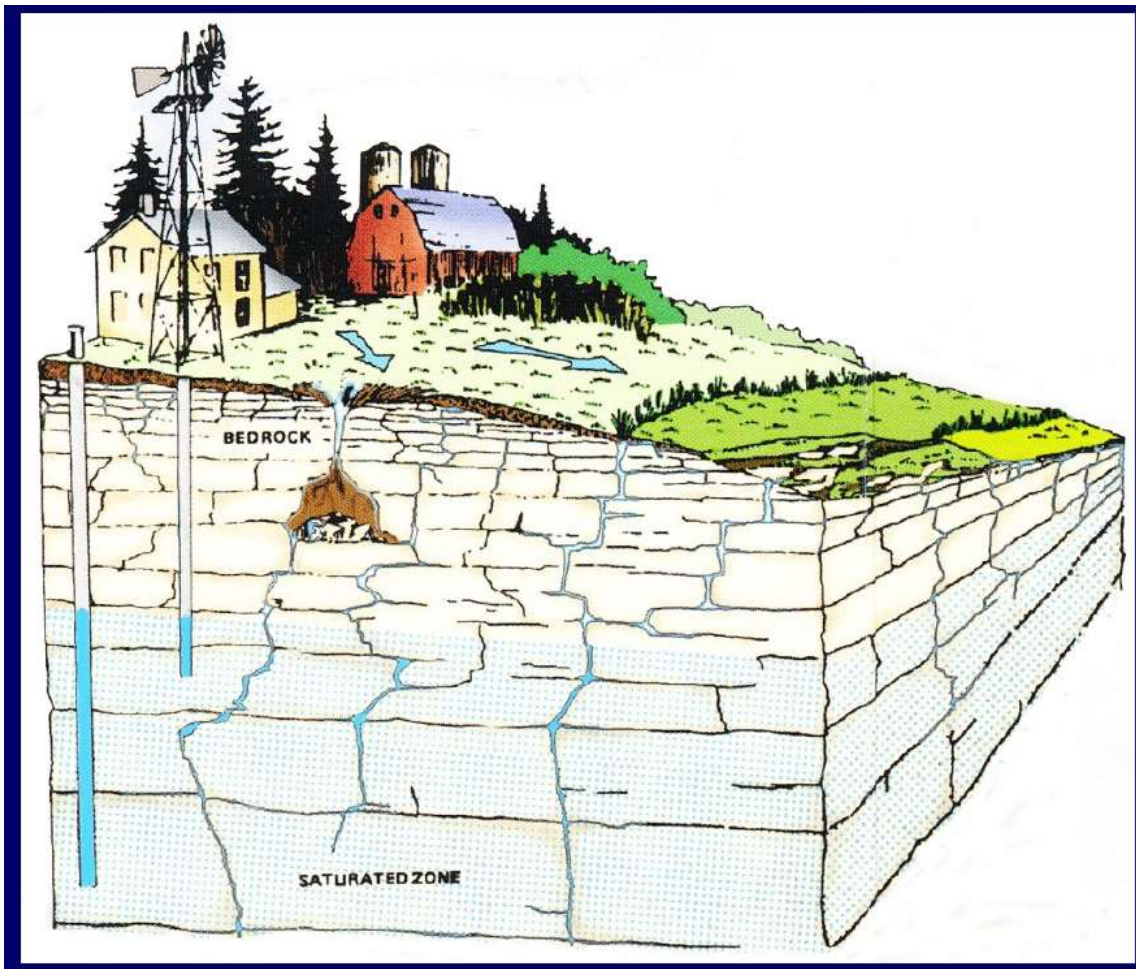
⁶ The bolded and/or underlined text that follow indicates emphasis added.

bovine manure was associated with the runoff risk level predicted by the tool, particularly when risk was characterized for the 7 day period prior to well water sample collection.

Dr. Muldoon laid out the critical issues that we face with karst geology relative to groundwater contamination in Kewaunee County (quoted directly from the presentation):

Flow Characteristics of Silurian Dolomite Aquifer:

- Dense and ubiquitous fracture network
 - Little surface runoff
 - Water easily infiltrates to subsurface
- Recharge
 - Exceedingly rapid
 - Carries surface contaminants to the water table
- Flow within the aquifer occurs primarily along bedding plane fractures
- Flow rates vary from 10s to 100s of feet/day



Above from Door County Soil and Water brochure: *Protect the Water You Drink*

From Farm Field to Household Well



Manure applied Oct 25, 2016

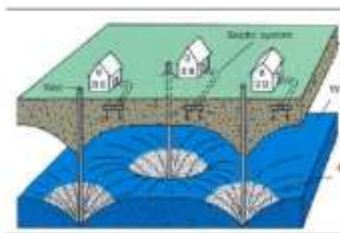


> 1 inch rain Oct 26, 2016



House near field

Neighbor's well sampled Oct 31, 2016



- Bovine Bacteroides
- Bovine polyomavirus
- M2 Bacteroides-like
- M3 Bacteroides-like
- Rotavirus A NSP3
- Rotavirus A VP7
- Rotavirus C

Tap water Oct 27, 2016

- Bovine Bacteroides
- Bovine enterovirus
- Bovine polyomavirus
- M2 Bacteroides-like
- M3 Bacteroides-like
- Campylobacter jejuni
- Cryptosporidium
- Rotavirus A NSP3
- Rotavirus A VP7
- Rotavirus C



Editorial clarification:

One of Dr. Borchardt's slides from his 2017 presentation of his preliminary findings showed this scoreboard of bacterial contamination from people versus cattle:



The Plan Commission believes it is necessary to take the time to clarify the misinterpretations of this data in the public arena. An interpretation of the values on the scoreboard alone without first understanding and taking into consideration the magnitude of contamination from each source has resulted in an incorrect conclusion that has continued to be falsely repeated. Focusing on this scoreboard alone has led to the erroneous conclusion that "septics are half the problem, and cows are half the problem." That is categorically, scientifically, and mathematically untrue.

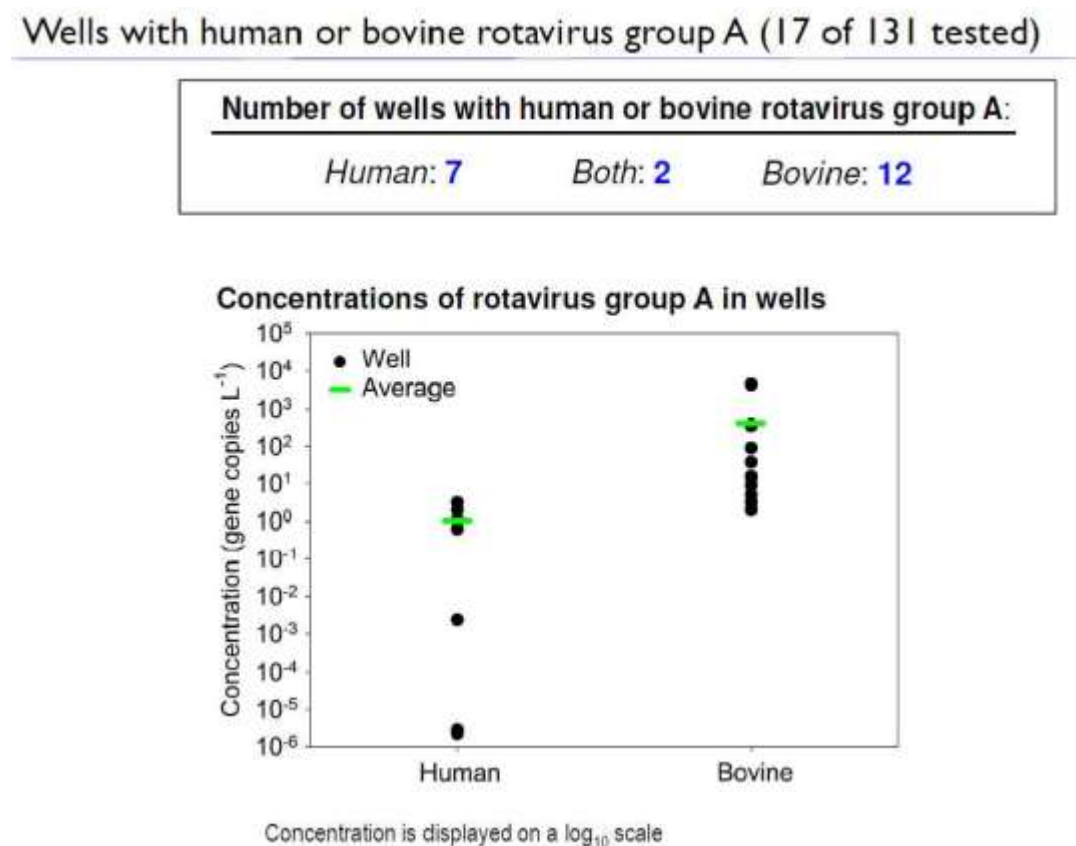
In order to properly understand and analyze the “scoreboard” graphic we must examine the underlying data used to create it and apply mathematical principles to properly show the impact.

We must examine not just the number of times a bovine or human genome was detected, but also how large was the concentration of that genome. The data show the concentration of bacteria in the bovine samples was as much as 49,818 gene copies of bacteria/liter, while the highest concentration of bacteria in the human samples was 1,050 gene copies/liter.

Simply put, the bovine samples have a much higher concentration of bacteria, and therefore have a much greater chance of contaminating the groundwater than the human samples. Using only the numbers of “hits” from a source is misleading. Instead we must consider the much greater impact that the concentration of bovine contamination will have on the groundwater.

Even if every one of the 33 human samples contained the maximum 1,050 copies per liter (which they do not), this would not equal one sample of the 49,818 copies per liter in the bovine samples.

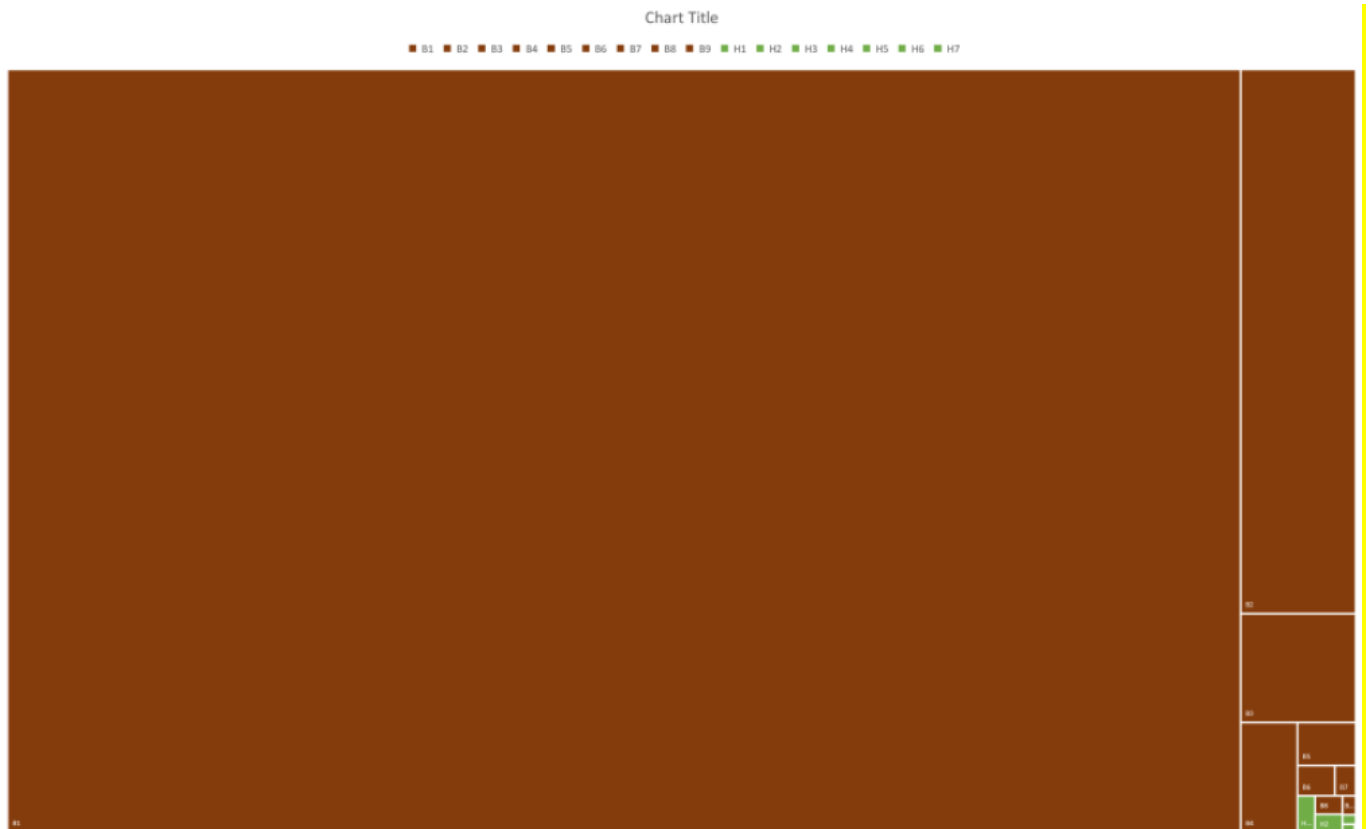
A more in-depth look at Dr. Borchardt’s data reveals something quite different from the simple scoreboard above. Another of Dr. Borchardt’s presentation slides depicts the following:



As stated, the simple count of “hits” does not accurately represent the data without an understanding of the “relative size” or “quantity” of each hit. The slide above shows a representative sample of wells tested and amounts of human and bovine concentrations of rotavirus. Just looking at the graph, we see that in most cases the number of bovine rotavirus exceeds the amount of human rotavirus. However those numbers in and of themselves do not provide the whole picture of the scale of the contaminants found.

It’s critical to note that the Y-axis of the graph above is a “log scale”, frequently used by scientists and mathematicians to display extremely large or extremely small numbers or quantities. To properly calculate the true magnitude of the amount of the bovine rotavirus versus the human rotavirus the Log 10 factor must be applied. It is only then that we can arrive at the actual numbers.

Therefore, to make all of this easier to understand we asked a mathematician to properly apply the “log 10” factor and display the data (in the graphic below) in a manner that helps citizens better visualize the relative magnitude of the actual amounts of bovine and human contaminants that were found:



In this graphic, each individual “hit” is displayed by its quantity or concentration. Bovine is in **BROWN** and human in **GREEN** in the lower right hand corner. The larger the square, the larger the quantity or concentration in that sample. Due to the fact that some quantities are

extremely small, three human “hits” in the lower right do not even show up on the graphic because the quantities are too small.

We believe that this graphic properly shows the amount of bovine contamination overwhelmingly exceeds that of human contamination in the wells tested by Borchardt and Muldoon in 2015-2016 and fully debunks the fallacy that human and bovine contaminates are a 45/55 split,. This assessment is also born out in Borchardt’s final report wherein he concluded that “septic system variables were not significant”. (see page 33 of this report).

Reference: From the presentation *Assessing Groundwater Quality in Kewaunee County, Wisconsin* by Dr. Mark Borchardt and Dr. Maureen Muldoon The PowerPoint presentation can be obtained electronically from Lincoln Township. The full report can be downloaded from <https://www.wri.wisc.edu/wp-content/uploads/Final-Report-Kewaunee-County-Groundwater-Quality-DNR-Project-227.pdf>

End of editorial clarification

11 Town of Lincoln 2017 Supplement to the Comprehensive Plan

Some of the working points of the Supplement to the Comprehensive Plan and their status include:

Develop a comprehensive ground and surface water protection plan including but not necessarily limited to:

- Coordinate with the Kewaunee County Land Water Conservation Department and WDNR to implement agricultural and residential best management practices to reduce nonpoint source water pollution.
 - **Status: Ongoing with...**
 - **Resulting actions:** See
 - The DNR Best Management Plan Workgroup recommendations;
 - The KC Land & Water Resource Management Plan 2020-2029;
 - The new NR 151 requirements;
 - The new Silurian standards;
 - KC Chapter 39, essentially NR 151 enforced by KC LWCD
 - All of these were the result of our efforts with the DNR, KC LWCD, DATCP, Natural Resources Board, the meeting of a group of private Lincoln Township citizens and Governor Tony Evers, DATCP Secretary Brad Pfaff, and DNR Secretary Cole Preston; citizen involvement with the Speaker’s Task Force on Groundwater, and township residents’ awareness and speaking out on the Groundwater situation and issues in Lincoln Township.

- Identify those areas where susceptibility to groundwater contamination is highest...
 - **Completed.**
...and develop plans to ensure that land use within these areas occurs in a manner consistent with protecting groundwater.
 - **Resulting actions:** See...
 - The Sensitive Areas Map,
 - The Agricultural Transition Map,
 - The WGNHS Maps especially the Groundwater Contaminant Susceptibility Map
 - And the Catchment and Closed Depressions Map.
 - **TO DO YET: Develop guidelines for residential and commercial development in “sensitive” areas. Or do this case by case basis?**

- Work with WGNHS, KCLWCD, local universities and WDNR to conduct a comprehensive groundwater assessment study to determine impacts/solutions to regional groundwater quality and quantity issues.
 - **Completed—see all the above.**

- Adopt a groundwater protection ordinance(s) or a groundwater protection overlay district within the zoning ordinance.
 - The Plan Commission assembled a body of evidence to support going forward with either an ordinance or an overlay including this document and the maps that the Town commissioned along with all of the studies that that the Town commissioned and were a part of; **therefore partially completed.**
 - **Status on an overlay district:** The Plan Commission was advised by Bay Lakes Regional Plan Commission that an overlay district is not the way to proceed.
 - **Status on a GW Protection Ordinance:** The Plan Commission was advised that BLRPC has no experience in writing such an ordinance. Regardless, the Plan Commission should consider Zoning Ordinance language as appropriate as the need arises.

- Add language to existing Town ordinances to strengthen protection of groundwater quality/quantity (especially with respect to high volume groundwater withdrawal of any kind).
 - There has been a lack of scientific evidence that would elevate this to a priority concern. The Town Board and Plan Commission are encouraged to watch studies being done in the Central Sands region where the issue of high capacity wells causing surface water draw down is a high priority.
 - **Status: Tabled.**

- Work with Kewaunee County (Land Information Office?) or BLRPC to create a regional map indicating areas susceptible to environmental contamination (based on soil type, depth to bedrock, slope, water table, recharge, etc).

- **Completed;**
 - Sensitive Areas Map, Ag Trans Map, WGNHS Groundwater Contaminant Susceptibility Map for Lincoln Township;
 - LWRMP 2020-2029 for Kewaunee County
 - SnapMaps 20 <https://snapmaps19.snapplus.wisc.edu/>
- Note: a “regional map” is technically outside of our scope / territory / ability to work / area of influence; **therefore completed** if we consider 2020-2029 and SnapMaps 20
- Consider developing an information & education strategy aimed at providing residents with the tools to protect their potable water supply.
 - **Completed: See:**
 - What can homeowners do? page 60
 - Kewaunee County Department of Public Health-Environmental Health website
 - Note: while some of this information is valuable, other information is outdated or irrelevant so read this web site and information with a critical eye. **Relevant links can be found in “Resources at the end of this document.”**
- Encourage or require the installation of groundwater test and observation wells to measure transmissivity and storativity for proposed development.
 - **Status: Not done yet;**
 - Lincoln Township should consider seeking a grant for groundwater monitoring wells at up to 5 locations in the town which would represent a variety of susceptible groundwater areas.
- All of the following maps were completed for the Supplement to the Comprehensive Plan and also exist in this report:
 - Current Land Use Map See page 8
 - Environmental Corridors Map See page 59
 - Sensitive Areas Map See page 47
 - Future Land Use/Ag Transition Map See page 50

Reference: The complete Supplement to the Comprehensive Plan can be found on the Lincoln Township website at <https://lincolnkewaunee.com/2017/11/04/final-town-of-lincoln-comprehensive-plan-chapters-1-6-available/>

12 Hydrogeological Characterization of the Town of Lincoln, Kewaunee County, Wisconsin, Wisconsin Geological and Natural History Survey, 2017. The groundwater mapping project of the township was funded by the town with a \$20,000 grant from the Kewaunee County Land Information Office. At the time that this mapping project was done, it was one of only a handful done in all of Wisconsin. Besides WGNHS and Lincoln Township, assistance was provided by:

- Kewaunee County Land and Water Conservation Department,
- Wisconsin Department of Natural Resources,
- Kewaunee County Land Information Office,
- University of Wisconsin-Stevens Point,
- University of Wisconsin-Extension,
- United States Geological Survey,
- USDA-Natural Resources Conservation Service,
- Madison Gas & Electric,
- Wisconsin Public Service,
- And the cooperation from the farming community in Lincoln Township.

The final report included information and maps on the following:

- Site Map—Overview of Lincoln Township
- Depth to bedrock,
- Input datasets for depth-to-bedrock map,
- Water-table elevation,
- Depth to water table,
- Groundwater recharge,
- Groundwater contaminant susceptibility, and
- Catchments and closed depressions.

Of particular value in the report are the sections for each map titled:

- What is a XXX map?
- What does this map show?
- How was this map constructed?
- Why is this map important?
- How should this map be used? and
- Limitations of this map.

The town and county can use the new maps and report for making informed land-use management decisions.

Reference: the full report *Hydrogeological Characterization of the Town of Lincoln, Kewaunee County, Wisconsin*, Wisconsin Geological and Natural History Survey, 2017 can be found on the Lincoln Township website at <https://wgnhs.wisc.edu/catalog/publication/000952>

13 Borchardt and Muldoon studies: Risk Factors Associated with Private Well Contamination in Kewaunee County, Wisconsin, Dr. Mark Borchardt and Dr. Maureen Muldoon, UW-Oshkosh, 2019. This is the final analysis of the data collected in 2015-2016 and detailed in the **Assessing Groundwater Quality in Kewaunee County, Wisconsin** (quoted directly from the slides cited):

Research objectives: (slide #3)

- Identify county-wide contamination rates for nitrate and indicator bacteria related to depth-to-bedrock
- Determine source of fecal contamination using virus and fecal markers
- Identify risk factors for private well contamination using statistical models

Well construction and siting risk factors investigated (slide #29)

- Well age
- Well depth
- Casing depth
- Length of casing into bedrock
- Length of casing below water table
- Open interval length
- Depth to groundwater at time of well construction
- Depth to bedrock
- Elevation at site
- Soil drainage at site

Conclusions:

- Risk factors for high nitrate detection—fall and summer sampling (slide #22)
 - Important factors:
 - Distance to nearest agricultural field
 - Distance to nearest manure lagoon
 - Distance to nearest cropped field
 - Area of cropped fields (acres) within 750 feet of well
 - Area of cropped fields (acres) within 1500 feet of well
 - Depth to bedrock
 - Unimportant factors:
 - **Septic system variables were not significant (emphasis added)**
- Risk factors for coliform bacteria detection—fall and summer sampling (slide #24)
 - Important factors:
 - Distance to nearest manure lagoon
 - Distance to nearest agricultural field
 - Area agricultural fields (acres) within 750 feet of well
 - Distance to nearest cropped field
 - Area of cropped fields (acres) within 750 feet of well
 - Depth to bedrock
 - Unimportant factors:
 - **Septic system variables were not significant (emphasis added)**
- Summary: (slide #33): Risk factors for well contamination are:
 - Septic system density
 - Agricultural land use

- Manure storage
- Groundwater recharge
- Depth to groundwater
- Precipitation
- **Well construction is not very important** (emphasis added)

Reference: The full PowerPoint presentation, *Risk Factors Associated with Private Well Contamination in Kewaunee County, Wisconsin*, Dr. Mark Borchardt and Dr. Maureen Muldoon, UW-Oshkosh, 2019, can be requested electronically from Lincoln Township.

14 Kewaunee County's Land & Water's Resource Management Plan Update 2020-2029

While Lincoln Township is not the primary focus of this excellent 148-page overview of Kewaunee County land and water resources, our township does weigh heavily in many of the recommendations that come out of the Management Plan due to the township's geology and groundwater issues. Some points highlighted in the report that cover Lincoln Township include:

- The Ahnapee River Watershed is dominated by agriculture (71%) and wetlands (17%) and is ranked high for nonpoint sources affecting streams and groundwater. The Ahnapee River was placed on the impaired waters list for total phosphorus in 2014.
- Silver Creek, which outlets into Lake Michigan, has fair to poor quality water. In 2018, Silver Creek was added to the impaired waters listing for total phosphorus.
- Rio Creek has very poor quality water, but has not yet been designated for total phosphorus.⁷
- **Both creeks experience impacts from farmland erosion and other nonpoint sources throughout the watershed** (WDNR 1995).
- **Surface water and groundwater are often directly connected in karst geology.**
- Karst features, including fracture traces and sinkholes often become direct conduits for transporting unfiltered groundwater contaminants, such as sediments, chlorides, nitrates, bacteria and other microorganisms to local drinking water aquifers.
- The 2007 Northeast Wisconsin Karst Task Force Final Report identified soils with less than 5 feet to carbonate bedrock, and/or **closed depressions** or any drainage areas that contribute to sinkholes/bedrock openings as "extreme" relative vulnerability contamination; 5-15 feet to carbonate bedrock as "high"; and 15-50 (feet) as "significant".
- **When overlaying the nitrate data and unsafe well locations (from the LWCD 2004 to 2018 well testing program) with the depth to bedrock layers, the impact or unsafe wells often correlate to areas with shallow soils.**
- Previous groundwater research by Muldoon & Bradbury (2010) indicates contamination in the Silurian dolomite aquifer is often an indication of depth of the overlying glacial materials (or soil). Generally, thicker soil provides greater protection and increases the

⁷ The bolded and/or underlined text that follow indicates emphasis added.

filtration of contaminants before entering the aquifer which is what we see in the voluntary testing results.

- **Commonly noticed issues in cropland fields (during walkovers by LWCD staff) are farming too close to stream corridors, eroding grassed waterways, un-vegetated concentrated flow channels, and sheet/wind erosion.** (emphasis added) Manure management concerns noticed include direct runoff from feedlots and stored manure into waters of the state, process wastewater or leachate discharge, unlimited access of livestock to waters of the state, overflow manure storages, and unconfined manure in Water Quality Management Areas (for all of Kewaunee County, not just Lincoln Township).
- A local priority while conducting NR151 walkovers is to map karst features found on the landscape. Since 2010, **LWDC staff has identified more than 800 new karst features, including sinkholes, bedrock at the surface, karst ledges, fracture traces, and closed depressions (for all of Kewaunee County, not just Lincoln Township.)** (photo credit: Mick Sagrillo, 2020)
- LWCD is updating the **Lincoln Township Karst Map** (see the next page) as information about new karst features and verification of stone piles become available from farmers.

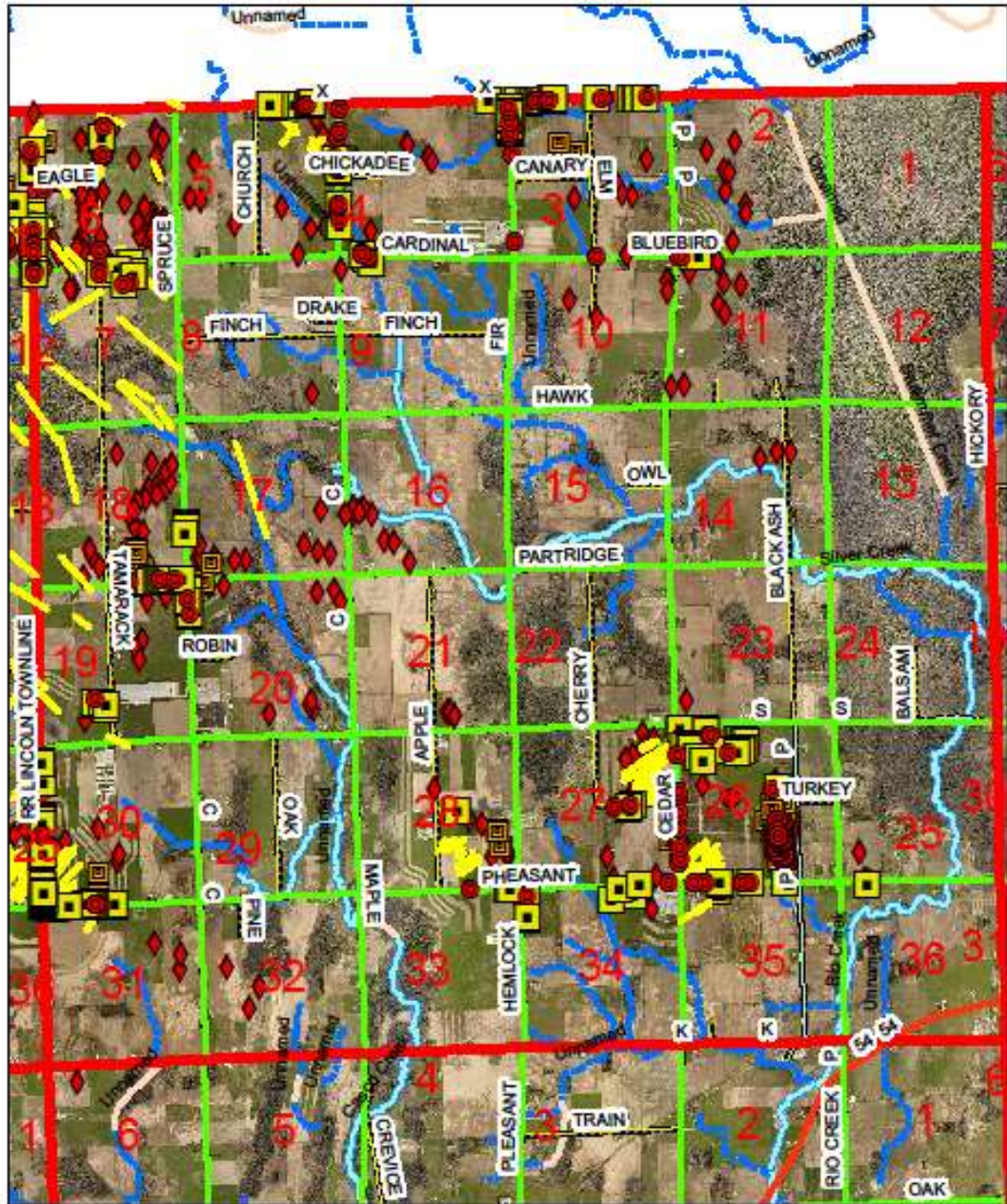


Reference: *Kewaunee County's Land & Water's Resource Management Plan Update 2020-2029* is available from the Kewaunee County Land & Water Conservation Department

The web link below to the DNR's **SnapMaps 20** shows the most up to date karst features including sink holes, bedrock at the surface, karst ledges, and all other geologic fractures and impediments that are required to be reported to LWCD and the DNR.

<https://snapmaps19.snapplus.wisc.edu/>

KARST MAP LINCOLN TOWNSHIP JANUARY 25, 2021



Legend

- ◆ Karst Features
- Exposed Bedrock
- GPS Sinkhole
- Fracture Traces

- Navigable Stream
- Intermittent Stream
- Section



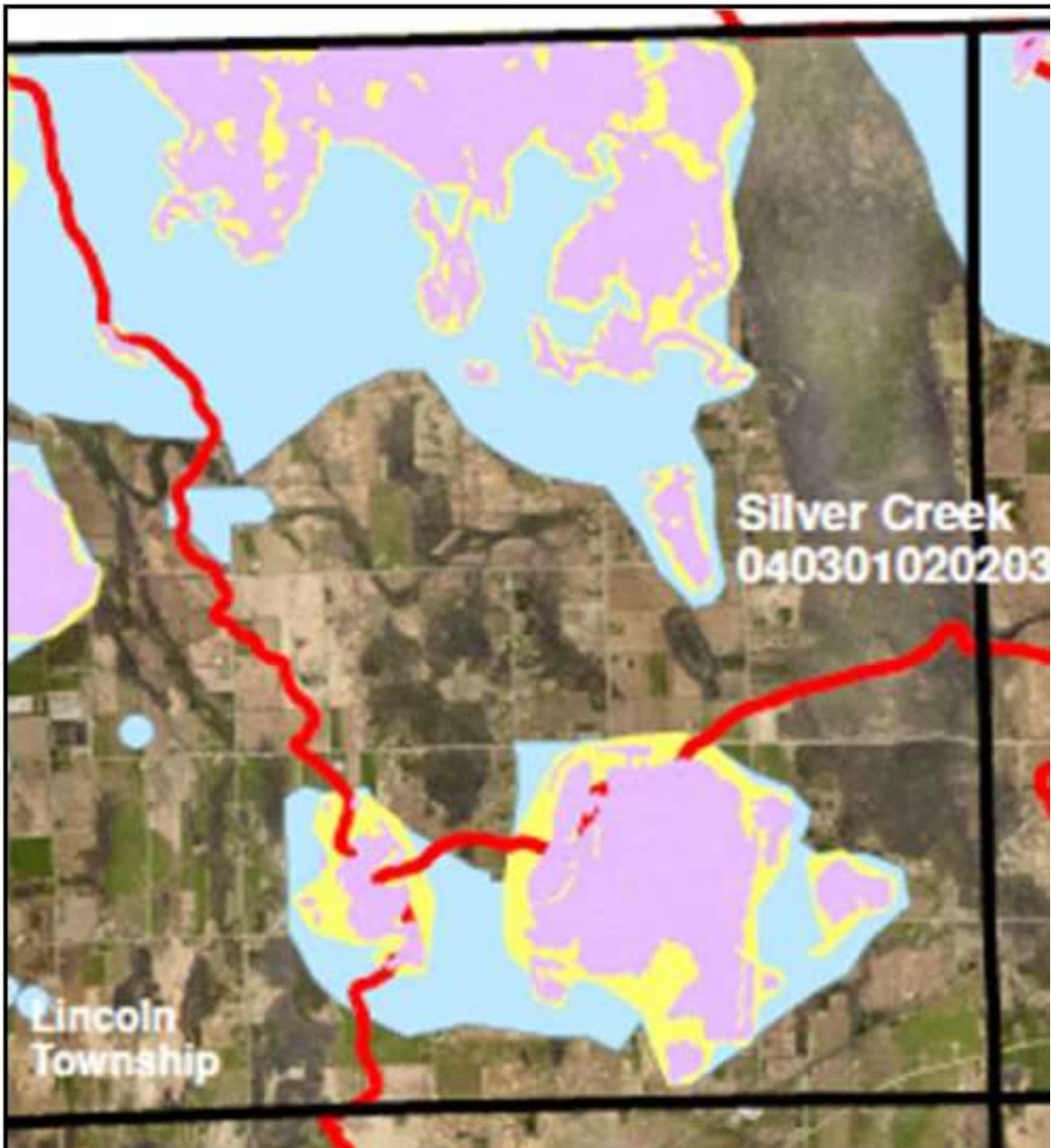
Kewaunee County
Land & Water Conservation Department



March 1, 2021

15 Ahnapee River Watershed 9-Key Element Plan, KCLWCD April 2020

- All crop producers and livestock producers that mechanically apply manure directly or through contract or other agreement to cropland or pasture areas must meet the Silurian Bedrock Performance Standards specified in NR151.075
- Table 8 identifies the approximate acres impacted by NR 151.075 with soil depths less than 40 inches to bedrock (**identified in pink on Map 9**), 40 inches to 5 feet (**yellow**) and 5 feet to 20 feet (**blue**).



Map 9, NR 151 Silurian Dolomite Standards: Depth to Bedrock, Lincoln Township

Table 8: HUC-12 - Bedrock Depths Acres & Percentages

HUC-12 Sub-Watersheds	Total Acres in HUC-12	Bedrock at <u>0-40 inches</u> (pink)		Bedrock at <u>40 inches to 5 feet</u> (yellow)		Bedrock at <u>5 feet to 20 feet</u> (blue)		Total Bedrock at <u>0-20 feet</u>	
		Acres	%	Acres	%	Acres	%	Acres	%
Silver Creek	17,923	1,913	10.7	741	4.1	3,744	20.9	6,398	35.7
Rio Creek	15,941	804	5.0	444	2.8	890	5.6	2,138	13.4
Ahnapee River	8,376	280	3.3	170	2.0	1,158	13.8	1,608	19.2
Totals:	42,240	2,997	7.1	1,355	3.2	5,792	13.7	10,144	24.0

- From the table above:
 - Silver Creek sub-watershed contains the highest amount of shallow soils over bedrock, mostly located in Lincoln Township at 35% or approximately 6000 acres.
 - Overall, 24% of the acres in the Ahnapee River watershed have soils less than 20 feet to bedrock and therefore have newly associated Silurian Dolomite manure spreading restrictions.⁸
- **“Tile drains in fields can act as a conduit for nutrient transport to streams if not managed properly.”**
- “An average of 0.9 lbs. of phosphorus/acre/year and 240 lbs. of sediment/acre/year was found to be leaving via tile drainage on a UW-Discovery Farm study in Kewaunee County.”
- “The UW-Discovery Farm study compared surface phosphorus loss to tile phosphorus loss **and found that the tile drainage was 34% of the total phosphorus lost.**”
- **“Treating tile drainage at the outlet and better management of nutrient/manure applications of fields can reduce the amount of phosphorus reaching rivers and streams.”**

⁸ The bolded and/or underlined text that follow indicates emphasis added.



Part of Map 16: Known Tile Lines in Rio Creek HUC-12

- “Target Audience: Focused attention will be on agricultural land owners and operators **since the main source of pollutant loading in the watershed is from agricultural land.**” **“Non-operator agricultural landowners are an important subset of this group as they are usually not focused on and are less likely to participate in conservation programs.”**
- “Legacy phosphorus in a soil occurs when phosphorus in soils builds up much more rapidly than the decline due to crop uptake. In stream channels, legacy phosphorus can result from sediment deposition of particulate phosphorus, sorption of dissolved phosphorus into riverbed sediments or suspended sediments, or by incorporation into the water column.” “Legacy instream sediment may need to be evaluated as a significant source of phosphorus.” (See the findings from Heidelberg University’s National Center for Water Quality Research on page 66.)
- Water Quality Monitoring Process Evaluation (the following items need to be evaluated and documented)
 - “The presence and extent of drain tiles in the watershed area in relation to monitoring locations.”
 - “Do these drainage systems contribute significant phosphorus and sediment loads to receiving streams?”

Reference: The *Ahnapee River Watershed 9-Key Element Plan*, KCLWCD April, 2020, is available electronically from the KC LWCD.

16 DNR Total Maximum Daily Load (TMDL) Study of the Ahnapee River watershed (and Silver Creek as it feeds the Ahnapee watershed) for phosphorus is ongoing. The impact to the Ahnapee River watershed is unknown at this point in the study. We will continue to monitor the study as it proceeds.

Reference: <https://dnr.wisconsin.gov/topic/TMDLs/NElakeshore.html>

17 DNR Special Well Casing Depth Areas

The DNR has designated three areas in Lincoln Township as requiring special well casement depths which are in excess of the State's specification. The designation is controlled by the DNR and is triggered by contamination events. In these cases the contaminant was identified as livestock and or bacteria.

- All parcels in sections 1 to 6—Extension of Door County Special Casing Depth Area due to bacteria; 140' of casing required.
- A parcel in section 17—Special Area of Well Compensation Eligibility due to livestock waste / Bovine Bacteroides; 160' of cement grouted casing.
- A parcel in section 19—Special Area of Well Compensation Eligibility due to livestock waste / Bovine Bacteroides; 200' of cement grouted casing.

Reference: <https://dnr.wi.gov/topic/wells/documents/SpCsgDpthAreaLst.pdf>

CONNECTING THE DOTS

With all of these studies at hand and all of this documentation in mind, the current situation in Lincoln Township (and by extension, other parts of Kewaunee County with karst geology and shallow soils) can be summarized as follows.

- According to every scientist and specialist that Lincoln Township has consulted with or that has made a presentation to us, we have been told that groundwater and surface water are hydro-geologically connected. You cannot separate groundwater from surface water or surface water from groundwater. What you do to one will invariably impact the other.
- 100% of Lincoln Township residents rely on groundwater for their drinking water, cooking, bathing, and other potable water uses unless they have opted to purchase their water from an outside supplier. Some residents have had various water purification devices installed in their homes at their own expense, usually only for drinking and cooking water.
- Lincoln Township is not served by a public sewer system so all occupied buildings in the township have, by law, a private septic system.
- Septic systems are required for homes that do not have sewer to properly treat and disperse wastewater from their homes. Septic systems, when properly sited, designed, constructed and maintained, pose a minimal threat to drinking water source.
- On September 11, 2018, 29 members of the Local Advisory Committee for the Land and Water Resource Management Plan ranked various issues to be addressed in the final plan. Ranked relatively high by this particular group included:
 - Septic systems;
 - Bringing all septic systems up to code;
 - Increase septic system compliance;
 - Inventory and properly abandon wells in cropland, ditches, and no longer used; and,
 - Lawn fertilizer

1. Kewaunee County Land & Water Conservation Department annually releases a Sanitary Systems Updated Report for the previous year. Below is the latest report.

Note: Lincoln Township has the highest compliance rate (along with Red River Township) of any township in Kewaunee County.

Note: The State of Wisconsin and Kewaunee County requires all septic systems, regardless of how old, to be pumped and maintained at least once every three years.

SANITARY SYSTEMS IN KEWAUNEE COUNTY SINCE 1985 AS OF 2/31/2020

Source: Kewaunee County Zoning Department 2020 Annual Report

TOWNSHIP	TOTAL # OF ALL SYSTEMS	TOTAL # OF INSPECTED & COMPLIANT SYSTEMS	TOTAL # OF NOT INSPECTED SYSTEMS	COMPLIANT PERCENTAGES	TOTAL # OF SYSTEMS THAT ARE NOT IN USE-NOT INSPECTED
AHNAPEE	442	404	38	91%	7
CARLTON	479	441	38	92%	10
CASCO	498	464	34	93%	12
FRANKLIN	443	398	45	90%	12
LINCOLN	397	382	15	96%	5
LUXEMBURG	584	544	40	93%	6
MONTPELIER	562	504	58	90%	8
PIERCE	423	403	20	95%	6
RED RIVER	477	458	19	96%	7
WEST KEWAUNEE	557	516	41	93%	13
VILLAGE OF CASCO	6	6	0	100%	0
VILLAGE OF LUXEMBURG	4	4	0	100%	0
CITY OF ALGOMA	10	9	1	83%	0
CITY OF KEWAUNEE	34	26	8	76%	0
TOTAL	4916	4559	457	93%	86

Please Note: The county-wide numbers above also include 157 “Not In Use” septic systems. Of the 157 “Not In Use” systems, 86 are not inspected systems and 71 are inspected and compliant systems. Therefore, we have 271 “Not Inspected” systems that are currently being used and 4488 inspected systems that are currently being used.

Source: KC Land & Water Conservation Department, January 2021)

2. As stated earlier, Lincoln Township is home to three CAFOs each with over 1000 dairy cattle, two small dairy operations, both with over 500 cattle, and 11 smaller farms hosting from 30 to 300 cattle. * There are several other farms with various small herds that are not included in the following table:

(*The following sentence was identified as incorrect and removed from the document by the Town Board of Supervisors on October 4, 2021: “These farms represent only those operations

that submit a manure management plan to the Land and Water Conservation Department for the purpose of complying with Wisconsin’s Farmland Preservation Program.”)

Farms in Lincoln Township	2020 Total Dairy & Beef Cattle and Calves (1-1-2021)				
(Not all-inclusive)	Dairy/Dry	Helpers 800 to 1200 lbs	Beef	Calves/YS to 800 lbs	TOTAL
Dantoin, Pat (Springdale Dairy)	120	0	0	0	120
Eisenman, Brent & Dixie	0	0	0	300	300
Fenendael, Lonnie/Shane (EL-NA Farms) (WPDES)	1750	450	0	950	3150
Jandrin, Jason	65	30	0	20	115
Kinnard, David & Randy (Kinnard Highland)	328	165	20	60	573
Kinnard, Jeff & Sharon	55	0	0	0	55
Kinnard, Rod & Lee (Kinnard Farms Inc) (WPDES)	7661	0	0	120	7781
LeCaptain, Cletus & Chris	30	18	0	7	55
Monfils, Arlin	0	0	20	0	20
Nowak, Jordan (name corrected October 4, 2021)	0	0	30	0	30
Pagel, John & Don Niles (Dairy Dreams) (WPDES)	3250	838	0	2022	6110
Pinchart, Nick	0	0	15	15	30
Srnka, Scott (Srnka Farms)	370	135	0	90	595
Strnad, Tim & James (Valley High Dairy)	54	31	0	37	122
Wallace, Paul	90	70	0	25	185
Zellner, Joe	0	13	58	0	71
Total Dairy Cattle					19312
3 CAFOs =					17041
(Source: KC Land & Water Conservation Department, October, 2020/Lincoln Town, January, 2021)					

- Lincoln Township has a very high ratio of cattle (19,312 as of 2021) to residents (933 as of 2020).

3. The Kewaunee County Land and Water Conservation Department Resource Management Plan for 2020-2029 documents nitrate and phosphate pollutant loading on the land from various sources including septic, cropland, pastureland, feedlots, and various miscellaneous sources as can be seen below:

Pollutant Loading in Kewaunee County From Septics Systems versus Cropland from LWRMP 2020-2029

Table 24. 9-Key Element Plan – Current Total Load by Land-Use (with BMP)

Sources	N Load (with BMP)	P Load (with BMP)	BOD (with BMP)	Sediment Load (with BMP)
	lbs./year	lbs./year	lbs./year	tons/year
Urban	1693.85	261.21	6669.12	38.69
Cropland	138453.62	36869.61	267418.24	5338.27
Pastureland	45455.92	4317.62	146217.71	378.51
Forest	2958.24	1576.8	7245.32	93.93
Feedlots	16982.44	2915.32	21699.78	0.00
Septic	435.24	170.47	1777.21	0.00
Gully	116.88	96.42	233.75	73.05
Streambank	0.00	0.00	0.00	0.00
Groundwater	0.00	0.00	0.00	0.00
Totals:	206,096.18	46,207.45	451,261.12	5,922.44

Source: WDNR Communication, 2018

Kewaunee County 2020-2029 Land & Water Resource Management Plan Excerpted from page 99

Selecting out the highlighted sections of the above table:

Selections from Table 24: 9-Key Element Plan					
Total Pollutant Load by Land Use (with BMP)					
	N load	% of		P load	% of
	lbs./year	total		lbs./year	total
Cropland	138453.62	67.2%		36869.61	79.8%
Feedlots	16982.44	8.2%		2915.32	6.3%
Septic	435.24	0.2%		170.47	0.40%
Total	206096.18			46207.45	
for all of Kewaunee County					
Source: WDNR Communication, 2018					

Focusing on septic systems only versus liquid manure and agricultural wastewater spread on crop fields⁹, **67.2% of the nitrogen pollutant load on the land comes from cropland whereas only 0.2% of the nitrogen pollutant load comes from septic systems.** This nitrogen pollutant load from crop lands clearly impacts groundwater at a significantly higher percentage than septics. The high level of nitrates in our groundwater has been documented, starting with the 2007 the Karst Task Force Report and revalidated in subsequent studies by Dr. Mark Borchardt, Dr. Maureen Muldoon, Davina Bonness and Kevin Masarik, the DNR Final Workgroup Reports, and the Kewaunee County Land & Water Resource Management Plan. Nitrogen from agricultural sources is the primary nitrogen load on groundwater as documented by Dr. Maureen Muldoon and Dr. Mark Borchardt in *Assessing Groundwater Quality in Kewaunee County, Wisconsin (2017)*: In Kewaunee County, **“dairy farming and associated crop production comprise the primary land use** and manure is commonly applied to crop land prior to spring planting and again in fall after crops have been harvested.”

Again, focusing on septic systems only versus liquid manure and agricultural wastewater spread on crop fields, **79.8% of the phosphorus load on the land comes from cropland whereas only 0.4% of the phosphorus load comes from septic systems.** The phosphorus load will most likely impact surface waters as documented by Kimberly Busse’s study on Non-Point Source Pollutants in the Ahnapee River Watershed, particularly Silver Creek in Lincoln Township.

- As documented above, the highest inputs of nitrogen, phosphorus, and bacteria pollution on the town’s lands come from agricultural sources, not human sources. This reinforces the data from the Bonness and Masarik well study in Lincoln Township in Table 1 on page 10 of this report. It is confirmed from all of this documentation that with a 96% septic compliance rate, **septic systems are not a primary source of groundwater contamination in Lincoln Township.**

- Furthermore, the Land and Water Conservation Department Ahnapee River Watershed 9-Key Element Plan, page 53 states: **“...the main source of pollutant loading in the watershed is from agricultural land”.**

Septic systems are barely mentioned in both the Ahnapee River Watershed 9-Key Element Plan and the LWCD Resource Management Plan 2020-2029. Given the fact that Lincoln Township has a 96% septic compliance rate and Kewaunee County has an overall septic compliance rate of 93%, it should be no surprise as to why this is so. **Except possibly very site specific, septic systems are not a consequential cause of groundwater contamination in Lincoln Township.**

- That said, Dr. Mark Borchardt, in a meeting with the Lincoln Township Board of Supervisors and Plan Commission on July 17, 2019, **strongly advised against clustered housing development with our type of shallow soils over karst bedrock.** Dr. Borchardt stated that

⁹ The bolded and underlined text that follow indicates emphasis added.

housing development and septic systems in this type of geology are better distributed over the landscape. Dr. Borchardt said that if he were to build a house in Lincoln Township, “it would be in the middle of a 40-acre parcel”. This is the very type of rural residential development that is advised against by land use planners, including the consultant that Lincoln Township hired to help us with our Comprehensive Plan.

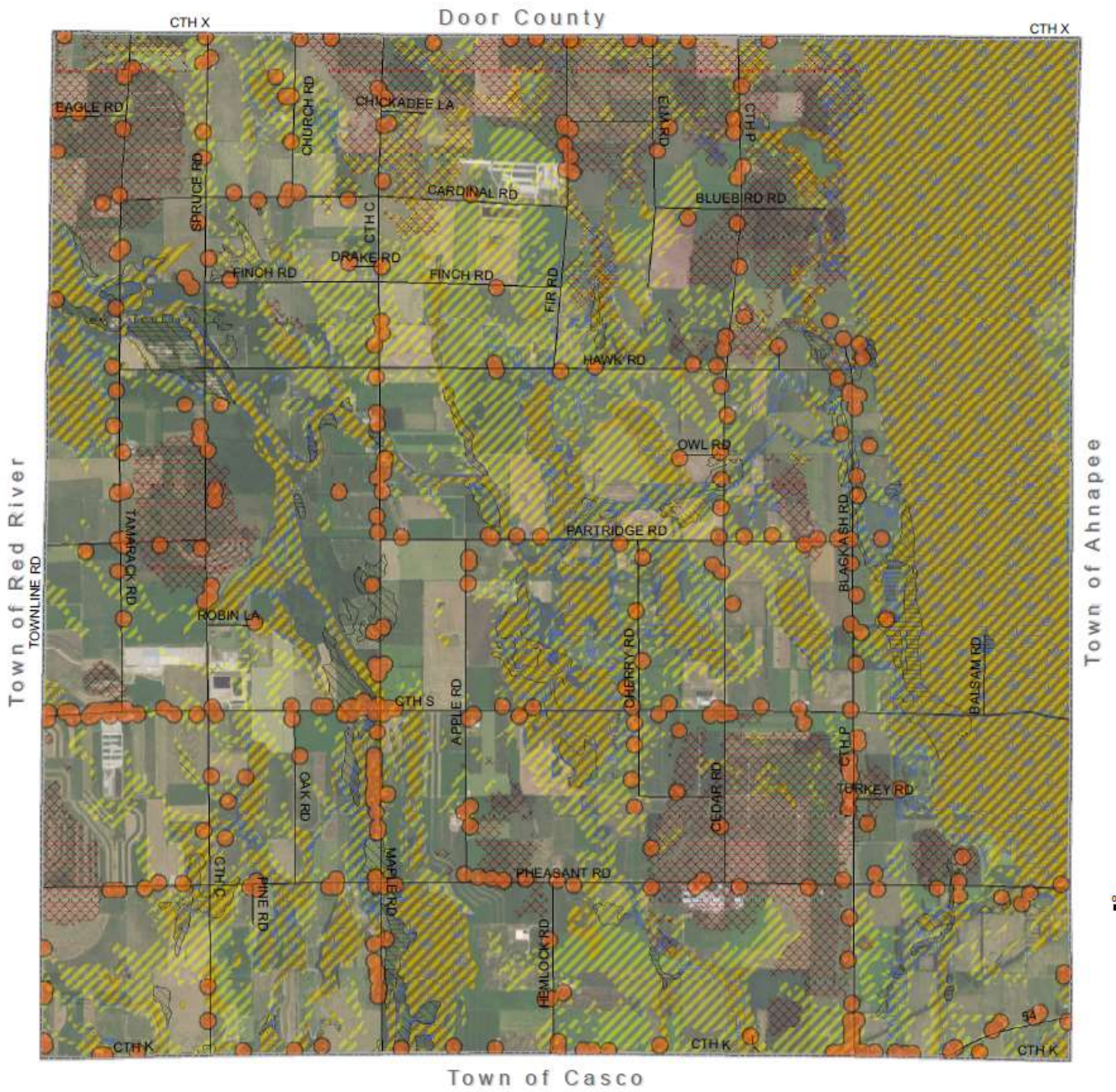
Lincoln Township developed a Sensitive Areas Map in our 2017 Comprehensive Plan with the aid of the DNR, the Kewaunee County Land Information Office, and the Land & Water Conservation Department. Dr. Mark Borchardt’s comment on the map: “It’s the best GIS data I’ve seen in the state.”

4. The result of many of these inputs into our Comprehensive Plan Sensitive Areas Map we wished to have was reluctance on the part of our comprehensive plan consultant to actually create the Sensitive Areas map. The consultant was reluctant because he stated that the map would look like a “Jackson Pollock painting”, far too complicated to be able to reliably interpret on a small scale for planning processes.

However, that was exactly the Plan Commission’s objective. Lincoln Township occupies an extremely complicated area of real estate in Northeast Wisconsin, an area heavily sprinkled with:

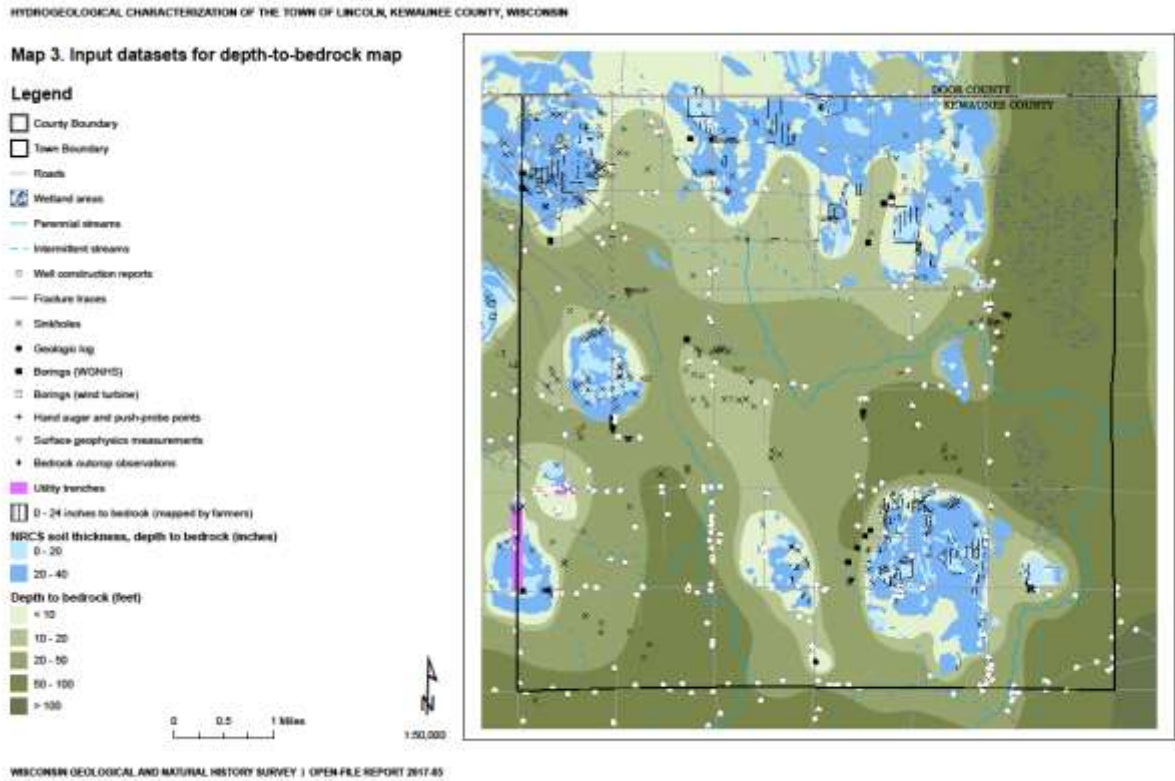
- DNR wetlands
- Sand subsoils
- Highly permeable soils
- Soils with low attenuation potential
- Shallow karst potential soils
- Less than 5 feet to bedrock
- Water table within 3 feet, and
- Hydric soils

As a result, somewhere around 75% to 80% of Lincoln Township is deemed “Sensitive Areas” by DNR definitions. This does not mean that this 75+% of Lincoln Township is unsuitable for agriculture, residential, or commercial ventures. It does mean, however, that 75+% of Lincoln Township lands are inappropriate for the spreading of liquid manure, agricultural wastewater, municipal waste, and whey in the manner in which they have been applied in the past. It also means that the Town Board and the Plan Commission need to proceed cautiously when granting building permits or rezoning requests, and to fully inform residents and land owners of the issues that they will face as they develop their properties as well as the issues that exist with undeveloped properties due to existing land uses, regardless of what they are or what is proposed.

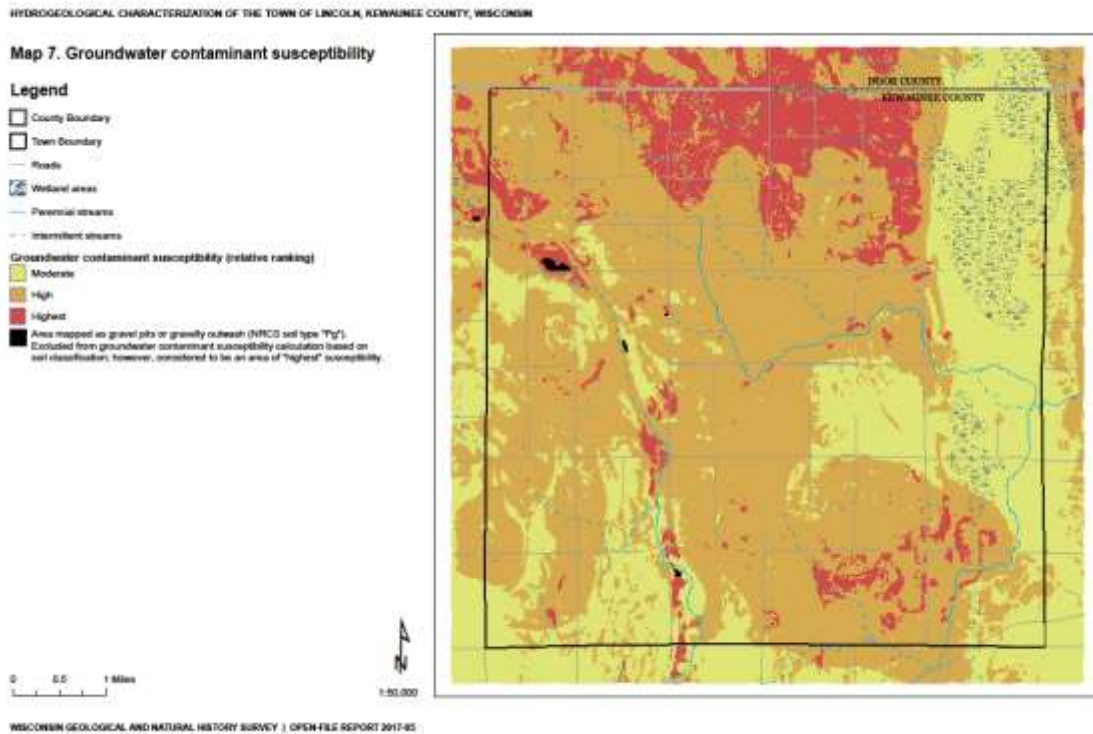


Town of Lincoln Sensitive Areas Map

5. Combined with the Wisconsin Geological and Natural History Survey **Depth to Bedrock Map (Map 3)**



6. and **Groundwater Contaminant Susceptibility Map (Map 7)**



7. Dr. Borchardt’s observations of the risk factors for nitrate and bacteria in our groundwater at his July 19th, 2019 presentation to the town specifically noting that **“septic system variables were all not significant:**

Risk Factors for High Nitrate Detection - Fall and Summer Sampling

High nitrate: exceeds health standard; $N-NO_3^- > 10$ ppm

Important factors

- Distance to nearest agricultural field
- Distance to nearest manure lagoon
- Distance to nearest cropped field
- Area of cropped fields (acres) within 750 feet of well
- Area of cropped fields (acres) within 1500 feet of well
- Depth to bedrock

Unimportant factors

- **Septic system variables were all not significant**

Risk Factors for Coliform Bacteria Detection Fall and Summer Sampling

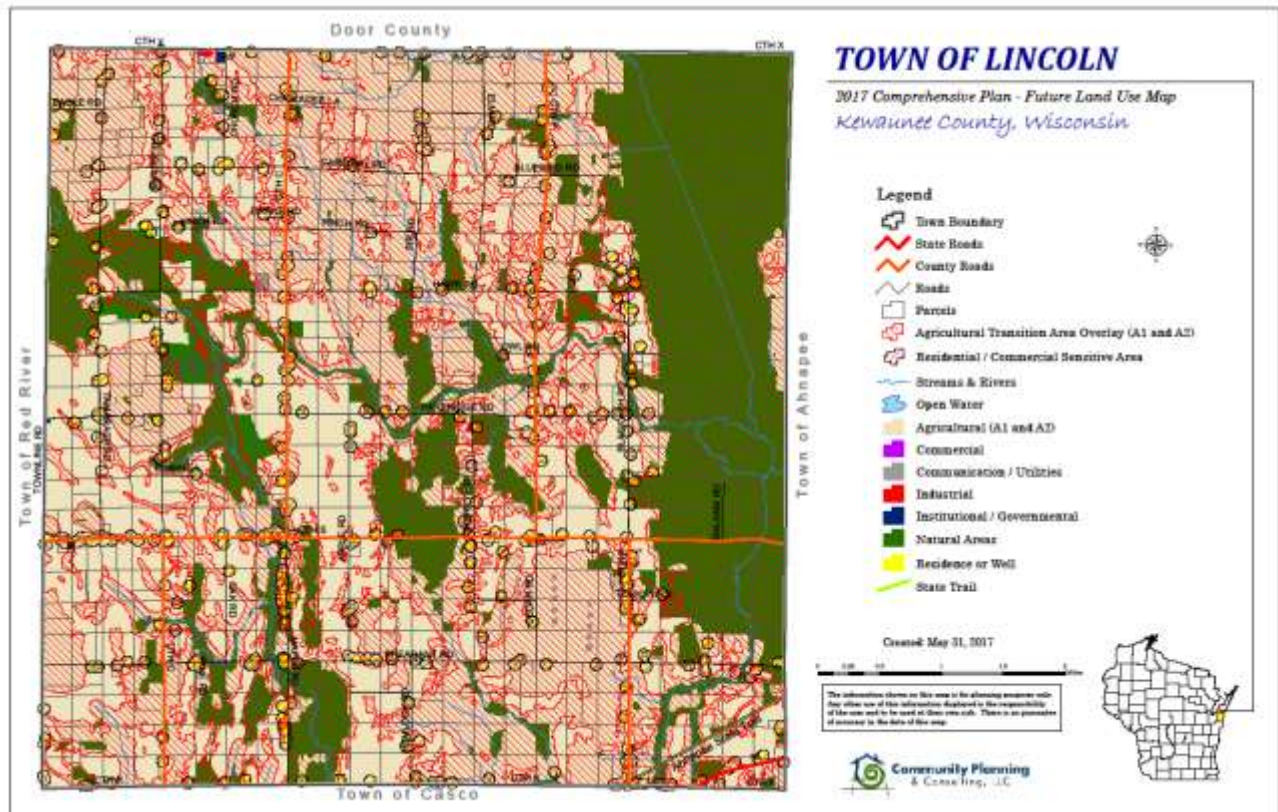
Important factors

- Distance to nearest manure lagoon
- Distance to nearest agricultural field
- Area agricultural fields (acres) within 750 feet of well
- Distance to nearest cropped field
- Area of cropped fields (acres) within 750 feet of well
- Depth to bedrock

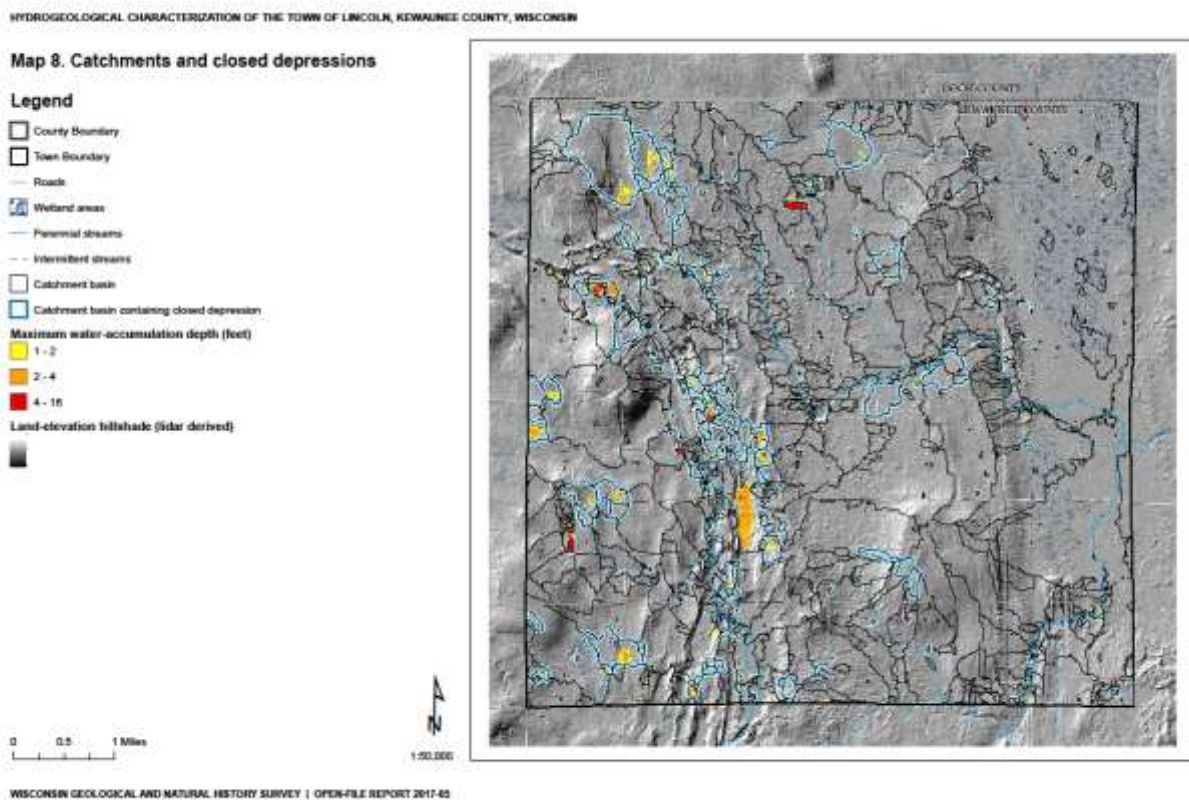
Unimportant factors

- Septic system variables were all not significant

8. Lincoln Township has developed an **Agricultural Transition Map** in our **Comprehensive Plan**

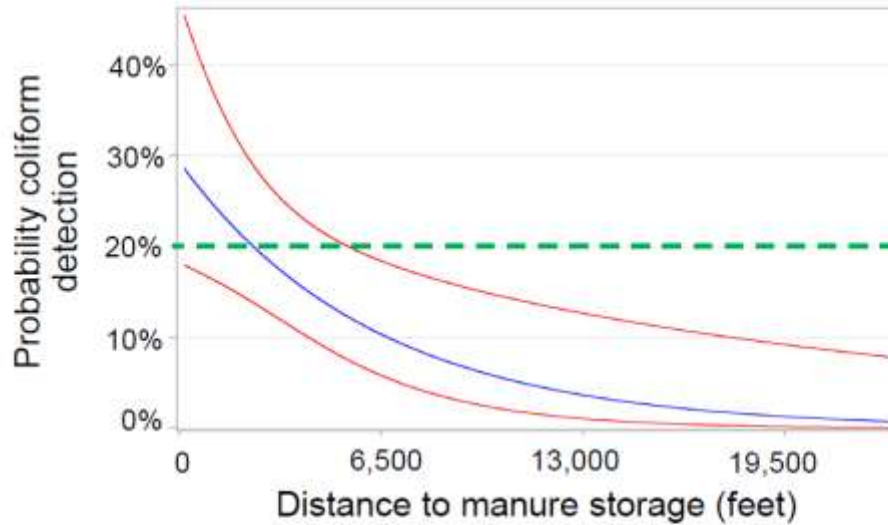


- Lincoln Township is **not opposed to agriculture**. It would be irresponsible to ignore the fact that **not all agricultural business models or practices are appropriate in all locations in Lincoln Township**.
9. Dr. Borchardt (USDA), Dr. Muldoon (UW-O), Kevin Masarik (UW-SP), Davina Bonness (LWCD), and many others have all told us repeatedly what the issue in Lincoln Township is: **Our groundwater problems are primarily caused by liquid manure being applied on karst bedrock with soil depths under 50 feet to bedrock**.
- One criteria not taken into consideration in the above Ag Transition Map dataset is the **Catchment and Closed Depressions Map (Map 8)**, part of the town’s Groundwater Mapping Project. Including such additional information would have just been too complicated even for the highly skilled cartographer we employed. However, that doesn’t mean that the information on closed depressions is of no value. Instead, such information should be considered on a very site specific basis as it relates to land use in the near immediate area of a well, say within one-half to one mile, as well as any land use within that radius. Such land use was taken into consideration by Bonness and Masarik in their study for the report *Investigating Inter-annual Variability of Well Water Quality in Lincoln Township*. See Table 1 on page 9 of this document.



10. Dr. Borchardt also found that a minimum distance of three miles from a manure pit is required to obtain zero probability of bacterial contamination (Borchardt, Lincoln Township presentation, July 19, 2019). From Dr. Borchardt's presentation:

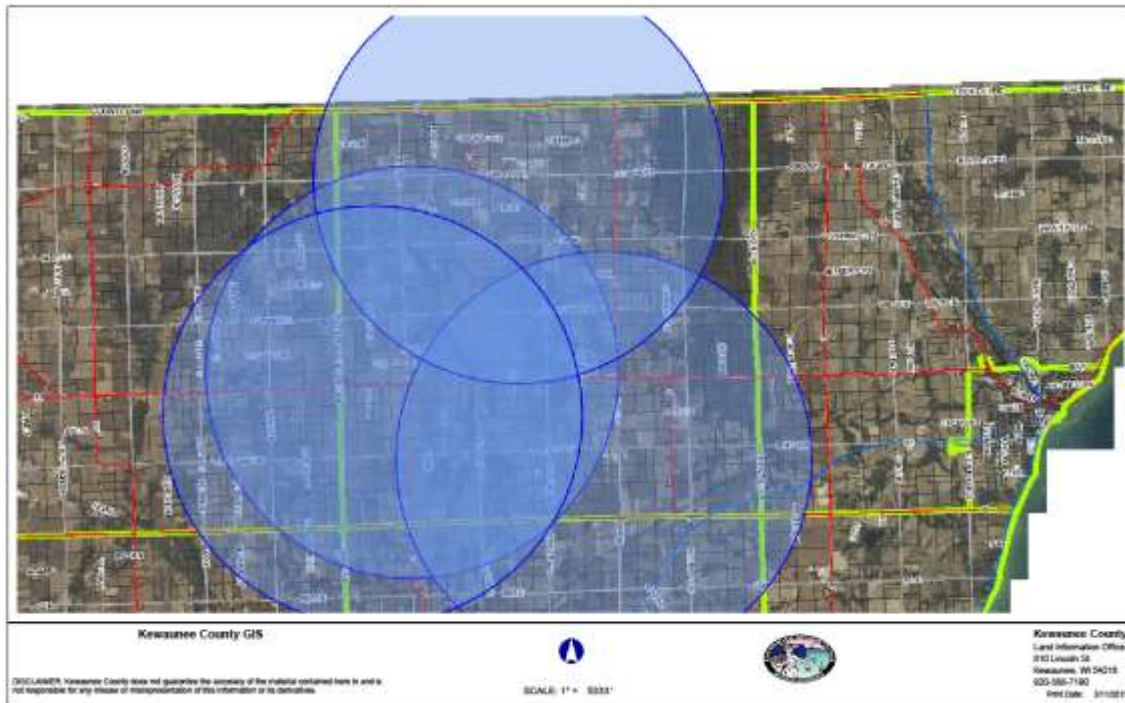
Wells located farther from manure storage are less likely to be contaminated with coliform bacteria



Model accounts for the effects of:
Distance to nearest agricultural field
Area of cropped fields within 750 feet of well
Depth to bedrock

— Probability of detection
— 95% confidence interval
- - State average (~20%)

11. The map below shows a 3-mile radius from the four CAFO manure pits in Lincoln



- Given the 3-mile cautionary radius recommended by Dr. Borchardt, **no well in Lincoln Township is currently in a safe zone from bacterial contamination from a CAFO wastewater lagoon.**

SUMMARY, CONCLUSIONS and LESSONS LEARNED

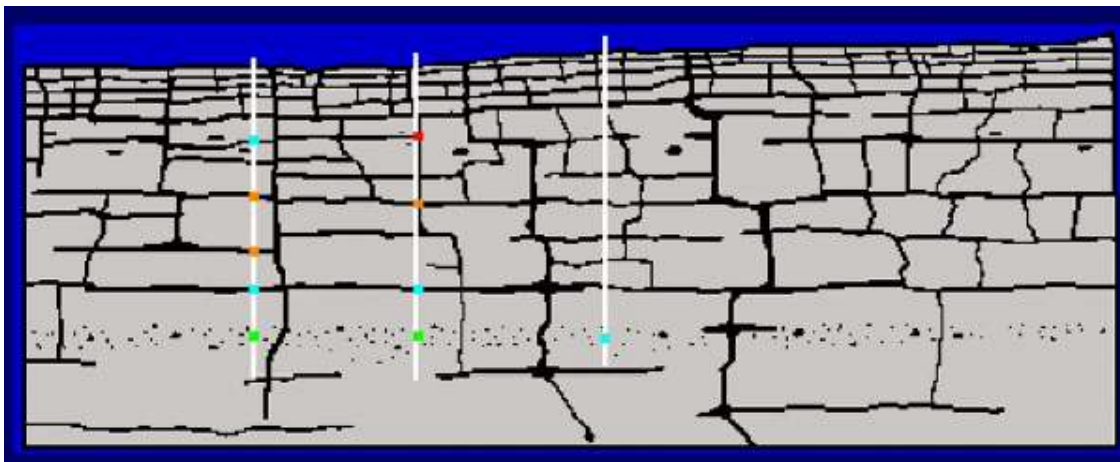
After all of the miles walked and all of the water samples collected and analyzed and all of the studies completed, the data show:

SEPTIC SYSTEMS VERSUS LIQUID MANURE¹⁰

- **“Both Silver Creek and Rio creek experience impacts from farmland erosion and other nonpoint sources throughout the watershed (WDNR 1995).”** (KCLWRMP 2020-2029)
- **Surface water and groundwater are often directly connected in karst geology.** (Muldoon, Parsen, Borchardt, Bonness)
- Karst features are ever changing and seem to be increasing in number and severity in Lincoln Township, posing an increasing threat to our groundwater resources.
- **“Since 2010, LWDC staff has identified more than 800 new karst features, including sinkholes, bedrock at the surface, karst ledges, fracture traces, and closed depressions.”** (KCLWRMP 2020-2029)
- **“When overlaying the nitrate data and unsafe well locations (from the LWCD 2004 to 2018 well testing program) with the depth to bedrock layers, the impact or unsafe wells often correlate to areas with shallow soils.”** (KCLWRMP 2020-2029)
- The Land and Water Conservation Department Ahnapee River Watershed 9-Key Element Plan, page 53 states: **“...the main source of pollutant loading in the watershed is from agricultural land”**.
- **“Commonly noticed issues in cropland fields (during walkovers by LWCD staff) are farming too close to stream corridors, eroding grassed waterways, un-vegetated concentrated flow channels, and sheet/wind erosion.”** (KCLWRMP 2020-2029)
- From the LWRMP 2020-2029, **“...67.2% of the nitrogen pollutant load on the land comes from cropland whereas only 0.2% of the nitrogen pollutant load comes from septic systems... and 79.8% of the phosphorus pollutant load on the land comes from cropland whereas only 0.4% of the phosphorus pollutant load comes from septic systems.”**
- From Borchardt: **“Septic system variables were not all significant risk factors for high nitrate detection.”** And **“Septic system variables were not all significant risk factors for high coliform bacteria detection.”**
- Given the fact that Lincoln Township has a 96% septic compliance rate and Kewaunee County has an overall septic compliance rate of 93% (end of 2020 statistics), it should be no surprise as to why this is so. **Except possibly for very site specific situations, septic systems are not a consequential cause of groundwater contamination in Lincoln Township.**

¹⁰ The bolded and/or underlined text that follow indicates emphasis added.

- With all the research and studies that have been conducted, the uncertainty has been cleared up about where the majority of our groundwater and surface water contamination is emanating from. It should be obvious from all of this documentation that with a 96% septic compliance rate, **septic systems are not a primary source of groundwater contamination in Lincoln Township.**
- Dr. Borchardt (USDA), Dr. Muldoon (UWO), Kevin Masarik (UWSP), Davina Bonness (LWCD), and many others have all told us repeatedly what the issue in Lincoln Township is: **Our groundwater problems are primarily caused by (too much) liquid manure and agricultural wastewater being applied on karst bedrock with soil depths under 50 feet to bedrock.**
- From Dr. Maureen Muldoon’s presentation *“Hydrogeology of Wisconsin Karst Landscapes: What’s a Protective Soil Cover?”* November 15, 2016:
 - Flow Characteristics of Eastern Dolomite Aquifer
 - Dense and ubiquitous fractured network
 - Little surface runoff
 - Water easily infiltrates to subsurface
 - Recharge
 - Exceedingly rapid
 - Carries surface contaminants to water table
 - Flow within the aquifer occurs primarily along bedding plane fractures
 - Little to no attenuation of contaminants within the aquifer
 - Flow rates vary from 10s to 100s of ft/day



Slide 51:

What Soil Depth is Protective?

Level of protection required	Landscape criteria	Relative vulnerability to contamination
1	Less than 5 ft (60 inches) to carbonate bedrock, and/or closed depressions or any drainage areas that contribute water to sinkholes/bedrock openings	Extreme
2	5-15 feet to carbonate rock	High
3	>15-50 feet to carbonate rock	Significant
4	Greater than 50 feet to carbonate bedrock	Moderate

- In addition to the above designations, somewhere between 75% and 80% of Lincoln Township is also deemed “Sensitive Areas” by DNR definitions. This does not mean that this 75+% of Lincoln Township is unsuitable for agriculture, residential, or commercial ventures. It does mean, however, that 75+% of Lincoln Township lands are inappropriate for the spreading of liquid manure and agricultural waste water at the rate allowed prior to the adoption of NR151 / KC Chapter 39 in 2018. It also means that the Town Board and the Plan Commission need to proceed cautiously when granting Conditional Use Permit or rezoning requests, and to fully inform residents and land owners of the issues that they will face as they develop their properties as well as the issues that exist with undeveloped properties due to existing land uses, regardless of what they are or what is proposed.
- Lincoln Township is not opposed to agriculture. **We have come to realize that not all agriculture, nor all residential development, is appropriate in all locations in Lincoln Township. We have gone to where the data have led us.**
- For example, Lincoln Township needs to proceed cautiously when considering cluster development as recommended by most comprehensive planning consultants because there are large areas of the township where the geology cannot support this type of pressure on the groundwater resources.

TILE LINES¹¹

- Tile lines are recognized as a serious surface water problem and subsequently a serious groundwater problem.
- **From Ahnapee River Watershed 9-Key Element Plan, KCLWCD April 2020:**
 - **“Tile drains in fields can act as a conduit for nutrient transport to streams if not managed properly.”**
 - “An average of 0.9 lbs. of phosphorus/acre/year and 240 lbs. of sediment/acre/year was found to be leaving via tile drainage on a UW-Discovery Farm study in Kewaunee County.” (Cooley, et al, 2010) (Note: per conversation with Eric Cooley on 2-1-2021, sedimentation loss was confirmed for the older cement and clay tiles.)
 - “The UW-Discovery Farm study compared surface phosphorus loss to tile phosphorus loss and found that the tile drainage was 34% of the total phosphorus lost.” (Cooley, et al, 2010)
 - **“Treating tile drainage at the outlet and better management of nutrient/manure applications of fields can reduce the amount of phosphorus reaching rivers and streams.”**
 - “Additional options for treating tile drainage at the outlet include constructing a treatment wetland, saturated buffers, phosphorus removal structures, and installation of water control structures to stop the flow of drainage water during poor conditions.”
- **No tile line should ever be terminated into a surface water or a DNR-designated wetland, or drainage ditch that leads directly to a surface water or creek.**

(Photo
by Mick
Sagrillo)



¹¹ The bolded and/or underlined text that follow indicates emphasis added.

WHAT WE CAN DO TO PROTECT AND IMPROVE LINCOLN TOWNSHIP'S GROUNDWATER AND SURFACE WATERS

So what does all this data mean for our groundwater and surface water problems and perhaps, more importantly, what does it mean to you? In this section, we have distilled 16 years of research, studies and science down to:

- Five key take-aways;
- What do we want our future conditions to be?; and finally,
- What can we do as a community to meet our desired future conditions?

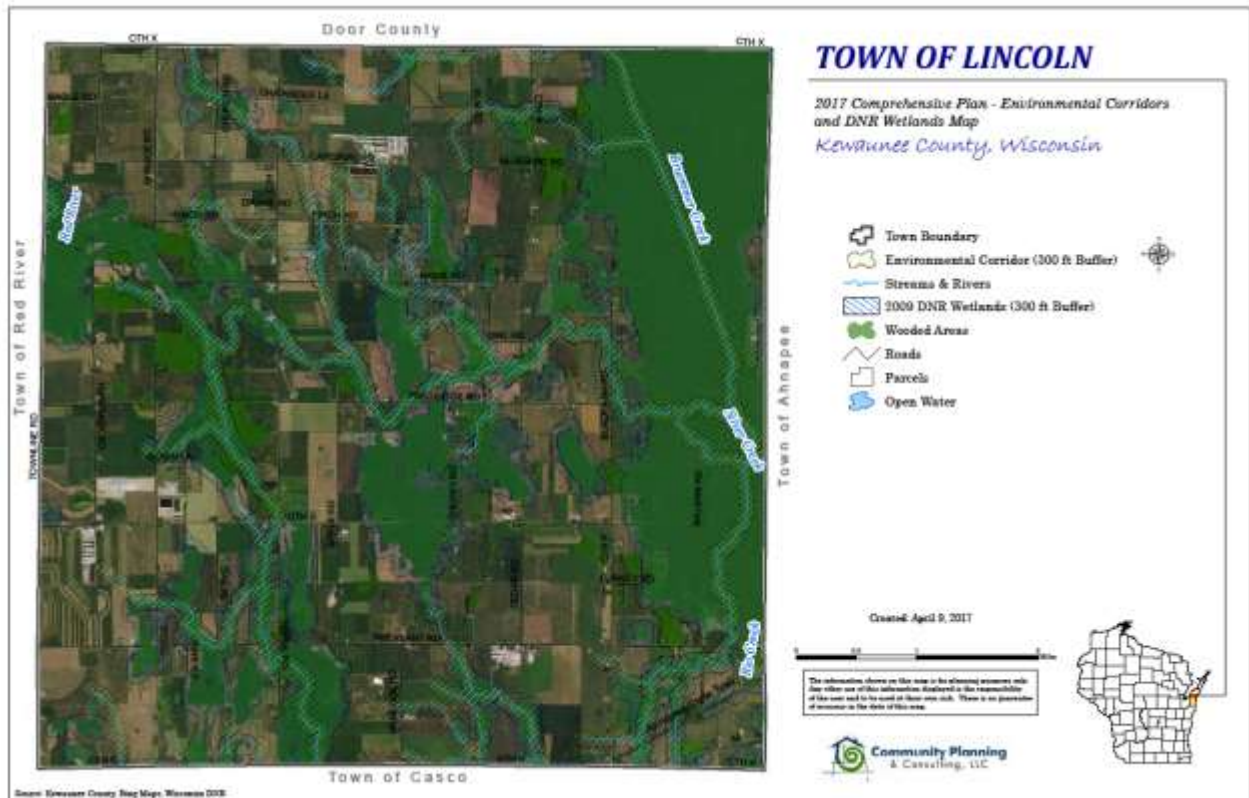
FIVE KEY TAKE-AWAYS

1. As indicated in previous studies, 67% of the nitrate contamination in Kewaunee County is coming from ag fields; 0.2% is coming from septic. Contamination is primarily coming from agricultural land use and not from residential septic systems.
2. Our geology is what it is. We are stuck with shallow soils on top of fractured bedrock. This makes 75+% of Lincoln Township not conducive to the spreading of liquid manure or agricultural wastewater at the level allowed prior to 2019, or clustered residential or commercial development.
3. The current setbacks and buffers to surface waters and karst features are not sufficient.
4. What we do on the land impacts our surface and ground water. We must live and farm in Lincoln Township with extra-ordinary attention to groundwater and surface water mitigation practices and care.
5. We are a community. While we have a right to clean groundwater, we also have the responsibility to not contaminate our ground and surface waters. These efforts require all of us to do the right thing without being mandated or paid to do so.

Desired future conditions for Lincoln Township

- All wells that provide drinking water will be bacteria (total coliform and e-coli) free/absent.
- All wells that provide drinking water will have nitrate levels less than the state standard of 10 ppm.
- All wells that provide drinking water will be free of microbes and viruses.
- Wetlands shall be preserved.
- There will be zero manure spills.
- Sedimentation runoff from farm fields shall be eliminated.
- The transport of nitrogen, phosphorus and sedimentation to surface waters from tile lines shall be eliminated.

- Buffers and setbacks: increase cultivation and spreading setbacks from Silver Creek, Rio Creek, and streams flowing to the Ahnapee River. Increase buffers and setbacks for all environmental corridors and DNR wetlands.



Lincoln Township Environmental Corridors and DNR Wetlands Map

- All tributaries (Silver Creek, Rio Creek, and Casco Creek) are removed from the DNR/EPA Impaired Waterways List, including for phosphorus.
- Move to more sustainable development and agriculture in Lincoln Township through matching land use, development, and agricultural practices with groundwater and surface water susceptibility.

What can be done to achieve our Desired Future Conditions?

It's important to note that because of the legislation passed at the State and County levels since the adoption of the Supplement to the Comprehensive Plan, and because of the attention farmers are giving to nutrient management plans and manure spreading, and because of the possible improving results of well testing, **the Plan Commission is not, at this time, recommending the adoption of a Groundwater Protection Ordinance.** Instead, we are making the following recommendations for each stakeholder group in the Township to undertake. Based on the data reviewed, we firmly believe that these recommendations, if followed, will help achieve the stated Desired Future Conditions.

What can homeowners and/or landowners do to protect our groundwater and surface waters? (Action Items)

1. Use the town's Susceptibility Map, Closed Depression Map and Sensitive Areas Map to identify your property's risk to groundwater and surface water.
2. Test your well annually, preferably when well testing is offered by the Land and Water Conservation Department. As part of LWCD's well testing effort, everyone benefits with the additional shared data points.
3. Make sure that your well has a vermin proof well cap.
4. If you are in need of a new well, consider exceeding state well construction standards including casing, grouting, well depth, and casing down to water source to possibly improve well water quality.
5. Greatly reduce the use of fertilizers and chemicals in closed depressions. Better yet, eliminate their use entirely in these areas, as closed depressions eventually drain into our groundwater.
6. Build berms to direct water away from sinkholes, fractures, wells, and closed depressions on your property which feed our groundwater.
7. Avoid using fertilizers or pesticides near sinkholes, fractures, wells, ditches, or closed depressions.
8. Minimize the use of lawn chemicals and fertilizers, **especially when rain is predicted over the next week.**
9. Direct downspouts to your lawn or rain barrel and away from pavement, asphalt or blacktop.
10. Have your septic system pumped and inspected every three years as required by Wisconsin law.
11. Properly dispose of household and hazardous waste, antifreeze, motor oil, leftover pesticides and fertilizers with Kewaunee County's periodic Clean Sweep Program. NEVER dump these items on your driveway or in a ditch or stone pile. And NEVER flush these items down your drains or toilet and into your septic system. Save them for the Kewaunee County Clean Sweep Program.
12. Prescription drugs can be disposed of anonymously 24/7 at the Kewaunee County Sheriff's Department Safety Building. NEVER flush them into your septic system, compost them, or dispose of them into the environment.
13. If you have an abandoned well on your property, contact the DNR to have the well properly decommissioned and registered as such.
14. According to Wisconsin, Kewaunee County, and Lincoln Township ordinances, burn barrels may only be used to burn unrecyclable paper and cardboard, natural fibers, clean, untreated wood and similar materials. Burning anything other than these items is an ordinance violation as it causes, among other things, groundwater contamination. (<https://dnr.wisconsin.gov/topic/OpenBurning/BeforeYouBurn.html>)

What can landowners (including those who rent out their land) do to protect our groundwater and surface waters? (Action Items)

In addition to the above:

1. The goal is to reduce the impact of agriculture on moderate, high, or highly susceptible lands. Therefore work closely with LWCD and NRCS and their programs.
2. Increase your buffers between wetlands, streams, or sinkholes and cultivated fields.
3. Increase buffers to known sinkholes to 75 feet or more.
4. Clean out any sinkhole that was historically used as a dump site. Establish a buffer around the sinkhole.
5. Protect exposed bedrock.
6. Greatly reduce the use of fertilizers and chemicals in closed depressions. Better yet, eliminate their use entirely in these areas, as closed depressions eventually drain into our groundwater.
7. Educate yourself as to what conservation programs your land or sections of your land may qualify for. For information, see:
<https://www.nrcs.usda.gov/wps/portal/nrcs/main/national/programs/>
8. If your land is adjacent to a tributary, stream, or creek, consider planting cover crop annually to protect from soil erosion and nutrient runoff over winter.
9. If your land is adjacent to a tributary, stream, or creek, consider no-till planting to protect your soil from erosion and nutrient runoff.
10. If your land is in a high or moderate risk area, karst, or groundwater attenuation area based on the Susceptibility Map, Closed Depressions Map, or Sensitive Areas Map, consider not allowing liquid manure applications in the fall after crop harvest as there are not crops on the land for nutrient uptake.
11. Require cover crops on land that is highly susceptible to groundwater contamination; encourage cover crops on other lands.
12. Properly dispose of all unwanted pharmaceuticals and hazardous wastes.

What can the farming community accomplish? (Action Items)

1. The goal is to reduce the impact of agriculture on moderate, high, or highly susceptible lands. Therefore work closely with LWCD and NRCS and their programs.
2. Identify high-risk fields for groundwater and surface water contamination. These areas include closed depressions, fields with karst features, and shallow soils over bedrock. Consider retiring these fields from liquid manure and chemical applications.
3. Increase buffers to known sinkholes to 75 feet or more.
4. Clean out any sinkhole that was historically used as a dump site. Establish a buffer around the sinkhole.
5. Protect exposed bedrock.
6. Greatly reduce the use of fertilizers and chemicals in closed depressions. Better yet, eliminate their use entirely in these areas, as closed depressions eventually drain into our groundwater.
7. Reduce manure spreading, especially liquid manure, in closed depressions, particularly depressions that have shallower soils to bedrock.
8. Comply with NR 151 Silurian Dolomite Standards to reduce liquid manure applications on saturated soils.
9. Comply with the Manure Runoff Advisory System. **When it's RED, do not spread—before, during, or after.**
<http://www.manureadvisorysystem.wi.gov/runoffrisk/index>
10. Tile lines are a conduit for nutrient and sediment loss resulting in contamination of surface waters and groundwater.
 - Treating tile drainage at the outlet and better management of nutrient/manure applications of fields can reduce the amount of nitrogen and phosphorus reaching rivers and streams.
 - Additional options for treating tile drainage at the outlet include (From the LWCD 9-Key Element Plan):
 - Constructing a treatment wetland,
 - Saturated buffers,
 - Phosphorus removal structures, and
 - Installation of water control structures (drainage water management and water table management) to stop the flow of drainage water during poor conditions.
 - Consider “end of pipe” treatment or constructed wetlands to manage tile line effluent, which, according to *Suitability of Using “End of Pipe” Systems to Treat Farm Tile Drainage Water* (Fleming, et al, 2004), includes: (this and other tile line references are available in Tile Line Resources at the end of this document)
 - Pathogens
 - **Nitrogen**

- Phosphorus
 - Raw manure, milk wastes, and sewage
- **No tile line should ever be terminated into surface waters or DNR-designated wetlands.**
- All existing tile lines should be reconfigured to terminate into laterals at least 25-feet from surface waters or DNR-designated wetlands.
- Document where all field tile lines are and which ones need to be removed. All tile outlets into surface waters and DNR-designated wetlands must be marked on NMPs.
- From Peninsula Pride Farms brochure, *Water Quality—A Dual Approach*:
 - **“Improve tile drainage management and installation of tile drainage treatment systems”.**
- Buffers and setbacks: increase spreading setbacks from Silver Creek, Rio Creek, and streams flowing to the Ahnapee River.
 - Increase buffers and setbacks for all environmental corridors and DNR wetlands.
 - Better protect wetlands: increase setbacks for both cultivation and fertilization.
- Reduce nitrate applications.
 - See Kevin Erb: Manure 101 (11-11-02)
 - **The Manure Paradox**
 - Crops use N:P:K in a 3:1:2 ratio
Dairy manure is a 1:1:2 ratio (available)
 - Meet the crop’s N need = excess P
 - Meet the crop’s P need = buy N fertilizer
- Get the water out of manure.
 - Reduce water use in manure systems to create more solid manure.
 - Consider composting manure.
- Identify the best locations for cover crops to protect high risk fields, fields adjacent to surface waters, wetlands, and in closed depressions. Are the proper fields being cover cropped?
 - Use SnapMaps 20 as a resource
<https://snapmaps19.snapplus.wisc.edu/>
- Commit to a best management plan for protecting groundwater and surface waters in Lincoln Township.
- Properly dispose of all unwanted pharmaceuticals and hazardous wastes.
- In addition to the above, Peninsula Pride Farms suggest the following in their brochure *Water Quality—A Dual Approach: Surface Water: How will we measure our impact?*
 - *Track phosphorus and soil loss from conservation practices.*
 - *Improve tile drainage management and installation of tile drainage treatment systems.*
 - *Evaluate the difference in a field with and without a conservation practice.*
- Peninsula Pride Farms encourages the adoption and use of:
 - Cover crops

- Harvestable buffers
- Split nitrogen applications
- See Peninsula Pride Farms January 13, 2021, press release which calculates water quality improvements due to cover crops and other conservation practices at <https://peninsulapridefarmsinc.org/2021/01/12/analysis-peninsula-pride-farms-reduces-risk-to-water-quality/>
- Even if not a Peninsula Pride Farm member, seriously consider adopting and implementing these and other conservation practices.

What Can Lincoln Township Do to Prevent Groundwater and Surface Water Contamination?

Rezoning and Conditional Use Permit CUP goals:

- Review all rezoning and conditional use permits with consideration towards their potential impacts on groundwater and surface waters. Advise rezoning applicants accordingly and develop and include conditions in conditional use permits as appropriate to protect groundwater and surface waters. (Supplement to the Comprehensive Plan or S2CP)
- During site plan reviews, consider the impact of the proposed construction on groundwater and surface waters and provide guidance accordingly. With each applicant, review so that they understand their situation:
 - Groundwater susceptibility map (map 7, page 48)
 - Catchment and closed depressions map (map 8, page 51)
 - Sensitive Areas Map (per the S2CP, page 47)
 - Consider riparian buffers and wetland setbacks as a condition of approval for all future land use permits (S2CP)
 - Karst Map (page 36)
- Assure that all conditional use permits and building permits take into consideration the location of sink holes and other karst features. Sink holes and karst features need to be appropriately buffered whether on agriculture land, residential properties, or commercial development. (S2CP)
- Proceed cautiously when considering cluster development as recommended by most comprehensive planning consultants due to the fact that there are large areas of Lincoln Township where our geology cannot support this type of pressure on the groundwater resources.
 - Housing development with their septic systems are better distributed over the landscape than clustered together in karst geology and over shallow soils. (Borchardt).
 - Make recommendations for residential and commercial development in mapped “sensitive” areas, areas of groundwater contaminant susceptibility, and closed depressions. (S2CP)
- The Plan Commission and Town Board need to consider what development is allowed in and along the Town’s environmental corridors (Environmental Corridors and DNR Wetlands Map, page 59).
 - As much as possible, encourage cover crops and discourage intensive agriculture adjacent to environmental corridors. (S2CP)
 - Create buffers as much as possible.
- Encourage the planting and establishment of fencerows, windbreaks, shelterbelts, grassed waterways, buffers, natural vegetation areas, and similar land uses that provide

high-quality groundwater recharge. “Conservation buffers are a visual demonstration of your commitment to land stewardship.” (S2CP) See:

<https://www.nrcs.usda.gov/wps/portal/nrcs/detail/national/home/?cid=nrcs143023568>

- Heidelberg University’s National Center for Water Quality Research (NCWQR) has been monitoring tributaries leading into the Ohio River and Lake Erie for phosphorus and nitrates since 1974. They discovered a conservation practice, no-till agriculture, that turned out to be responsible for pollution runoff during high rainfall events and subsequent Lake Erie algal blooms. See *Increased Soluble Phosphorus Loads to Lake Erie: Unintended Consequences of Conservation Practices?* at <https://access.onlinelibrary.wiley.com/doi/full/10.2134/jeq2016.07.0248> This seems to be a similar problem unveiled by Kim Busse, UW-O in her study *Monitoring of Non-point Source Pollutants in the Ahnapee River Watershed* that we see in at Crescent Beach in Lake Michigan. It would be worth Lincoln Township’s while to encourage Dr. Busse to collaborate with other researchers and perhaps NCWQR for further testing, studies, and recommendations as to how to alleviate this problem. See <https://ncwqr.org/monitoring/> UWGB is mentioned as a university developing a model based on NCWQR’s, so there might be opportunities for collaboration here as well. (S2CP)
- Lincoln Township is not opposed to agriculture. **The science is telling us that not all agricultural practices, nor all residential development, are appropriate in all locations in Lincoln Township. We have gone to where the data have led us.** (Ag Transition Map, page 50).
- From 75% to 80% of Lincoln Township is deemed “Sensitive Areas” by DNR definitions. This does not mean that this 75+% of Lincoln Township is unsuitable for agriculture, residential, or commercial ventures. It does mean, however, that 75+% of Lincoln Township lands must be farmed or developed taking this into account. It also means that the Town Board and the Plan Commission need to proceed cautiously when granting conditional use permits or rezoning requests, and to fully inform residents and land owners of the issues that they will face as they develop their properties as well as the issues that exist with undeveloped properties due to existing land uses, regardless of what they are or what is proposed. (Sensitive Areas Map, page 47).
- Check in with Eric Cooley, Discovery Farms, UW-Extension, regarding on-going research on nutrient loss with plastic tile lines.
- Invite appropriate researchers or evaluators to monitor effluent from tile lines that empty into Silver Creek and town ditches and right of ways for nitrogen and phosphorus. Make the resulting study available to town residents.
- Work with LWCD, NRCS, and Discovery Farms to determine what to do with existing tile lines, especially those that terminate into streams and surface waters. (S2CP)
- Reconsider how to address tile lines in the township.

- Continue partnering with and funding the LWCD and UWSP on the bi-annual Lincoln Township’s well testing research. (S2CP)
 - Request that the KC Conservationist update the town every other year on the well testing project results.
- Find and document ALL abandoned wells that need decommissioning.
 - Work with LWCD to create a database of all wells that need to be proper abandonment.
 - Research the establishment of a Lincoln Township fund to pay for proper abandonment of wells in the township.
 - Research the establishment of Lincoln Township abandoned well deputies with volunteers.
- Advocate for scientific testing by LWCD or the DNR to measure the effectiveness of new state standards and agricultural practices on groundwater and surface water quality.
 - LWCD is seeking a grant to test 600 wells in the 0 to 20-foot to bedrock area of the Kewaunee County.
 - 260 of those wells will be the same wells tested by Drs. Borchardt and Muldoon and will be used to scientifically ascertain any changes since their 2015-2016 tests.
- Research Incorporating karst feature and drainage tile mapping into local requirements for ATP 51 (Livestock Siting). (S2CP)
- Investigate the possibility of updating the Sensitive Areas Map with LWCD karst features.
- Invite LWCD annually to Lincoln Township to do a presentation on: (S2CP)
 - What are the well test results?
 - Where are the cover crops in Lincoln Township?
 - Where have buffers been increased? Where do they need to be increased?
 - Where is the need for tile line reduction or redesign?
- Work closely with LWCD; someone from Lincoln Township should attend LWCD monthly meetings.
- Continue to research the need and feasibility of groundwater protection ordinance language and adopt GWPO language if and when appropriate. (S2CP)
- Post the Groundwater and Surface Water Protection Report and Recommendations on the Lincoln Township web site along with a page of “tools to protect Lincoln Township’s groundwater and surface waters” and all references cited in the GW&SWPR&R. (S2CP)
- Display maps depicting groundwater and surface water resources and threats at the town hall and provide access to residents. (S2CP)

What does the future look like for Lincoln Township?

Recent Developments

In addition to the more than 16 years of research and efforts previously mentioned, the following are some recent initiatives being undertaken by Federal, State, and local agencies and farmer-led watershed groups intended to protect groundwater and surface waters from contamination. It is too early to know the extent of their effectiveness but it is important to document their existence and keep an eye on their progress.

- The Agricultural Performance Standards—KC Chapter 39
 - The revised NR 151 (particularly rule enforcement in Kewaunee County)
 - The new Silurian Dolomite Standards
- The use of cover crops on highly susceptible fields
- Low disturbance manure injecting
- Side dressing manure on growing crops
- NRCS focusing the ag community on soil health education
- Recommendations from the Speaker’s Taskforce
- DNR SNAP 20 web map
- DATCP project measuring depth to bedrock using LIDAR technology

The Plan Commission recommends that these efforts be closely monitored to determine if they have provided **measurable scientific results** that rise to the level of other empirical data included in this report.

What Does The Future Hold?

It is without question that the geology of Lincoln Township is uniquely vulnerable to groundwater contamination and state-wide regulations were not sufficient to prevent it. Because of this, the citizens of Lincoln Township have suffered with some of the highest groundwater contamination in the state. They have endured 16 years of studies and taskforces, testing and trials needed to document the sources of the contamination and develop solutions.

Are we through the worst of it? Are we on the path to protecting our ground and surface water for ourselves and future generations? It is too early to tell. Scientists do believe a “zero contamination rate” goal is achievable but **only** if we are vigilant. In addition to the very specific actions recommended in this report, we encourage homeowners, landowners and the farming community to continue to do **whatever it takes** to protect our very vulnerable water supply **regardless of state or county regulations** and **regardless of available financial incentives**. This is our community, our water, our future. It’s up to **all of us** to assure the sustainability of Lincoln Township’s groundwater and surface water for ourselves and future generations.

Resources—Kewaunee County Policies Supporting Groundwater and Surface Waters Include:

See <https://www.kewauneeeco.org/government/page/ordinances/> to download any of the following ordinances.

- Chapter 13: Illegal Burning Ordinance
- Chapter 15: Sanitary Ordinance (for Private Onsite Wastewater Treatment Systems)
- Chapter 16: Shoreline Zoning Ordinance
- Chapter 17: Non-metallic Mining Reclamation Ordinance
- Chapter 18: Animal Waste Storage Facility Ordinance
- Chapter 19: Floodplain Zoning Ordinance
- Chapter 28: Private Water Systems/Well and Drillhole Abandonment
- Chapter 30: Public Health and Groundwater Protection Ordinance
- Chapter 37: Agricultural Waste and Process Wastewater Irrigation Ordinance
- Chapter 39: Agricultural Performance Standards Ordinance (NR151)
- Annual household well testing program
- Occasional hazardous waste collection program
- Prescription drug disposal at the Sheriff's Department Safety Building

Resources—Kewaunee County Public Health Department

- Kewaunee County Department of Public Health Environmental Health Groundwater Information
<https://www.kewauneeeco.org/departments/public-health/environmental-health/groundwater-information/>
- Centers for Disease Control and Prevention—Treatment of Well Water
<https://www.cdc.gov/healthywater/drinking/private/wells/treatment.html>
- WI DNR—Information for Homeowners with Private Wells
<https://dnr.wisconsin.gov/topic/Wells/homeowners.html>
- WI DNR—Water Quality and Contamination in Private Wells
<https://dnr.wisconsin.gov/topic/DrinkingWater/contaminants.html>
- EPA—Private Drinking Water Wells
<https://www.epa.gov/privatewells>
- WI DNR Well Compensation Grant
<https://dnr.wisconsin.gov/aid/WellCompensation.html>
- USDA Household Water Well System Grants
<https://www.rd.usda.gov/programs-services/rural-decentralized-water-systems-grant>
- Household Water Well Program Loan Fact Sheet
<https://www.kewauneeeco.org/i/f/files/Public%20Health/Household%20Water%20Well%20Program.pdf>

References – Bibliography

The following studies are cited in this document by number. They can be sourced by the web links included in the citation or by searching the internet by typing in the name of the study and the author. Or they can be obtained by contacting the agency referenced. The numbers below refer to the study in the document.

Studies

1. *Northeast Wisconsin Karst Task Force Final Report* by Kevin Erb and Ron Stieglitz is available at:
<https://cdn.shopify.com/s/files/1/0145/8808/4272/files/G3836.pdf>
2. Kewaunee County well test report summaries are available electronically from the Kewaunee County Land and Water Conservation Department.
3. *Assessing Levels of Endocrine Disrupting Chemicals in Groundwater Associated with Karst Areas in Northeast Wisconsin* by Dr. Angela Dantoin-Bauer et al is available at:
<https://www.wri.wisc.edu/wp-content/uploads/FinalWR08R004.pdf>
4. *Investigating Inter-annual Variability of Well Water Quality in Lincoln Township* by Davina Bonness and Kevin Masarik (2014) is available from the Kewaunee County Land & Water Conservation Department electronically on request.
The PowerPoint presentation is available at:
https://www.uwsp.edu/cnr-ap/watershed/Documents/lincoln_ppt.pdf
5. *Monitoring of Non-point Source Pollutants in the Ahnapee River Watershed*, by Kimberly M. Busse, Environmental Research and Innovation Center, University of Wisconsin-Oshkosh, January 2014, is available from Lincoln Township electronically on request.
6. The *Kewaunee County Public Health and Groundwater Protection Ordinance* is available on the Kewaunee County website at:
<https://www.kewauneeco.org/i/f/files/Ordinances/Chapter%2030.pdf>
7. *The Environmental Protection Agency Petition on behalf of the Citizens of Kewaunee County can be found on the Midwest Environmental Advocates website at:*
https://midwestadvocates.org/assets/resources/Safe%20Drinking%20Water%20Act%20Petition/2014-10-22_Kewaunee_SDWA_Petition_to_EPA.pdf

Updated information on the EPA Petition case can be found at:

<https://midwestadvocates.org/search?q=EPA%20petition>

8. *The Groundwater Collaboration Workgroup Final Report* can be found on the Kewaunee County website at:
<https://www.kewauneeeco.org/i/f/files/Public%20Health/Groundwater%20Collaboration%20Workgroup%20FINAL%20REPORT%206-16.pdf>

NR151 State Agricultural Performance Standards:

<https://www.kewauneeeco.org/departments/land-water-conservation/nr151-state-agricultural-performance-standards/>

Kewaunee County Agricultural Performance Standards, Chapter 39:

<https://www.kewauneeeco.org/i/f/files/Ordinances/Chapter%2039.pdf>

9. *Kewaunee County: Using Research to Help Determine Contaminants and Risks to Human Health*, by Dr. Krassimira Histova, Marquette University, September, 2015, can be acquired by contacting Dr. Histova through:

<https://www.marquette.edu/biology/directory/hristova.php>

10. The presentation *Assessing Groundwater Quality in Kewaunee County, Wisconsin* by Dr. Mark Borchardt and Dr. Maureen Muldoon, 2017, can be obtained electronically from Lincoln Township.

The full report can be downloaded from:

<https://www.wri.wisc.edu/wp-content/uploads/Final-Report-Kewaunee-County-Groundwater-Quality-DNR-Project-227.pdf>

11. The complete Lincoln Township Supplement to the Comprehensive Plan can be found on the Lincoln Township website at:
<https://lincolnkewaunee.com/2017/11/04/final-town-of-lincoln-comprehensive-plan-chapters-1-6-available/>

12. *Hydrogeological Characterization of the Town of Lincoln, Kewaunee County, Wisconsin*, Wisconsin Geological and Natural History Survey, 2017, the full report, can be found on the Lincoln Township website at:

<https://wgnhs.wisc.edu/catalog/publication/000952>

13. *Risk Factors Associated with Private Well Contamination in Kewaunee County, Wisconsin*, Dr. Mark Borchardt and Dr. Maureen Muldoon, UW-Oshkosh, 2019. The presentation can be requested electronically from Lincoln Township.

14. *Kewaunee County's Land & Water's Resource Management Plan Update 2020-2029* is available from the Kewaunee County Land & Water Conservation Department

15. *The Ahnapee River Watershed 9-Key Element Plan, KCLWCD April, 2020*, is available electronically from the KC LWCD.
16. The DNR's Northeast Lakeshore Total Mean Daily Load website can be found at: <https://dnr.wisconsin.gov/topic/TMDLs/NElakeshore.html>
17. DNR Bureau of Drinking Water and Groundwater Special Well Casing Depth Areas can be found at: <https://dnr.wi.gov/topic/wells/documents/SpCsgDpthAreaLst.pdf>

Other References

Unless otherwise noted in the document, all of the Lincoln Township or Town of Lincoln maps are available from Lincoln Township electronically. Inquire with the town clerk.

- Page 8: *Best Management Practices to Protect Groundwater at Hines Emerald Dragonfly Larval Sites in Door County, Wisconsin*, Final Report February 1, 2013; Cooperative Agreement Between the USF&WS and The Ridges Sanctuary <https://www.fws.gov/midwest/endangered/insects/hed/pdf/HEDBMPFinalReportFeb2013.pdf>
- Page 35: *Town of Lincoln Karst Map* is available from the Kewaunee County Land and Water Conservation Department.
- *Increased Soluble Phosphorus Loads to Lake Erie: Unintended Consequences of Conservation Practices?* Helen P Jarvie, et al, Journal of Environmental Quality, January 1, 2017; <https://access.onlinelibrary.wiley.com/doi/full/10.2134/jeq2016.07.0248>
- All references cited in the 2017 Supplement to the Comprehensive Plan, Chapter 6 Appendix (pages 8-10) are hereby adopted by reference.

Tile Line Resources

- *Suitability of Using "End of Pipe" Systems to Treat Farm Tile Drainage Water*, Fleming, et al, 2004, is available at: https://www.ridgetownc.com/research/documents/fleming_end_of_pipe_final_Oct82004.pdf
- *Ten Ways to Reduce Nitrate Loads From Drained Croplands in the Midwest*, Frankenberger et al, University of Illinois Extension, 2016; is available at: http://draindrop.cropsci.illinois.edu/wp-content/uploads/2016/09/Ten-Ways-to-Reduce-Nitrate-Loads_IL-Extension-2016.pdf
or
https://northcentralwater.org/files/2018/03/Ten-Ways-to-Reduce-Nitrate-Loads_IL-Extension-2016.pdf

- *Ten Ways to Reduce Nitrate Loads From Drained Croplands in the Midwest* PowerPoint presentation Laura Christianson, University of Illinois, 2017, is available at: <https://erc.cals.wisc.edu/ten-ways/#/home> or http://neiwppc.org/nationalnpsold/documents/presentations/Jane%20Frankenberger_Session3.pdf

Resolution 2021-1

A Resolution Adopting a Changes to the Town of Lincoln Zoning Ordinance

WHEREAS the Plan Commission, Zoning Administrator, and Town Board of Supervisors seek to clarify the Town of Lincoln Zoning Ordinance, and

WHEREAS the Plan Commission met on February 22, 2021, and voted to make the following recommendation about a language change in the Zoning Ordinance:

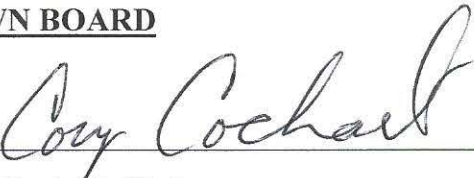
BE IT RESOLVED THAT the Town Board of Supervisors of the Town of Lincoln (“Town Board”), Kewaunee County, Wisconsin, adopts the following language in the Zoning Ordinance:

10.0200 Definition
10.0201 General

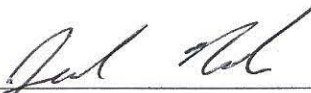
The term “Family” shall include: A group of two (2) or more persons related by blood, marriage, adoption, or foster care arrangement living together as a single housekeeping unit or a group of not more than three (3) adults not so related maintaining a common household.

Enacted this 1st day of March, ~~2017~~ ²⁰²¹ by the Town Board of Supervisors of the Town of Lincoln.

TOWN BOARD



Cory Cochart, Chairman



Jordan Nowak, Supervisor #1



Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing resolution was duly enacted by the Town Board of the Town of Lincoln on this

1st day of March, ~~2017~~ ²⁰²¹



Mary Ann Salmon, Town Clerk

Lincoln Township
Kewaunee County, Wisconsin

Resolution 2020-4
All-Terrain Vehicles and Snowmobiles

WHEREAS, the Town of Lincoln Board of Supervisors has been authorized to exercise village powers pursuant to ss. 60.10(2)(c) and s. 60.22(3), Wis. Stats.; and

WHEREAS, the Town of Lincoln Board of Supervisors wishes to regulate all-terrain vehicles and snowmobiles under its general village powers authority;

BE IT THEREFORE RESOLVED that the Town of Lincoln Board of Supervisors hereby adopts by this resolution the following Kewaunee County Chapter 25 All-Terrain Vehicle and Snowmobile Ordinance, as follows:

-
- 25.10 Authority. The Town of Lincoln Board of Supervisors adopts the provisions of this Ordinance pursuant to the authority of Wis. Stats. §23.33(11) and §350.18.
- 25.20 Regulation of All-Terrain Vehicles. Except as otherwise specifically provided in this Code, the statutory provisions of Wis. Stat. §23.33 and Wis. Admin. Code NR §64 describing and defining regulations with respect to all-terrain vehicles are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any statute or administrative code incorporated herein by reference is required or prohibited by this Code. Any future amendments, revisions, or modifications of the statutes or administrative code incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of all-terrain vehicles.
- 25.21 Operation of ATVs or UTVs on ATV Routes. The operation of an ATV or UTV on a roadway that is an approved ATV Route and signed in accordance with Wis. Stat. §23.33(8)(e) by Casco Town or any city, town or village is subject to the following provisions:
- (1) Any operator or passenger shall comply with all federal, state, and local laws, orders, regulations, restrictions and rules, including Wis. Stats. §23.33 and Wisconsin Administrative Code NR §64.
 - (2) Operators shall observe a speed limit of 35 miles per hour or the posted speed limit, whichever is less.
 - (3) Operators shall operate on the paved surface on the extreme right side of the roadway.
 - (4) Operators shall ride in single file.

- (5) Operators who were born on or after January 1, 1988 must have completed an ATV safety certification course.
- (6) Operators must be at least 16 years of age and possess a valid driver's license.
- (7) No person may operate an ATV or UTV on an ATV Route at any time before or after the Operating Hours. Operating Hours are 60 minutes before sunrise to 60 minutes after sunset.
- (8) Every ATV/UTV shall be equipped, maintained, and operated so as to prevent excessive or unusual noise. No person shall drive an ATV/UTV on an ATV Route unless such ATV/UTV is equipped with a muffler or other effective noise-suppressing system in good working order and in constant operation. It shall be unlawful to use a muffler cutout, bypass, or similar device on any ATV/UTV upon an ATV Route. No person shall modify or change the exhaust muffler, the intake muffler, or any other noise-abatement device of an ATV/UTV in a manner such that the noise emitted by the ATV/UTV is increased above that emitted by the ATV/UTV as originally manufactured.

25.30 Regulation of Snowmobiles. Except as otherwise specifically provided in this Code, the statutory provisions in Chapter 350, Wisconsin Statutes, describing and defining regulations with respect to snowmobiles are adopted and by reference made a part of this Code as if fully set forth herein. Any act required to be performed or prohibited by any statute incorporated herein by reference is required or prohibited by this Code. Any future amendments, revisions, or modifications of the statutes incorporated herein are intended to be made part of this Code in order to secure uniform statewide regulation of snowmobiles.

25.40 Penalties.

- (1) Any forfeiture for a violation for the State Statutes adopted by reference in this Chapter shall conform to the forfeiture permitted to be imposed for violation of such statutes as set forth in the uniform deposit and misdemeanor bail schedule of the Wisconsin Judicial Conference, including any variations or increases for subsequent offenses, which schedule is adopted by reference.
- (2) Any violation of this Chapter not included in the uniform deposit and misdemeanor bail schedule of the Wisconsin Judicial Conference shall have a cash deposit of seventy-five dollars (\$75.00) plus court costs and one-hundred fifty dollars (\$150.00) plus court costs for a second violation of this Ordinance within a 12 month period.

25.50 Enforcement. This ordinance shall be enforced by any law enforcement officer authorized to enforce the laws of the State of Wisconsin.

25.60 Effective Date. This ordinance is effective upon passage and publication.

Enacted this 14th day of September, 2020 by the Town Board of Supervisors of the Town of Lincoln.

TOWN BOARD

Cory Cochart
Cory Cochart, Chairman

Jordan Nowak
Jordan Nowak, Supervisor #1

Jesse Jerabek
Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing Resolution was duly enacted by the Town Board of the Town of Lincoln on

this 14th day of September, 2020

Mary Ann Salmon
Mary Ann Salmon, Town Clerk

Town of Lincoln

Kewaunee County, Wisconsin

Resolution

2019-7

**Resolution on Town Board of Supervisor Standards of Operation
And Town Meeting Protocol**

WHEREAS the Town of Lincoln is governed by three supervisors (The Town Board) elected by the residents of the township;

WHEREAS the Town Board, Town Clerk and Town Treasurer, as elected officials, take an oath to uphold the laws of the State of Wisconsin and the United States of America;

WHEREAS The Board and all elected and appointed town officials agree to uphold the US Constitution which specifically guarantee freedom of speech, the right for peaceful assembly and the right to petition government;

WHEREAS in order to properly uphold both State and Federal laws as they relate to town communications and meetings;

THEREFORE the Town Board of Supervisors does hereby adopt the following rules by which it will conduct communications, town board meetings, and town business:

- 1 All agenda items are approved to be put on the monthly town board meeting agenda by the town chair. If anyone wants an item on the agenda, they need to contact the town chair with the request for approval.
- 2 Meeting agendas shall be posted at least 24 hours prior to the scheduled meeting. Based on the type of items on the agenda, advanced notice of as little as two hours may be required as noted under ss 19.84(3).
- 3 Items that require review of documentation that the town board members are not all privy to or are not immediately familiar with need to submit such documentation to the town chair for review at least one week prior to the town board meeting for which the item is requested to be on the agenda. If the item is to be included on the agenda as decided by the town chair, that documentation will be sent around to the town board, town clerk, town treasurer, and other town officials (zoning administrator, town constable, plan commission chair, plan commission) as appropriate prior to the meeting so that all can review the content.

- 4 Email, phone, or in-person discussions of agenda items or content by town board members outside of a town board meeting is counter to the open meetings law. Members may send something around for consideration but responses or dialogue are inappropriate. Such discussions need to happen in a posted meeting. This does not include polls to ascertain availability for a date for a future meeting.
- 5 The town chair presides over town board meetings and has the authority to recognize, or not recognize, anyone to speak at the meeting. Anyone who is disruptive at a town board meeting will be asked to leave that meeting.
- 6 The town chair has the right to recognize anyone to speak at any time during a town board meeting.
- 7 The right for members of the public to comment, question, criticize or petition elected officials is guaranteed by law. Civility at Town of Lincoln meetings is a basic premise. Personal attacks and derogatory comments are not allowed. All public comments are to be directed to the Town Board and not other members of the public. The town chair has the discretion to determine what is a personal attack or derogatory comment.
- 8 During the public comment period of a town board meeting, anyone may address the town board including board supervisors and officers. The town chair has the discretion to end anyone's lengthy comments or put a time limit on individual comment time.
- 9 Special meetings of the town board are called only by the town chair. A request for a special meeting must go to the town chair with adequate rationale as to why the special meeting is necessary as opposed to waiting until the next regularly scheduled town board meeting for the item to be considered.
- 10 For special meetings between regular town board meetings, the town chair or his/her designee will poll the supervisors and officers with possible dates. Members are to respond in a timely fashion to the town chair (or designee) only. Upon receiving the responses, the town chair (or designee) will schedule the meeting on the best available date, and the town clerk will then post the agenda for that meeting.
- 11 Items of a personal nature or that affect a supervisor personally should be addressed in the public comment portion of the meeting and not as an agenda item as board business.

APPROVED by a vote of 3 for and 0 against at a duly noticed meeting of the
Town of Lincoln Board of Supervisors on this

5th day of August, 2019.

Town of Lincoln Board of Supervisors

Cory Cochart

Cory Cochart, Chairman

Jordan Nowak

Jordan Nowak, Supervisor #1

Jesse Jerabek

Jesse Jerabek, Supervisor #2

Town of Lincoln

Kewaunee County, Wisconsin

Resolution # 2019-10

Resolution Supporting Glacial Lakes Conservancy's Acquisition of Multiple Parcels Totaling 420 Acres in the Black Ash Swamp

WHEREAS, the Town of Lincoln adopted the 2016 Supplement to the Town's Comprehensive Plan which states specifically in Chapter 6, Goal 1.2.2 Natural Resources, the following Town objectives:

- Objective 2: Protect wetlands and other wildlife habitats, particularly those unique to the Town.
- Objective 3: Create, maintain, and protect open spaces, wildlife habitat, scenic vistas, recreational venues, and perhaps some farmland; and,

WHEREAS, Glacial Lakes Conservancy has applied to the Wisconsin Department of Natural Resources for a grant under the Nelson-Knowles Stewardship Program to purchase 420 acres in the Black Ash Swamp for conservation and public recreation purposes; and,

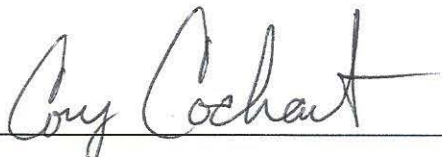
WHEREAS, the Wisconsin Department of Natural Resources sent a letter to Cory Cochart, Chairman, Lincoln Township, inviting the Town to send a Town resolution to the WDNR either in support or in opposition of the Glacial Lakes Conservancy's acquisition; and,

WHEREAS, Glacial Lakes Conservancy staff met with the Plan Commission and members of the Town of Lincoln Board of Supervisors to present their plan for the 420 acre parcel and solicit input from the public on the use of the 420 acre parcel should Great Lakes Conservancy be successful in their purchase of the property;

NOW, BE IT THEREFORE RESOLVED, that the Lincoln Township Board of Supervisors fully supports Glacial Lakes Conservancy's efforts to secure a grant from the Wisconsin Department of Resources Nelson-Knowles Stewardship Program for the purchase of multiple parcels totaling 420 acres in the Black Ash Swamp.

Enacted this 2nd day of December, 2019 by the Town Board of Supervisors of the Town of Lincoln.

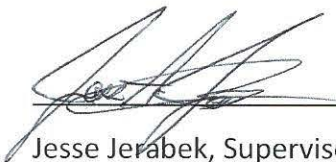
TOWN BOARD



Cory Cochart, Chairman



Jordan Nowak, Supervisor #1



Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing Resolution was duly enacted by the Town Board of the Town

of Lincoln on this 2nd day of December, 2019.



Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Town Cemetery Ordinance

Ordinance # 2020-3

SECTION I - TITLE AND PURPOSE

The title of this Ordinance is the "Town of Lincoln Town Cemetery Ordinance." The purpose of this Ordinance is to regulate the management, operation, and platting of the Town Cemetery, the burial of human remains in the Town Cemetery, and other Town Cemetery uses.

SECTION II - AUTHORITY

The Town Board of the Town of Lincoln has the specific authority under s. 157.50 (2), Wis. stats., and general authority under its village powers under s. 60.22, Wis. stats., to adopt this ordinance.

SECTION III - ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the management, operation, and platting of the Town Cemetery and the burial of human remains and other cemetery uses and activities in the town.

SECTION IV - DEFINITIONS

In this ordinance:

- A. "Burial" means entombment, inurnment, or interment and "bury" means to entomb, inurn, or inter.
- B. "Cemetery" means any location for burial of human remains in the town.
- C. "Human remains" means the body of a deceased individual that is in any stage of decomposition or has been cremated.
- D. "Lot" means a single grave lot platted in accordance with Section VI, whether or not occupied by a grave.
- E. "Outer burial container" means any container that is placed or intended to be placed into the burial excavation of a grave and into which a casket is placed or intended to be placed at the time of burial.
- F. "Sexton" means a town employee or independent contractor employed or retained by the town board to administer, repair, maintain, manage, and operate a town cemetery or any part of the operations of a town cemetery consistent with this ordinance. In the event no person is specifically designated as "sexton" by the town board, "sexton" means any person or committee designated to act administratively and to manage, operate, maintain, and provide care for the town cemetery or any part of the operations or of any town cemetery pursuant to this ordinance.
- G. "Town" means the Town of Lincoln, Kewaunee County, Wisconsin.
- H. "Town board" means the board of supervisors for the Town of Lincoln, Kewaunee County, Wisconsin, and includes designees of the board authorized to act for the board.
- I. "Town Cemetery" means a municipal cemetery owned, operated, and maintained by the Town of Lincoln, Kewaunee County, Wisconsin, under s. 157.50, Wis. stats., that is located within the town.
- J. "Perpetual Care Fund" means a monetary Town fund that exists to assure the permanent care of the Town Cemetery."
- K. "Town chair" means the chairperson of the Town of Lincoln, Kewaunee County, Wisconsin.
- L. "Town clerk" means the clerk of the Town of Lincoln, Kewaunee County, Wisconsin.
- M. "Town treasurer" means the treasurer of the Town of Lincoln, Kewaunee County, Wisconsin.

N. "Wis. stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

SECTION V - STATEMENT OF POLICY

Every Town Cemetery owned, operated, directly controlled, and maintained by the town is for the benefit of all citizens. Any person shall be allowed to be buried in a Town Cemetery.

This ordinance, adopted pursuant to s. 157.50 (2), Wis. stats., governs the construction, management, administration, platting, maintenance, and operation of the Town Cemetery and any new town cemetery, but does not govern any new cemetery or expanded cemetery of any other type in the town, including cemeteries operated by associations, religious orders and societies, and privately owned, controlled, operated, and maintained cemeteries.

SECTION VI - NEW BURIALS, CEMETERIES, AND CEMETERY LOTS AND NEW OR EXPANDED CEMETERY OPERATIONS

- A. Platting. Before any new block of the Town Cemetery is opened for the sale of cemetery lots for burial of human remains after the effective date of this ordinance, the town board or the sexton for the Town Cemetery and any person or agent for any other cemetery in the town that is subject to s. 157.065, Wis. stats., shall cause the blocks and lots to be platted and recorded in the Office of the Register of Deeds for Kewaunee County, Wisconsin, in accordance with s. 157.065, Wis. stats.
- B. Single grave section. The town board or the sexton shall designate for the Town Cemetery certain lots as a single grave section, and the lots within each grave section shall be platted and sold as single-grave lots. Unused portions of grave sections repossessed under chapter 157, Wis. stats., for nonpayment of assessments for care shall likewise be designated and sold as single-grave lots.
- C. Purchase of new lands. The town board or the sexton shall not purchase any land for cemetery purposes without approval of the electors of the town at a regular or special town meeting.
- D. New or expanded cemeteries. Any new or expanded cemetery to be approved by the town board shall be, at minimum, properly platted and filed with the town clerk and recorded in the Office of the Register of Deeds for Kewaunee County, Wisconsin. No cemetery shall be located, established, or dedicated contrary to s. 157.065 or 157.128, Wis. stats. The minimum cemetery acreage must be at least three (3) contiguous acres at platting dedication. No cemetery shall be located, established, or dedicated in violation of a town, county, or other zoning ordinance.

SECTION VII - PURCHASE OF LOTS IN TOWN CEMETERY

- A. Price of lots. The town board shall from time to time by resolution fix a price on all lots to be sold for burials in the Town Cemetery.
- B. Sales of lots.
 - 1. Persons, or their authorized agents, desiring to purchase a lot in the Town Cemetery for burial are referred to the town board, town clerk, or sexton. The town board, town clerk, or sexton shall have available suitable plats showing size and price of lots, and any other information that may be required, and render assistance to those desiring to make lot purchases. The town board, town clerk, or sexton shall issue a lot order for a selected lot to the prospective purchaser, or his or her agent, who shall present the order at the office of the town clerk. Upon receipt of proper payment to the town treasurer, the town chair and town clerk shall issue a cemetery lot deed to the lot in the form prescribed by the town attorney. The original deed from the town and the records of the cemetery kept by the town clerk or other designee of the town board are the only evidence of title to any

lot. The deed shall be signed by the town clerk and town chair or other persons so designated by the town board and sealed and acknowledged so as to entitle the purchaser to record the deed with the Register of Deeds for Kewaunee County, Wisconsin.

2. Persons conveying any cemetery lot in the Town Cemetery shall comply with s. 157.08, Wis stats., and this ordinance.

SECTION VIII - OWNERSHIP RIGHTS OF BURIAL IN THE TOWN CEMETERY

A. Ownership conditions.

1. The owner of a Town Cemetery lot, or his or her authorized agent, shall have the right to use a lot or portion of a lot for burial purposes only in accordance with the terms of this ordinance or any Town Cemetery bylaws and regulations.
2. Upon full payment by any person of the purchase price of a Town Cemetery lot, the town clerk and town chair shall issue a cemetery lot deed, under seal, as provided in Section VII, subsection B., and a copy of the deed shall be filed in the records of the town as evidence of ownership of the lot. Lots for which lot deeds have been issued by the town may not be subdivided except by consent in writing of the town board.
3. All repossessed vacant lots in the Town Cemetery when resold are subject to the same fees and charges as other unoccupied lots.

B. Burial.

1. In this subsection, "relative" means a parent, step-parent, spouse, grandparent, step-grandparent, child, step-child, grandchild, step-grandchild, brother, step-brother, sister, step-sister, parent-in-law, grandparent-in-law, brother-in-law or sister-in-law, uncle or aunt, and nephew or niece.
2. Any lot owner at the Town Cemetery acquires the lot solely for the purpose of burial of the owner at the time of the owner's death, and if the lot is owned jointly by spouses, either spouse is entitled to burial at that lot. The lot owner may grant written permission, which must be notarized and filed with the town clerk, for the burial of specific persons other than the owner and the owner's spouse. If more than one living person has an ownership interest in the lot, the written consent of all living persons having an ownership interest in the lot is required to permit the burial of a person other than an owner or owner's spouse.
3. Unless otherwise directed in a writing filed with the town clerk by the lot owner under paragraph 2, the town board or the sexton shall permit the burial of persons at the Town Cemetery lot at the request of any interested person upon proof of eligibility for burial at the cemetery lot as follows:
 - a. The lot owner, and surviving spouse of the lot owner, have the first right to burial or to direct the right of burial.
 - b. When there is no surviving spouse, the devisees or heirs of the owner may, by agreement in writing of all the heirs or devisees, determine who shall have the right of burial or direction for burial, which agreement shall be filed with the town clerk.

- ### **C. Ownership rights.**
- All burial rights in the cemetery lots located at the Town Cemetery and purchased from the town shall occupy the same position as real estate at the death of the owner. Only persons whose names appear on the Town Cemetery records of the town will be recognized as owners or part owners of lots. Lot owners may not allow burials to be made in their lots for any remuneration or financial consideration. In case of the death of a lot owner, when the cemetery lot is disposed of by a will, and when ownership is to be determined, a certified copy of the will or final judgment in the decedent's estate must be delivered to the town clerk before the town will recognize the change of ownership. If the deceased lot owner left no will, satisfactory proof of descent must be provided. It is recommended that lot owners, in making their wills, include a provision covering the Town Cemetery lots and devise the lots to one person.

- ### **D. Resale.**
- Lot owners may not resell or transfer lots or parts of lots in the Town Cemetery except as

follows:

1. Reconveyance of lots or parts of lots may be made only upon written application filed with and approved by the town clerk. The application shall be executed by the owner of the lots, or, if the owner is deceased, by the legal heirs. The application shall state the lot and block number. Upon approval by the town clerk, the owner of the lot shall execute a deed in the same form as an original deed from the town under Section VII, subsection B, so as to entitle the purchaser to record the deed with the Register of Deeds for Kewaunee County, Wisconsin.
 2. The town clerk shall enter in the record kept for that purpose copies of all deeds of transfer and reconveyance of cemetery lots. No deed reconveyance may be received and filed by the town clerk until the cemetery lot deed fee established by the town has been paid therefor.
 3. The fee shall be deposited into the Town Cemetery fund.
- E. Reburial.
1. In this subsection, "reburial" means to disintomb, disinter, or disinter human remains that are buried in a cemetery and reentomb, reinurn, or reinter the human remains in another grave, mausoleum space, or other place used or intended to be used for the burial of human remains that is located in the same cemetery.
 2. Any reburial of any person buried in the Town Cemetery shall comply with the provisions of s. 157.112, Wis. stats. Any person seeking reburial shall seek approval from the appropriate cemetery authority. A county authorization for disinterment and reinterment shall be required prior to any reburial under s. 69.18 (4), Wis. stats.
- F. Use of repossessed lots. Whenever possible, lots repossessed under chapter 157, Wis. stats., in the Town Cemetery will be resold and used for burials before new areas of the Town Cemetery are used or platted.

SECTION IX - CARE OF LOTS AT THE TOWN CEMETERY

- A. Perpetual care fund for the Town Cemetery. In order to assure reliable means for permanent care of the Town Cemetery, a perpetual care fund is required. Income from this fund shall provide all or partial maintenance costs of the Town Cemetery. All lots sold in the Town Cemetery shall be charged a perpetual care fee included in the price of the lot and each grave shall be provided with perpetual care services under subsection B. A record of the perpetual care fund shall be kept in the office of the town clerk. The fund may be increased by gifts, bequests, a portion of memorial charges, and other service revenues. Gifts shall be received, kept, and maintained pursuant to s. 157.11 (8) and (9), Wis. stats.
- B. Perpetual care. The town assumes to use the net annual income received from the investments of the perpetual care fund under subsection A in furnishing perpetual care of graves in the Town Cemetery. Perpetual care is limited to the maintenance of lawn, leaf disposal, filling sunken graves, raising markers, and caring for avenues, alleys, fences, buildings, and grounds in general. Expenditures of income from the perpetual care fund shall be made at the discretion of the town board or the sexton. The town shall not be bound to make a separate investment of money set aside for perpetual care from a particular lot sale, but the proceeds of each lot sale shall be added to the perpetual care fund of the town and the proceeds from the fund used by the town as provided in this subsection. Nothing in this ordinance shall be construed as obligating the town as to any alleged existing contract as to perpetual care. The town board shall operate and maintain the Town Cemetery to provide proper and decent care of the graves, and it may employ a sexton, staff, and any independent contractor necessary to provide such care.
- C. Costs of care fixed. The town board shall annually fix, as required under s. 157.11 (5), Wis. stats., a sum necessary for the proper and decent care of graves and unoccupied cemetery lots and improvement of the Town Cemetery to be paid from the following sources as determined by the town board:
1. Payments from Kewaunee County to the town for veteran's graves under subsection F and

- s. 45.84, Wis. stats.
2. Income of the perpetual care fund.
 3. Assessments made under subsection D.
 4. A tax levied by the town board.
- D. Assessments against unoccupied lots. The town board may annually assess upon Town Cemetery lots not occupied by graves amounts not to exceed the amounts reasonably required for actual and necessary costs for care of cemetery lots and care and improvement of the cemetery pursuant to s. 157.11 (7), Wis. stats. Notice of the assessment, along with a copy of s. 157.11, Wis. stats., shall be mailed to each owner or person having charge of a cemetery lot, at the owner's or person's last-known post office address, directing payment to the cemetery authority within 30 days and specifying that such assessments are a personal liability of the owner or person. When uniform care of a cemetery lot has been given for 2 consecutive years or more for which assessments are unpaid, after notice as provided in s. 157.11 (2), Wis. stats., the right to burial is forfeited until delinquent assessments are paid. When uniform care has been given for 5 consecutive years or more and the assessments are unpaid, upon like notice, title to all unoccupied parts of the cemetery lot shall pass to the town, as the Town Cemetery authority, and may be sold, the payment of principal to be deposited into the perpetual care fund. Before depositing the payment of principal into the perpetual care fund, the cemetery authority may retain an amount necessary to cover the cemetery authority's administrative and other expenses related to the sale, but the amount retained may not exceed 50% of the proceeds.
- E. General improvements. The town board shall direct and administer all improvements and maintenance within the Town Cemetery before and after any burials. The town board shall be responsible for determining proper and decent care of the Town Cemetery. All graves shall be sodded and mowed, when determined necessary by the town board or the sexton. The grade of the cemetery lots shall be determined by the town board or the sexton. The corners of all cemetery lots shall, when purchased, if possible, be permanently marked by the town board or the sexton. Resodding of existing graves or following disinterment will be done when determined necessary by the town board or the sexton.
- F. Veterans graves.
1. Pursuant to s. 45.85, Wis. stats., the town board shall at all times see that the graves and tombstones of all veterans, including women's auxiliary organizations created by act of Congress, who shall at any time have served in any branch of the armed forces of the United States, and of the spouses or surviving spouses of all those veterans, receive proper and decent care, and may employ all necessary assistance to carry out this section.
 2. Pursuant to s. 45.85 (1), Wis. stats., the expense of the care of the graves and tombstones shall be borne by the county where the graves are located, except where suitable care is otherwise provided and the amount of expense charged the county for the care may not exceed the charge made for the care of other graves in the same cemetery. The town board shall report to the Kewaunee county clerk, on or before September 1 of each year, the locations of the graves cared for by the town board under s. 45.85, Wis. stats., together with the names of the deceased and the amount claimed for care of the graves for the fiscal year from the previous July 1 to June 30.

SECTION X - PRIVILEGES AND RESTRICTIONS IN THE TOWN CEMETERY

- A. Bylaws and regulations. The town board may adopt bylaws and regulations for the management and care of the Town Cemetery and may enforce those bylaws and regulations under s. 157.11 (2), Wis. stats. The town board may require any person owning or controlling a cemetery lot to do anything necessary to comply with the bylaws or regulations by giving reasonable personal notice in writing if the person is a resident of the state, otherwise by publishing a class 3 notice, under chapter 985, Wis. stats., in the county. If the person fails to comply within 20 days thereafter, the town board may cause the action required to be done and recover the expense

from the person required to take the action. The town board may also impose a forfeiture not exceeding \$10 for violation of the bylaws or regulations posted in 3 conspicuous places in the Town Cemetery, recoverable under chapter 778, Wis. stats.

- B. Mounds prohibited. No person may raise the level of the earth over any grave in the Town Cemetery above the general level of the cemetery lot.
- C. Limitations on structures. No structures, hedges, fences, railings, embankments, depressions, or other enclosures of any kind are permitted on or around lots in the Town Cemetery.
- D. Landscaping. All landscaping, mowing, and general care of lots, and other work, construction or maintenance in the Town Cemetery shall be performed by the town by its officers, employees, independent contractors, or agents, including any sexton, unless otherwise provided in writing by the town board.
- E. Access to lots; opening and closing of burial places. The town reserves the right for its officers, employees, contractors, and agents, including the sexton and the town board, necessary to the performance of normal Town Cemetery operations to enter upon or cross over any lot in the Town Cemetery in the performance of any duties or work necessary under this ordinance. The town board, by its officers, employees, contractors, and agents, including the sexton, has the sole right to the opening and closing of burial places used or to be used for burial of human remains in the Town Cemetery, unless so ordered by a court of record to open or close such places.
- F. No assumption of liability for damages. The town, and its officers, employees, contractors, and agents, including the sexton and the town board, assume no liability for damages to property or person, or for physical or mental suffering arising out of the performance of its normal operations related to the construction, management, operation, maintenance, care, and platting of the Town Cemetery, including care of the cemetery, any lot, and the graves, or for loss by vandalism or other acts beyond its reasonable control at the Town Cemetery.
- G. Altering physical conditions. The town board reserves the right to alter, change, or close alleys, roadways, walkways, water mains, and other physical public properties at the Town Cemetery.
- H. Enforcement of regulations and ordinance. The town board may appoint, with citation issuance and service powers, any employee or agent of the town, including the sexton, to administer and enforce its Town Cemetery bylaws and regulations and this ordinance.

SECTION XI - RULES FOR VISITORS TO THE TOWN CEMETERY

- A. Children. Children under 16 years of age shall not enter upon the Town Cemetery except when accompanied by parents or guardians, unless this requirement is waived in writing by the town board or the sexton.
- B. Dogs and other animals. Dogs are permitted in the Town Cemetery only when confined in a vehicle or if the dog is a service animal accompanying a person with sight-impairment or other disability while in the Town Cemetery. All other pets or domestic animals are prohibited without written consent of the town board or the sexton, except a service animal other than a dog accompanying a person with sight-impairment or other disability while in the Town Cemetery.
- C. Firearms. Firearms are prohibited in the Town Cemetery except in conjunction with military funerals or specific memorial events permitted by the town board, the sexton, or other designees of the town board. At all other times, firearms, bows and arrows, slingshots, and other like weapons and articles are prohibited.
- D. Visitors.
 - 1. Visitors to the Town Cemetery are required to use existing walkways and roadways whenever possible.
 - 2. Except as provided in Section XV, no person in the Town Cemetery may do any of the following:
 - a. Injure any shrub, tree, or plant.
 - b. Mar or deface any monument, stone, or structure.
 - 3. No person, except the owner of the cemetery lot, a person with the cemetery lot owner's

consent, or a person with the written consent of the town board or the sexton who is engaged in official cemetery management and care duties for the town, may do any of the following in the Town Cemetery:

- a. Damage any grave or lot.
 - b. Remove, deface, mark, or damage in any manner any cemetery markers, headstones, monuments, fences, or structures.
 - c. Remove, damage, or destroy any vases, flower pots, urns, or other objects that have been placed on any cemetery lot.
 - d. Move or remove any cemetery equipment without the written consent of the town board or the sexton.
 - e. Remove or damage any Town Cemetery property not included within subdivisions a. to d.
4. Recreational activities
- a. Recreational activities including hunting, trapping, camping, bicycling, horseback riding, motorcycling, operating an all-terrain vehicle, snowmobiling, skiing, cutting or removing wood, animal training, or sport shooting are prohibited in the Town Cemetery.
 - b. No person may loiter, cause a public nuisance, or engage in any sport or other recreational activity in the Town Cemetery without the written consent of the town board or the sexton.

E. Vehicles.

1. No motor vehicle, except authorized maintenance vehicles for the town or funeral service vehicles shall be driven except on roadways designated for that purpose, nor shall any motor vehicles be driven in a reckless manner in the Town Cemetery.
2. No person, without the written consent of the town board, or the sexton, may park or abandon any motor vehicle in the Town Cemetery on any grassy or seeded area or upon any other location except a designated parking area; nor shall any person park or abandon a motor vehicle on the Town Cemetery property for any purpose except engaging in official cemetery business. Any motor vehicle parked more than 24 hours, without written consent of the town board or the sexton, shall be declared abandoned by the town board and may be towed or removed, or caused to be towed or removed, by the town board or the sexton.

I. Protection of the Town Cemetery property. No person without written consent of the town board or the sexton may do any of the following:

1. Trap, hunt, kill, injure, or disturb, or attempt to trap, hunt, kill, injure, or disturb any animal, bird, or waterfowl, wild or domestic.
2. Climb any tree.
3. Break, cut down, trample upon, remove, or in any manner injure, deface, write upon, or damage any tree, shrub, flower, flower bed, turf, grassy area, soil, building, structure, equipment, official notice, sign, or other property within the Town Cemetery, except as otherwise provided in this ordinance.

J. Littering, soliciting, and advertising prohibited. No person may litter, dump, or deposit any rubbish, refuse, earth, or other material in the Town Cemetery. Placement of advertising, in the Town Cemetery without the written consent of the town board or the sexton is prohibited.

K. Sound devices. Other than in association with the interment service, no person may operate or play any amplifying system or sound device in the Town Cemetery town cemetery without the written consent of the town board or the sexton.

L. Authorized notices. No person may post, paste, fasten, paint, or attach any placard, bill, notice, sign, or advertising matter upon any structure, tree, or other natural object in the Town Cemetery, except with the written consent, or at the direction, of the town board or the sexton. No person shall remove, deface, or damage in any manner any sign or notice posted in the Town Cemetery

by or at the direction of the town board or sexton unless approved by the town board or the sexton.

- M. Working in cemetery. All contractors or other persons having work in the Town Cemetery shall notify the town clerk or the sexton prior to commencement of the work. All contractors or others doing work in the Town Cemetery are responsible for the cost for any damages or losses resulting from the work and shall promptly, upon determination of the amount of damages or loss by the town board, pay that sum to the town board.

SECTION XII - TOWN CEMETERY BURIALS

- A. Daylight burials. Burials at any town cemetery shall be made only during daylight hours, unless with written approval of the town board or the sexton.
- B. Outer containers. All burials and reinterments, at the Town Cemetery, shall be made in a permanent outer burial container not constructed of wood. All cremation remains shall be placed in a permanent outer burial container not constructed of wood.
- C. Grave digging. All graves at the Town Cemetery to be used for burials shall be opened and dug at no cost or expense to the town, but shall be under the direction of the town board or the sexton. The minimum depth of graves shall be established by the town board from time to time and all graves shall be dug in strict conformity with the town board policy then in effect. The town board or the sexton may charge the full cost for any grave digging and opening service provided by the town at the Town Cemetery, including the fees for the sexton or other designee of the town board, for staking the plot, if the town board has authorized the town or its officers, employees, contractors, or agents, including the sexton or other designees, to provide grave staking, grave openings, or digging services. The town board or the sexton may also establish charges for snowplowing and seasonal additional access costs to the lot owner incurred by the town to provide for burial or disinterment services. Arrangements for any disinterment or burial services, including payments due to the town, shall be made with the town clerk, the sexton, or other person designated by the town board at least 48 hours in advance of the service. The time for any disinterment or burial service shall be arranged so that the grave shall be properly filled and all surplus earth removed as soon as possible.
- D. Burial permit. No burial in the Town Cemetery shall be permitted until a legal burial permit has been issued by the town clerk or the sexton.
- E. Maintenance of flowers, wreaths, and other personal items at burial sites. There shall be no responsibility on the part of the town, its officers, employees, contractors, or agents, including the sexton or other designees of the town board, for the protection and maintenance of flowers, wreaths, plants, emblems, urns, family or personal items, memorials, or similar items used or placed at the Town Cemetery in conjunction with funerals or burials, including disinterments, or memorial events. The town board shall place or cause to have placed a notice of disclaimer of responsibility consistent with this subsection at vehicle access locations to the Town Cemetery.
- F. Number of graves and markers per lot. Lots at the Town Cemetery may be used for burial as follows:
 - 1. One body with one headstone or flat marker.
 - 2. One full body and one remains from cremation shall be allowed in one lot, with one headstone or two flat markers to be placed only in line with other stones.
 - 3. Two remains from cremation shall be allowed in one lot with one headstone or two flat markers to be placed only in line with other stones.
- G. Seasonal burial; duty to bury. The town board or the sexton shall provide for cemetery services and burials at the Town Cemetery during each season, including winter, whenever practicable, in compliance with s. 157.114, Wis. stats. However, the town has no duty to bury, remove any human remains, or allow the burial or removal of any human remains, unless those requesting burial or disinterment are or will be in full compliance with this ordinance, state law, and any bylaws and regulation established by the town board. The town board may, at its discretion,

charge additional costs to the person requesting burial in order to provide safe and timely access to and from the grave or burial site during burial services.

SECTION XIII - TOWN CEMETERY MONUMENTS AND MARKERS

A. Setting grave markers.

1. Grave markers, monuments, and foundations at the Town Cemetery may be set only after the person desiring to set the marker, monument, or foundation obtains a permit therefor from the office of the town clerk or the sexton. Grave markers, monuments, and foundations at the Town Cemetery must be set by monument company employees or agents or other persons authorized by the lot owners, but not the town board or the sexton. Except as otherwise provided in this ordinance, under no conditions will the town board or the sexton construct monument or marker bases or erect monuments or markers on bases.
2. All markers and monuments must have a cement or solid stone foundation. The construction of a foundation shall be of such size and design as will provide ample insurance against settlement or injury to the monument or marker as determined by the town board or the sexton. The top of the foundation shall be constructed flush with the ground line. Whenever possible, all markers shall be set with, at minimum, a 5-inch margin from the outer edges of the foundation.
3. The setting of grave markers, monuments, and foundations, and the transportation of all tools and related materials, within the Town Cemetery is subject to the supervision and control of the town board or the sexton. Truck operation is not permitted within the Town Cemetery when, in the opinion of the town board or the sexton, the truck operation may cause damage to the driveways or other Town Cemetery property. Except with written permission of the town board or sexton, all work in the setting of grave markers, monuments, and foundations shall be completed promptly and debris removed immediately.

B. Limitations. All of the following apply to monuments and markers in the Town Cemetery:

1. The town board or the sexton may refuse permission to erect any monument, marker, or foundation not in keeping with the good appearance of the grounds at the Town Cemetery. The size of any monument or stonework must be provided to the town board or the sexton and approved before any work related to any monument, marker, or foundation will be permitted on a lot in the Town Cemetery.
2. No foundation marker or monument may be larger than the width of the lot or group of lots purchased. All monuments and foundations must be set in line with other monuments so far as possible as directed by the town board or the sexton. Government service monuments or markers shall be surface mounted or attached to the monument or marker. No monument or marker may be more than 5 feet in height.
3. Temporary markers shall be removed or replaced with a permanent marker within one year of burial.
4. A preneed marker may be placed on a lot or group of lots before burial.
5. Within one year after burial, a marker or monument identifying the burial shall be placed at the grave site. The town board or the sexton may require, at minimum, prior to burial, a deposit of \$1,000 payable to the town treasurer to insure timely placement of a proper marker or monument. The town reserves the right to place a marker or monument and to assess any surviving owners of the lot for the costs of the marker or monument placed and the costs of installation of such marker or monument.

C. Removal of monuments. A marker or monument, once placed at the Town Cemetery on its foundation, may not be removed, except by written permission of the town board or the sexton.

D. Payment. Any lot at the Town Cemetery must be paid in full to the town treasurer before markers,

monuments, and foundation are set and before any cemetery deed conveyance. All outstanding charges due the town must be paid prior to burial.

SECTION XIV - TOWN CEMETERY VAULTS AND MAUSOLEUMS

Construction of vaults and mausoleums in the Town Cemetery is prohibited unless approved in writing by the town board.

SECTION XV - TREES, SHRUBS, AND FLOWERS AT THE TOWN CEMETERY

- A. Tree and shrub planting. The planting at the Town Cemetery of trees and shrubs on newly Purchased lots or parts of lots is prohibited except by written consent of the town board or the sexton.
- B. Large tree removal. Lot owners may, with the written consent of the town board or the sexton, remove large trees on or adjacent to cemetery lots in the Town Cemetery that hinder the full usage of the lot. The expense of the tree and stump removal shall be paid for by the lot owners.
- C. Fresh flowers and flags. All flower baskets at grave or lot sites at the Town Cemetery shall be removed by October 15 of each year. Fresh cut flowers may be used in the Town Cemetery at any time.
- D. Potted plants. Potted plants at the Town Cemetery may be set on lots, without disturbing the sod, if removed within 5 days after being set. If a potted plant is not removed within 5 days of being set on the lot, the potted plant may be picked up and destroyed by the town board or the sexton of the town or removed and preserved for planting within the Town Cemetery.
- E. Artificial flower decorations and baskets. Artificial flower decorations are prohibited in any town cemetery unless in a vase or pot and when so used will be treated as potted plants. Unfilled or unsightly baskets will be removed from the lot by the town board or the sexton.
- F. Flower beds. Individual flower beds or growing plants other than trees or shrubs are permitted at the Town Cemetery but must be of a reasonable size as determined by the town board or the sexton. In case of doubt, the town board or the sexton of the town should be consulted. Flower beds or growing plants that are not maintained, become unsightly or undesirable, or are not of a reasonable size as determined by the town board or the sexton will be removed by the town board or the sexton.
- G. Plant or flower removal. Plants or flowers planted in the Town Cemetery may not be taken up or removed by any person, nor cuttings removed therefrom, without written consent from the town board or the sexton, except that plants in flower beds and growing plants authorized under subsection F may be removed or cut by the person who planted the flower bed or growing plant.
- H. Vine, wreath, and memorial removals. Vines that interfere with the proper care of lots or graves or injure or damage the grass will be removed from the Town Cemetery by the town board or the sexton when found objectionable. Real or artificial wreaths, temporary or permanent, or memorial or personal memorabilia items are allowed on lots or graves but the town board or sexton accepts no responsibility if any of these items are lost, stolen or damaged.

SECTION XVI - MISCELLANEOUS

- A. Neglected lots. It is urged that lot owners interest themselves in the present and future care of their lots, as a single neglected lot mars the beauty of the entire Town Cemetery. The town board or the sexton may notify, or attempt to notify, in writing a lot owner that any lot, or monument or marker thereon, is being neglected and that failure to comply with this ordinance and Town Cemetery bylaws and regulations regarding proper care and management, or failure to correct a neglected lot, may be cause for imposition of forfeitures under s. 157.11 (2), Wis. stats.
- B. Schedule of payments. A schedule of the fees and charges for the Town Cemetery, as established by

the town board by resolution shall be on file in the office of the town clerk. The town board may by resolution change the schedule from time to time without advance notice to conform the fees and charges to current economic conditions.

- C. Fee payment location. All fees and charges for the Town Cemetery in the current schedule of fees and charges adopted under subsection B are payable to the town treasurer at the office of the town clerk, where receipts will be issued for the amounts paid.
- D. Sexton. The town board, by resolution, may designate, retain, or employ a person as sexton or may designate any other person or committee to act administratively and to manage, operate, maintain, and provide care for the Town Cemetery or any part of the operations or of the Town Cemetery pursuant to this ordinance. The sexton may be a town employee or may, with proper insurance and indemnification protection for the town, its officers, employees, and agents, be an independent contractor or agent retained under written contract for a fixed time of years. The town board, consistent with this ordinance, shall designate the authority, responsibility, and duties to the sexton by written resolution. The town board shall be responsible for proper supervision of the sexton.
- E. Amendment of ordinance. The town board reserves the right to amend this ordinance to conform with newly developed cemetery practices or any other legal purpose that the town board deems necessary and appropriate. Before this ordinance is amended, a public hearing shall be held on the proposed amendment before the town board. A Class 2 notice of the public hearing shall be published in a local newspaper prior to the public hearing.

SECTION XVIII - PENALTIES

- A. Citation. The town board may establish a citation ordinance for enforcement of violations of this ordinance and for any bylaws or regulations.
- B. Penalties. Any person who violates any provision of this ordinance or any bylaws or regulations shall, upon conviction, be fined and shall forfeit for any bylaw or regulation violation under Section X, subsection A, of this ordinance and s. 157.11 (2), Wis. stats., not more than \$10, and for a violation of this ordinance, not less than \$100 nor more than \$500 for each offense, together with the costs of prosecution. Each day a violation exists or continues constitutes a separate offense under this ordinance. The town board may withhold the issuance of any town licenses, authorities, grants, or permits and any additional cemetery lot purchases and permits for burial or disinterment until the violation has been abated and all penalties and costs satisfied.
- C. Abatement.
 - 1. In lieu of or in addition to any other penalty for a violation of this ordinance, if the violation consists of a physical condition, the town board may issue a written notice to the person responsible for the violation, if known, requiring the person responsible to abate or remove the violation within 30 days of receipt of the notice. Service of notice shall be by personal service or registered mail with return receipt requested.
 - 2. If the person responsible for the violation of this ordinance is unknown or the person responsible has not abated or removed the violation within 30 days of receipt of the notice described in paragraph 1., the sexton, or some other person designated by the town board, may immediately abate or remove the violation in a manner approved by the town board. The cost of the abatement or removal may be recovered from the person responsible for the violation.
- D. Injunctive relief. In lieu of or in addition to any other penalty for a violation of this ordinance the town board may seek to enjoin any continuing violation of this ordinance as provided in Ch. 813, Wis. stats.

SECTION XVIII - EFFECTIVE DATE

This ordinance is effective on publication or posting.

The town clerk shall properly post or publish this ordinance, as required under s. 60.80, Wis. Stats.

Enacted this 3rd day of August, 2020 by the Town Board of Supervisors of the Town of Lincoln.

TOWN BOARD

Cory Cochart
Cory Cochart, Chairman

Jordan Nowak
Jordan Nowak, Supervisor #1

Jesse Jerabek
Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on

this 3rd day of August, 2020

Mary Ann Salmon
Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Ordinance # 2019-7

Citation Ordinance

Section I: Title and Purpose

The title of this ordinance is the Town of Lincoln Citation Ordinance. The purpose of this ordinance is to authorize the Town Board of the Town of Lincoln, or its designees, to issue citations for violations of the Town of Lincoln ordinances, including ordinances with statutory counterparts.

Section II: Authority

The Town Board of the Town of Lincoln, Kewaunee County, Wisconsin, has the specific authority under s. 66.0113, Wis. Stats., to adopt this ordinance.

Section III: Adoption of Ordinance

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides the authority for the town to issue citations for violations of the Town of Lincoln ordinances, including ordinance with statutory counterparts.

Section IV: Form of Citation

- A. The form for citations to be issued in the Town of Lincoln by the town board, or its designees, for violations of Town of Lincoln ordinances shall be as provided in this subsection and shall include all of the following as specified by s. 66.0113(b), Wis. Stats.:
 - a. The name and address of the alleged violator.
 - b. The factual allegations describing the alleged violation.
 - c. The time and place of the alleged violation.
 - d. The number of the ordinance violated.
 - e. The designation of the offense in a manner that can be easily understood by a person making a reasonable effort to do so.
 - f. The time at which the alleged violator may appear in court.
 - g. A statement that in essence informs the alleged violator of all of the following:
 - i. That a cash deposit based on the schedule established by this or other town ordinances may be made which shall be delivered or mailed to the Clerk of Court prior to the time of the scheduled court appearance.
 - ii. That if a deposit is made, no appearance in court is necessary unless the defendant is subsequently summoned.
 - iii. That if a cash deposit is made and the alleged violator does not appear in court, he / she will be deemed to have entered a plea of no contest, and

submitted a forfeiture plus costs, fees, and surcharges imposed under chapter 814, Wis. Stats.; or if the court does not accept the plea of no contest, a summons will be issued commanding him / her to appear in court to answer the complaint.

- iv. That if no cash deposit is made and the alleged violator does not appear in court at the time specified, the court may issue a summons or warrant for the defendant's arrest or consider the non-appearance to be a plea of no contest and enter judgement under s. 66.0113(3)d), Wis. Stats.; or an action may be commenced to collect the forfeiture plus costs, fees, and surcharges imposed under chapter 814, Wis. Stats.
 - v. That if the court finds that the violation involves an ordinance that prohibits conduct that is the same as or similar to conduct prohibited by state statute punishable by fine or imprisonment or both, and that the violation resulted in damage to the property of or the physical injury to a person other than the alleged violator, the court may summon the alleged violator into court to determine if restitution shall be ordered under s. 800.093, Wis. Stats.
 - h. A direction that if the alleged violator elects to make a cash deposit, the alleged violator shall sign an appropriate statement that accompanies the citation to indicate that he / she read the statement required under "g" above as required by s. 66.0113(1)(b)7., Wis. Stats. and shall send the statement with the cash deposit.
 - i. Any other information as may be deemed necessary.
- B. The town board adopts the schedule of cash deposits that are required for the various Town of Lincoln ordinance violations, in accordance with the table of noncriminal forfeitures of the Wisconsin Circuit Courts, which includes the costs, fees, and surcharges imposed for each listed violation under chapter 814, Wis. Stats. For town offenses which there is no deposit listed, the deposit shall be for the maximum forfeiture listed in the pertinent ordinance plus applicable costs, fees, and surcharges.
- C. The town board names the following court, clerk of court, or other official to whom cash deposits are to be made and requires that receipts shall be given for cash deposits:
Kewaunee County Clerk of Courts

Section V: Issuance and Service of Citations

- A. Town of Lincoln citations may be issued by the town chair or the town board of the Town of Lincoln.
- B. The town board may designate certain Town of Lincoln, Kewaunee County, or other municipal officials approved by the town board to issue such citations.
- C. Town of Lincoln citations, in addition, may specifically be issued by the Kewaunee County Sheriff. This official may also designate a person to issue such citations for the Town of Lincoln and this official may revoke this authority to issue citations at any time.

Section VI: Relationship to Other Laws

The adoption and authorization for use of a citation under this ordinance does not preclude the town board of the Town of Lincoln from adopting any other ordinance or providing for the enforcement of any other law or ordinance relating to the same or any other matter. The issuance of a citation under this ordinance does not preclude proceeding under any other ordinance or law relating to the same or any other matter. Proceeding under any other ordinance or law relating to the same or any other matter does not preclude the issuance of a citation under this ordinance.

Section VII: Severability

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

Section VIII: Effective Date


This ordinance is effective on publication or posting

The town clerk shall post or publish this ordinance as required under s. 60.80, Wis. Stats.

Adopted by the Town Board of Supervisors of the Town of Lincoln, Kewaunee, County,

Wisconsin on this 9th day of Sept, 2019.


Cory Cochart, Chairman


Jordan Nowak, Supervisor #1


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

9th day of Sept., 2019.

M Salmon

Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Ordinance # 2019-6

Telecommunication Tower Ordinance

SECTION I – TITLE

This ordinance is entitled the Town of Lincoln Telecommunication Tower Ordinance.

SECTION II – PURPOSE

The purpose of this ordinance is to regulate by zoning permit (1) the siting and construction of any new telecommunication service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and telecommunication service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and telecommunication service facilities.

SECTION III – AUTHORITY

The town board has the specific authority under s. 60.61 and 66.0404, Wis. Stats., to adopt and enforce this ordinance.

SECTION IV – ADOPTION OF ORDINANCE

This ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation by zoning permit (1) the siting and construction of any new telecommunication service support structure and facilities; (2) with regard to a class 1 collocation, the substantial modification of an existing support structure and telecommunication service facilities; and (3) with regard to a class 2 collocation, collocation on an existing support structure which does not require the substantial modification of an existing support structure and telecommunication service facilities.

SECTION V – DEFINITIONS

- (a) "Antenna" means communications equipment that transmits and receives electromagnetic radio signals and is used in the provision of telecommunication services.
- (b) "Application" means an application for a permit under this section to engage in an activity specified in sub. (2) (a) or a class 2 collocation.
- (c) "Building permit" means a permit issued by a political subdivision that authorizes an applicant to conduct construction activity that is consistent with the political subdivision's building code.
- (d) "Class 1 collocation" means the placement of a new telecommunication service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility but does need to engage in substantial modification.
- (e) "Class 2 collocation" means the placement of a new telecommunication service facility on an existing support structure such that the owner of the facility does not need to construct a free standing support structure for the facility or engage in substantial modification.
- (f) "Collocation" means class 1 or class 2 collocation or both.
- (g) "Distributed antenna system" means a network of spatially separated antenna nodes that is connected to a common source via a transport medium and that provides telecommunication service within a geographic area or structure.
- (h) "Equipment compound" means an area surrounding or adjacent to the base of an existing support structure within which is located telecommunication service facilities.

(i) "Existing structure" means a support structure that exists at the time a request for permission to place telecommunication service facilities on a support structure is filed with a political subdivision.

66.0404(1)(j)

(j) "Fall zone" means the area over which a telecommunication support structure is designed to collapse.

(k) "Telecommunication service" has the meaning given in 47 USC 153 (33).

(L) "Telecommunication service facility" means the set of equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and associated equipment, that is necessary to provide telecommunication service to a discrete geographic area, but does not include the underlying support structure.

(m) "Telecommunication service provider" means a person who provides telecommunication service.

(n) "Telecommunication service support structure" means a freestanding structure that is designed to support a telecommunication service facility.

(o) "Permit" means a permit, other than a building permit, or approval issued by a political subdivision which authorizes any of the following activities by an applicant:

1. A class 1 collocation.
2. A class 2 collocation.
3. The construction of a telecommunication service support structure.

(p) "Political subdivision" means a city, village, town, or county.

(q) "Public utility" has the meaning given in s. 196.01 (5).

(r) "Search ring" means a shape drawn on a map to indicate the general area within which a telecommunication service support structure should be located to meet radio frequency engineering requirements, taking into account other factors including topography and the demographics of the service area.

(s) "Substantial modification" means the modification of a telecommunication service support structure, including the mounting of an antenna on such a structure that does any of the following:

1. For structures with an overall height of 200 feet or less, increases the overall height of the structure by more than 20 feet.
2. For structures with an overall height of more than 200 feet, increases the overall height of the structure by 10 percent or more.
3. Measured at the level of the appurtenance added to the structure as a result of the modification, increases the width of the support structure by 20 feet or more, unless a larger area is necessary for collocation.
4. Increases the square footage of an existing equipment compound to a total area of more than 2,500 square feet.

(t) "Support structure" means an existing or new structure that supports or can support a telecommunication service facility, including a telecommunication service support structure, utility pole, water tower, building, or other structure.

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

SECTION VI - SUBDIVISION AND NUMBERING OF THIS ORDINANCE

This ordinance is divided into sections designated by uppercase Roman numerals. Sections may be divided into subsections designated by uppercase letters. Subsections may be divided into paragraphs designated by numbers.

Paragraphs may be divided into subdivisions designated by lowercase letters. Subdivisions may be divided into subdivision paragraphs designated by lowercase Roman numerals. Reference to a "section," "subsection," "paragraph," or "subdivision" includes all divisions of the referenced section, subsection, paragraph, or subdivision.

SECTION VII – SITING AND CONSTRUCTION OF ANY NEW TELECOMMUNICATION SERVICE SUPPORT STRUCTURE AND FACILITIES

A. Application Process

1. A town zoning permit is required for the siting and construction of any new telecommunication service support structure and facilities. The siting and construction of any new telecommunication service support structure and facilities is a conditional use in the town obtainable with this permit.

2. A written building permit application must be completed by any applicant and submitted to the town. In addition, the application must contain the following information:

- a. The name and business address of, and the contact individual for, the applicant.
- b. The location of the proposed or affected support structure.
- c. A site plan showing the location of the proposed telecommunication service structure and facility, and setbacks from property lines and other pertinent structures on the property.
- d. Plans indicating security measures, including access, fencing, climbing guards, signage, or other measures the developer will install.
- e. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.
- f. If the application is to construct a new telecommunication service support structure, a construction plan which describes the proposed telecommunication service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new telecommunication service support structure.
- g. If an application is to construct a new telecommunication service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the telecommunication service support structure attesting that collocation within the applicant's search ring would not result in the same telecommunication service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the telecommunication service provider.
- h. Proof of comprehensive general liability insurance coverage for personal injury, death, or property damage arising from the maintenance and/or operation of the support structure or related facility with a single combined limit of not less than one million dollars (\$1,000,000) per occurrence. The policy shall contain a provision that it may not be canceled or materially modified without the approval of the Town. The applicant shall provide the Town with a certificate of such insurance.
- i. A copy of the property lease agreement or memorandum of the lease with the property owner.
- j. The structural design report prepared by an engineer or the tower manufacturer.

3. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

4. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:

a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

b. Make a final decision whether to approve or disapprove the application.

c. Notify the applicant, in writing, of its final decision.

d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

5. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.g.

6. If an applicant provides the town with an engineering certification showing that a telecommunication service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.

7. The fee for the permit shall be set from time to time by the town board of supervisors.

B. Limitations.

1. The Town shall determine appropriate setbacks from property lines, and may determine setbacks from other pertinent structures on the property.

2. Ancillary lighting other than that required by the FAA, if any, is discouraged. Any ancillary lighting shall conform to Section 10.0313 or Chapter 10, Town of Lincoln Zoning Ordinance.

3. The purpose of the permitted tower is to support communication antennas. Any and all signage shall conform to the Town of Lincoln's Sign Ordinance.

SECTION VIII – CLASS 1 COLLOCATION

A. Application Process

1. A town zoning permit is required for a class 1 collocation. A class 1 collocation is a conditional use in the town obtainable with this permit.

2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:

a. The name and business address of, and the contact individual for, the applicant.

b. The location of the proposed or affected support structure.

c. The location of the proposed telecommunication service facility.

d. Plans indicating security measures, including access, fencing, climbing guards, signage, or other measures the developer will install.

e. If the application is to substantially modify an existing support structure, a construction plan which describes the proposed modifications to the support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment associated with the proposed modifications.

f. If the application is to construct a new telecommunication service support structure, a construction plan which describes the proposed telecommunication service support structure and the equipment and network components, including antennas, transmitters, receivers, base stations, power supplies, cabling, and related equipment to be placed on or around the new telecommunication service support structure.

g. If an application is to construct a new telecommunication service support structure, an explanation as to why the applicant chose the proposed location and why the applicant did not choose collocation, including a sworn statement from an individual who has responsibility over the placement of the telecommunication service support structure attesting that collocation within the applicant's search ring would not result in the same telecommunication service functionality, coverage, and capacity; is technically infeasible; or is economically burdensome to the telecommunication service provider.

3. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If the town does not believe that the application is complete, the town shall notify the applicant in writing, within 10 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.

4. Within 90 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 90 day period:

a. Review the application to determine whether it complies with all applicable aspects of the political subdivision's building code and, subject to the limitations in this section, zoning ordinances.

b. Make a final decision whether to approve or disapprove the application.

c. Notify the applicant, in writing, of its final decision.

d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.

5. The town may disapprove an application if an applicant refuses to evaluate the feasibility of collocation within the applicant's search ring and provide the sworn statement described under paragraph 2.g.

6. If an applicant provides the town with an engineering certification showing that a telecommunication service support structure, or an existing structure, is designed to collapse within a smaller area than the set back or fall zone area required in a zoning ordinance, that zoning ordinance does not apply to such a structure unless the town provides the applicant with substantial evidence that the engineering certification is flawed.

7. The fee for the permit shall be set from time to time by the town board of supervisors.

B. Limitations.

1. Ancillary lighting other than that required by the FAA, if any, is discouraged. Any ancillary lighting shall conform to Section 10.0313 or Chapter 10, Town of Lincoln Zoning Ordinance.
2. The purpose of the permitted tower is to support communication antennas. Any and all signage shall conform to the Town of Lincoln's Sign Ordinance.

SECTION IX – CLASS 2 COLLOCATION

A. Application Process

1. A town zoning permit is required for a class 2 collocation. A class 2 collocation is a permitted use in the town but still requires the issuance of the town permit.
2. A written permit application must be completed by any applicant and submitted to the town. The application must contain the following information:
 - a. The name and business address of, and the contact individual for, the applicant.
 - b. The location of the proposed or affected support structure.
 - c. The location of the proposed telecommunication service facility.
 - d. Plans indicating security measures, including access, fencing, climbing guards, signage, or other measures the developer will install.
3. A class 2 collocation is subject to the same requirements for the issuance of a building permit to which any other type of commercial development or land use development is subject.
4. If an applicant submits to the town an application for a permit to engage in an activity described in this ordinance, which contains all of the information required under this ordinance, the town shall consider the application complete. If any of the required information is not in the application, the town shall notify the applicant in writing, within 5 days of receiving the application, that the application is not complete. The written notification shall specify in detail the required information that was incomplete. An applicant may resubmit an application as often as necessary until it is complete.
5. Within 45 days of its receipt of a complete application, the town shall complete all of the following or the applicant may consider the application approved, except that the applicant and the town may agree in writing to an extension of the 45 day period:
 - a. Make a final decision whether to approve or disapprove the application.
 - b. Notify the applicant, in writing, of its final decision.
 - c. If the application is approved, issue the applicant the relevant permit.
 - d. If the decision is to disapprove the application, include with the written notification substantial evidence which supports the decision.
6. The fee for the permit shall be set from time to time by the town board of supervisors.

B. Limitations.

1. Ancillary lighting other than that required by the FAA, if any, is discouraged. Any ancillary lighting shall conform to Section 10.0313 or Chapter 10, Town of Lincoln Zoning Ordinance.

2. The purpose of the permitted tower is to support communication antennas. Any and all signage shall conform to the Town of Lincoln's Sign Ordinance.

SECTION X – PERMIT TRANSFERABILITY

A. Permits are valid only for the person or persons listed on the permit.

B. Permits may only be transferred in the real property is sold or the lease is transferred; the transferee meets all of the requirements of this Ordinance; and the permit application section is completed and submitted to the Zoning Administrator, and approved by the Town Board.

SECTION XI – PENALTY PROVISIONS

Any person, partnership, corporation, or other legal entity that fails to comply with the provisions of this ordinance shall, upon conviction, pay a forfeiture of not less than \$1000 nor more than \$5000, plus the applicable surcharges, assessments, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. A second violation within 24 months will result in double the forfeiture. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.

SECTION XII – SEVERABILITY

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

SECTION XIII – EFFECTIVE DATE

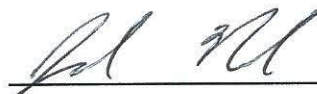
This ordinance is effective on the day following publication per s. 60.80.

The town clerk shall properly publish this ordinance as required per s. 60.80.

Adopted by the Town Board of Supervisors of the Town of Lincoln, Kewaunee, County,

Wisconsin on this 9th day of Sept, 2019.


Cory Cochart, Chairman


Jordan Nowak, Supervisor #1


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

9th day of Sept, 2019.

Mary Ann Salmon

Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Resolution # 2020-1 Schedule of Citation Deposits

The following schedule of cash deposits is established for use with the citations issued under the Town of Lincoln Citation Ordinance.

Ordinance Title	Offense	Deposit and Fees
Ord #2018-2 Public Nuisances	Some Specific Public Nuisances Defined	1st violation not less than \$100 to \$500; 2nd violation not less than \$500 to \$1000 Each day is a separate violation Plus all court costs
VI Nuisances affecting public health	Abandoned vehicles	
	Accumulation of refuse	
	Breeding places for rats and vermin	
	Burn barrels and open burning	
	Groundwater or surface water contamination	
	Junk, junk vehicle, appliance, machinery, junkyard, and junk part	
VII Nuisances affecting public safety	Fire Hazard Areas	
VIII Nuisances affecting public peace and order	Engine braking	
	Loud vehicles or machinery of any type	
Ord #0602-2014-1	Dangerous dogs	Not less than \$500 to \$1000
Ord #2018-1 Outside Storage, Unsightly Premises, and Hazards	Regulation of accumulation and storage of certain junk, uses, and other activities.	1st violation not less than \$100 to \$500; 2nd violation not less than \$500 to \$1000 Each day is a separate violation Plus all court costs
		For town offenses which there is no deposit listed, the deposit shall be for the maximum forfeiture listed plus court costs

Enacted this 6th day of January, ~~2019~~ ²⁰²⁰ by the Town Board of Supervisors of the Town of Lincoln.

TOWN BOARD

Cory Cochart
Cory Cochart, Chairman

Jordan Nowak
Jordan Nowak, Supervisor #1

Jesse Jerabek
Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing Resolution was duly enacted by the Town Board of the Town

of Lincoln on this 6th day of January, ~~2019~~ ²⁰²⁰.

Mary Ann Salmon
Mary Ann Salmon, Town Clerk

Notice to cease and desist violating a Town of Lincoln ordinance

From: _____

Cc: Mary Ann Salmon, Town Clerk
Town of Lincoln
N9275 County Rd. P
Algoma, WI 54201

You are hereby advised that you are in violation of Lincoln Township's _____

_____ Ordinance and will be served with a citation to appear in court or pay a penalty in you do not cease and desist engaging in the violation described below.

A. Name and address of alleged violator _____

B. Factual allegation describing the alleged violation _____

C. Time and place of alleged violation _____

D. Name and Number of the Ordinance violated _____

E. Description of the offense _____

F. The cash deposit for the violation should the alleged violator be cited again for the same violation (each day counts as a separate violation and 2nd violations are double the penalty), plus court costs:

G. Date that the violation must cease or be remediated _____

H. What specifically constitutes cessation or remediation of the violation _____

If this violation to cease and desist is not resolved by the time specified in G above, the violation will be turned over to the Kewaunee County Circuit Court for resolution.

Received by (signed) _____

Date _____

Signed _____

Title _____

Date _____

Ordinance # 2017-3

Ordinance Establishing Fire Protection Charges

It is hereby ordained by the Town Board of the Town of Lincoln, Kewaunee County, Wisconsin, as follows:

Section 1, Authority: This ordinance is adopted pursuant to the authority granted town boards under S.60.55(2)(b), Wis. Stats. Which allows towns to recover the cost of fire calls to property within the town.

Section 2, Liability for Fire Protection Costs: The Town of Lincoln, Kewaunee County, Wisconsin, hereby imposes a charge for each fire call made within the Town of Lincoln. Such fee shall not exceed the actual cost to the Town for the fire call. If the call is to real estate located within the Town, the charges shall be imposed on all owners of the real estate to which the particular fire call is made. In the event that a fire call is not made to real estate located within the Town, but is instead made to personal property, such as a vehicle, the charges provided for under this ordinance shall be imposed on all owners of such personal property.

Section 3, Payment of Fire Call Fee: The fire call charges provided for in this ordinance shall be paid in full to the Clerk of the Town of Lincoln no later than 60 days after the date of the particular fire call. The failure to pay the bill within 60 days will result in interest being charged at a rate of 1.5 percent per month from the date of the bill. Those bills for fire calls to real estate, including interest, that remain outstanding for more than 90 days as on November 1 of any year shall become a lien against the real estate and shall be placed on the tax roll as a delinquent special charge under s.66.0627, Wis. Stat.

Section 4, Liability for Fire Calls from Fire Departments Other than Authorized Fire Departments: It is the policy of the Town of Lincoln to contract with the following fire departments: Algoma Fire Department and Luxemburg Community Fire Department. Any property owner requesting fire protection from any fire department other than those listed above shall be responsible for the full costs billed to the town resulting from the fire call. This section shall not apply to the costs of any other department responding at the request of an authorized department under a mutual aid agreement.

Section 5, Severability: Should any section or provision of this ordinance be declared invalid for any reason, such decision shall not affect the validity of the remaining portions of this ordinance.

Section 6, Effective Date: This ordinance shall become effective upon adoption and publication or posting, as provided by law, pursuant to s.60.80, Wis. Stat.

Approved by a vote of 3 for and 0 against at a duly noticed meeting of the Town of Lincoln Board of Supervisors on this

2nd day of October, 2017.

Town of Lincoln Board of Supervisors



Cory Cochart, Chairman



Jesse Jerabek, Supervisor #2



Nick Cochart, Supervisor #1

**CODE OF ORDINANCES
OF THE
TOWN OF LINCOLN
KEWAUNEE COUNTY, WISCONSIN**

**CHAPTER 10:
ZONING ORDINANCE**

*DATCP Certification
November 30, 2018*

*Town Board Adoption
March 11, 2019*

Official zoning map is on file with the Town of Lincoln Zoning Administrator

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TOWN OF LINCOLN, KEWAUNEE COUNTY, WISCONSIN

Ordinance No. 2019-1

REPEALING AND RECREATING CHAPTER 10, ZONING ORDINANCE TO THE CODE OF ORDINANCES OF THE TOWN OF LINCOLN, KEWAUNEE COUNTY, WISCONSIN.

WHEREAS, the Town Board of the Town of Lincoln, Wisconsin does ordain as follows:

WHEREAS, Wis. Stat. § 60.61, 60.62, 61.35, and 62.23 allow the Town Board, by ordinance, to establish districts of such number, shape, and area, and adopt such regulations for each such district as the Town Board considers best suited to carry out the purposes of this section, including the purposes of promoting the public health, safety, and general welfare; and,

WHEREAS, the ordinance now in effect was originally passed in 1998, and subsequently amended numerous times; however, numerous new statutes have passed requiring an update of the ordinance to be consistent with state statutes; and,

WHEREAS, the Town Board formally adopted a comprehensive plan pursuant to Wis. Stat. § 66.100; the Town of Lincoln Comprehensive Plan provides an integrated approach to the town's physical development and environmental sustainability; and,

WHEREAS, this ordinance implements the Town of Lincoln Comprehensive Plan through zoning and is required in order for the Town of Lincoln zoning ordinance to be consistent with the Town of Lincoln Comprehensive Plan; and,

WHEREAS, in order for a town and its residents to participate in the farmland preservation program, a town must have a zoning ordinance certified by the Department of Agriculture, Trade and Consumer Protection (DATCP), pursuant to Wis. Stat. § 91.36, that meets criteria for farmland preservation pursuant to Wis. Stat. § 91.38; and,

WHEREAS, the Town of Lincoln Plan Commission has considered the amendments to the town zoning ordinance and believes that adoption of these amendments is in the best interest of the people of the Town of Lincoln, Wisconsin.

NOW, THEREFORE, BE IT ORDAINED by the Town Board of the Town of Lincoln, met in regular session, that Chapter 10, Zoning Ordinance, is hereby repealed and recreated to read as attached hereto as Appendix A (*CHAPTER 10, ZONING ORDINANCE TO THE CODE OF ORDINANCES OF THE TOWN OF LINCOLN, KEWAUNEE COUNTY, WISCONSIN*), and shall be effective upon passage and publication as required by law.

Adopted at a regular meeting of the Town Board on the 11th day of March, 2019.



Cory Cochart, Town Chairperson

ATTEST:



Mary Ann Salmon, Town Clerk

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APPENDIX

Farmland Preservation Zoning DATCP Certification Materials

10.0100 INTRODUCTION

10.0101 Title

This Ordinance shall be known, cited and referred to as: THE TOWN OF LINCOLN ZONING ORDINANCE, KEWAUNEE COUNTY, WISCONSIN.

10.0102 Authority

This ordinance is adopted pursuant to authority granted by Wis. Stat. § 60.62, 61.35, and 62.23(7), and other applicable provisions of the Wisconsin Statutes.

10.0103 Purpose

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

10.0104 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands and water; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as: to lessen congestion in the streets- to secure safety from fire, panic and other dangers; to promote and to protect the public health, safety, comfort, convenience and general welfare, to provide adequate light, air, including access to sunlight for solar collectors and to wind for wind energy systems, and open space; to maintain the aesthetic appearances and scenic values of the town; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, waste disposal, schools, parks and other public requirements; and to foster a more rational pattern of relationship between residential, business, commercial, agricultural, and recreational uses for the mutual benefit of all.

10.0105 Abrogation and Greater Restrictions

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

10.0106 Severability

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

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

10.0107 Effective Date

This Ordinance shall be effective after a public hearing, adoption by the Town Board and posting as provided by law. Changes or amendments to the text of this Ordinance or the "Official Zoning Map" shall be effective after the provisions of 10.1500 have been complied with and the change or amendment has been posted by law.

10.0200 DEFINITIONS

10.0201 General

In interpreting the various contents of the Ordinance, the following rules of construction shall apply:

1. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - (a) “And” indicates that all connected words or provisions shall apply.
 - (b) “And/or” indicates that the connected words or provisions may apply singly or in any combination.
 - (c) “Or” indicates that the connected words or provisions may apply singly or in any combination.
 - (d) “Either . . . or” indicates that the connected words or provisions shall apply singly but not in combination.
2. In case of conflict between the text and a diagram or graphic, the text controls.
3. The term “building” includes the word “structure.” A “building” or “structure” includes any part thereof.
4. The term “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
5. The term “dwelling” includes the word “residence”.
6. The word “lot” shall include the words “piece”, “parcel” and “plats”.
7. All references to “Chapter,” “Article,” or “Section” shall refer to this Zoning Ordinance unless another meaning is clear from the context of the reference.
8. The words “shall,” “will,” and “must” are always mandatory and not discretionary. The word “should” indicates that which is recommended but not required; and the word “may” is permissive.
9. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.
10. The present tense includes the past and future tenses, and the future tense includes the past.
11. The singular number includes the plural, and the plural number includes the singular.
12. Sections and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section.
13. All “measured distances” shall be to the nearest “integral foot”. If a fraction is one-half foot or less, the next “integral foot” below shall be taken.
14. Terms not herein defined shall have the meaning customarily assigned to

them.

10.0202 Words Defined

Certain words and terms in this Ordinance are to be interpreted as defined herein (NOTE: other sections of this Ordinance may contain additional definitions specific to those sections):

ACCESSORY USE OR BUILDING - a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the main use of the principal structure.

AGRICULTURE - is the use of land for agricultural purposes, including soil tillage for the production of crops, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for parking, treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activities occurring thereon.

ADJACENT - means located on land parcels that touch each other, or on land parcels that are separated by a transportation or utility right-of-way.

AGRICULTURAL ACCESSORY USE - means any of the following land uses on a farm:

- (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - (1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (2) A facility used to keep livestock on the farm.
 - (3) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - (5) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
 - (6) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - (7) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.

AGRICULTURAL USES - means any of the following activities conducted for the purpose of producing an income or livelihood:

- (a) Aquaculture.

- (b) Beekeeping.
- (c) Crop or forage production.
- (d) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (e) Floriculture.
- (f) Forest management.
- (g) Keeping livestock.
- (h) Nursery, sod, or Christmas tree production.
- (i) Fruit and nut orchards.

AGRICULTURE-RELATED USES - means a facility not located on a farm that has at least one of the following as a primary purpose:

- (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services (e.g., seed, fertilizer, and farm chemical sales) directly to farms.
- (b) Storing, processing or handling raw agricultural commodities obtained directly from farms. Examples include feed mills and grain elevators.
- (c) Marketing livestock to or from farms.
- (d) Processing agricultural by-products (but not manure or agricultural wastewater) received directly from other farms.

AGRICULTURAL OPERATION - Agricultural Operation - Including, but not limited to, general farming and animal husbandry, pasturage, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting, but not including commercial seed, fertilizer, grain mills, food processing, or canning operations.

ANIMAL UNIT - the value used to establish the maximum number of animals permitted on a tract of land. Animal units are calculated by multiplying the number of animals of a particular type by the appropriate Animal Unit Factor for that type of animal. The Animal Unit Factor for each type of livestock is set by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published at Wis. Admin. Code ch. NR 243.05.

AIRPORT - any area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings, or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

ALLEY - a public or private right-of-way primarily designed to serve as secondary access to abutting properties.

ARTIFICIAL LAKES OR PONDS – An artificial lake or pond is any body of water, conforming to the definition of a lake or pond; that is made, fabricated, or constructed, with human skill or skill and labor, by dredging or otherwise shall not be considered creation of an artificial lake or pond under this definition. However, the creation of an open body of water by dredging or excavation of a wetland or any other area shall be subject to the rules and regulations pertaining to artificial lakes and ponds.

AUTOMOBILE WRECKING YARD - Any premises on which more than three automotive vehicles, not in running or operating condition, are stored in the open.

BASEMENT - that portion of any structure located partly underground and having more than one-half (1/2) of its height below the finished lot grade.

BED AND BREAKFAST ESTABLISHMENTS RESIDENTIAL - means any place of lodging that: (a) Provides four or fewer rooms for rent to no more than a total of 10 tourists or transients; (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; (c) Is the owner's personal residence; (d) Is occupied by the owner at the time of rental; (e) Was originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a single-family residence and; (f) Has had completed as of May 1, 1990, any structural additions to the dimensions of the original structure, including renovation, except that a structural addition, including renovation to the structure may after May 1, 1990, be made within the dimensions of the original structure.

BED AND BREAKFAST ESTABLISHMENTS COMMERCIAL - means any place of lodging that: (a) Provides eight or fewer rooms for rent to no more than a total of 20 tourists or transients; (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; (c) Is the owner's personal residence; (d) Is occupied by the owner at the time of rental; (e) Was originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a place of lodging; and (f) Has had completed as of May 1, 1990, any structural additions to the dimensions of the original structure, including renovation, except that a structural addition, including renovation to the structure may after May 1, 1990, be made within the dimensions of the original structure.

BLOCK - a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines or waterways or municipal boundary lines.

BOAT LIVERIES - establishments offering the rental of boats and sale of fishing equipment.

BUILDABLE AREA - the ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a permitted building and any attached accessory structures is permitted by this ordinance.

BUILDING - any structure built, used, designed or intended for the support, shelter, protection, or enclosure of persons, animals, or property of any kind, and which is permanently affixed to the land.

BUILDING HEIGHT - the vertical distance from the top of the building roof to the top of the basement or to the foundation, whichever is less.

CAMPING TRAILER- a vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form: (a) a unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 35 feet; (b) a unit designed to be mounted on a truck chassis, (c) a unit constructed as an integral part of a self-propelled vehicle; or (d) a canvas, folding unit mounted on wheels.

CLINIC, MEDICAL OR DENTAL - an organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include in-patient care.

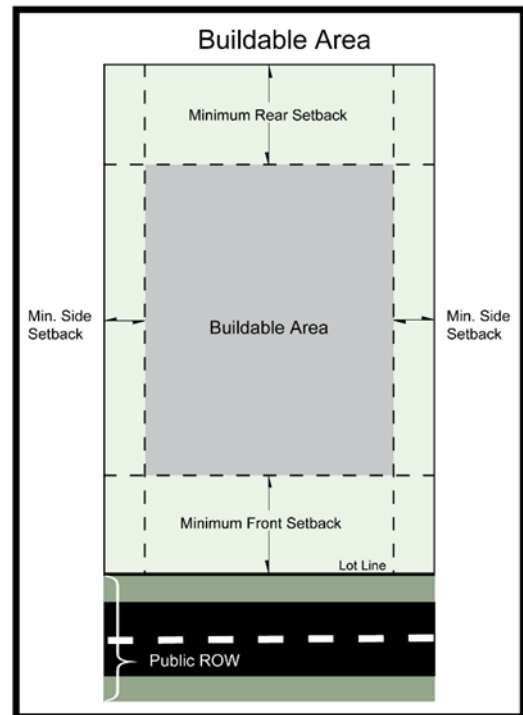
COMMERCIAL - the offering or purchase of goods and services with the intention of making a profit.

COMMERCIAL FEEDLOTS - an agricultural enterprise where livestock are purchased and raised and then sold to a buyer, feedlot or slaughterhouse.

COMMON OWNERSHIP - means ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. Common ownership includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.

COMMUNITY LIVING ARRANGEMENT - a facility licensed and operated under the authority of the State of Wisconsin including group homes for children, foster homes, treatment foster homes, adult family homes, and community based residential facilities, but not including nursing homes or day care facilities or halfway houses or sex offender housing.

1. **ADULT FAMILY HOME** - a place where 3 or 4 adults who are not



related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.

2. **COMMUNITY BASED RESIDENTIAL FACILITY** - a place where 5 or more unrelated people live together in a community setting. Services provided include room and board, supervision, support services, and may include up to 3 hours of nursing care per week.
3. **RESIDENTIAL CARE APARTMENT COMPLEX** - a place where 5 or more adults reside that consists of independent apartments, each of which has: an individual lockable entrance and exit, a kitchen, including a stove, individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services. Residential care apartment complex does not include a nursing home or a community-based residential facility.

CONDITIONAL USE - means a use that is not permitted by right. Rather, its allowance is subject to the discretionary judgment of the Town Plan Commission, as described in Section 10.1300, Conditional Use Permits, and approved by the Town Board.

CONTIGUOUS - means adjacent to or sharing a common boundary. “Contiguous” land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of- way. Parcels are not “contiguous” if they meet only at a single point.

DAY CARE HOME, FAMILY - a dwelling licensed as a day care center by the State of Wisconsin pursuant to Wis. Stat. § 48.65, where care is provided for at least 4 and not more than 8 children. (Note: the number of children was determined by the Town – this is not a statutory definition or number of children)

DAY CARE CENTER, GROUP - an establishment providing care and supervision for 4 or more persons under the age of 7 and licensed by the State of Wisconsin pursuant to Wis. Stat. § 48.65.

DEVELOPMENT AGREEMENT - A development agreement is a contract between the Town and a person who has ownership or control of property within the Town. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval - the development will not be subject to subsequent changes in regulations. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer’s contribution toward funding system-wide community improvements, required mitigation measures, setbacks and dimensional requirements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and the Town. All development agreements shall be approved by the Town Board of Supervisors.

DRIVE-IN RESTAURANT - an establishment which provides no permanent interior seating, but allows window service and carryout counter service for food products to automobile customers.

DRIVEWAY - a minor private way used by vehicles and pedestrians for common access to a lot, small group of lots, or facilities.

DWELLING - a building, or portion thereof, designed or used primarily for residential occupancy or as living quarters, with or without a permanent foundation, and connected to required utilities including plumbing, septic, and electrical systems, including single-family dwellings, two-family dwellings and multiple-family dwellings, but not including hotels and motels.

DWELLING UNIT - one (1) or more rooms which are arranged, designed for use as living quarters.

DWELLING UNIT, SINGLE-FAMILY - a building designed to be occupied exclusively by one (1) family.

DWELLING UNIT, TWO-FAMILY - a building designed to be occupied exclusively by two (2) families.

DWELLING, MULTI-FAMILY - a building used and designed as a residence for three (3) or more families.

ESSENTIAL SERVICES - electric, telephone, gas, or water service, including the overhead, surface, or underground distribution or transmission systems necessary to supply the service. It includes the conduits, pipes, poles, towers, wires, and similar devices necessary to supply these services, but does not include any buildings necessary to supply these services. It does not include solar or wind energy systems, communications facilities, or any structure or use listed as a permitted, accessory, or conditional structure or use in any other district.

FARM - means all land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:

- (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
- (b) A majority of the land area is in agricultural use.

FARM CONSOLIDATION - means the joining together of all or part of 2 or more farm operations, which were in existence before the adoption or amendment of this ordinance, into a single farm operation.

FARM OPERATION - means an activity conducted primarily for the production of one or more agricultural products or commodities, for home use or for sale, in a quantity sufficient to contribute to the operator's support.

FARM RESIDENCE - meaning any of the following structures that is located on a farm:

A single-family residence that is occupied by any of the following:

- (a) An owner or operator of the farm.
- (b) A parent or child of an owner or operator of the farm.
- (c) An individual who earns more than 50 percent of his or her gross income from the farm.

FEEDLOT - An animal confinement facility or dairy farm used or designed for the feeding or holding animals.

FISH HATCHERIES - establishments devoted to hatching, raising or rearing fish.

FLOOR AREA - the area within the exterior walls of a building which is usable as living quarters.

GARAGE, PRIVATE - an accessory structure to the principal structure which provides for the storage of motor vehicles. These structures shall have a height limitation of 22 ft.

GARAGE, PUBLIC AND STORAGE - any building or premises, other than a private garage, where motor driven vehicles are equipped, repaired, serviced, hired, sold or stored.

GRADE - the average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

GROSS FARM REVENUE - means the gross receipts from all Agricultural Uses, less the cost or other basis of livestock and other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter, but does not include rent paid to the land owner.

GROUP HOME - any facility operated by a person required to be licensed by the State of Wisconsin under Wis. Stat. § 48.625, for the care and maintenance of 5 to 8 residents under 18 years of age.

HARD SURFACED - a driveway or parking lot surfaced with concrete, bituminous paving or crushed stone.

HOME OCCUPATION - a gainful occupation conducted by the member of the family within his or her place of residence, where the space used is incidental to residential use.

HOTEL - a building in which lodging, with or without meal, is offered transient guests for compensation and in which there are more than five (5) sleeping rooms with or without cooking facilities in any individual room or apartment.

HUNTING AND FISHING CABINS - means a buildings used temporarily as a base for hunting, fishing and outdoor recreation and not intended for permanent human habitation or for conversion to a permanent residence.

JUNK - As regards to outside storage, any scrap metal, wood, concrete, or synthetic or organic material; any parts of any junked, inoperative, unlicensed, unregistered vehicles, or parts of agricultural use equipment; any agricultural use equipment not

in usable condition; any dilapidated or broken down structure or building or parts thereof; any abandoned, discarded or unused objects or equipment such as furniture, appliances, stoves, refrigerators, freezers, machinery, tires, barrels, cans, containers, trash or debris, or contaminated recyclable material.

JUNKED VEHICLE – As regards to outside storage, any inoperable, disassembled, dismantled, partially dismantled, junked, wrecked, or unlicensed motor vehicle; any truck bodies, tractors, trailers, boats, or campers in such a state of physical or mechanical ruin or condition as to be incapable of propulsion or of being in operating condition upon the public streets, highways, or waterways except as noted and permitted elsewhere in this ordinance.

JUNK (OR SALVAGE) YARD - An area where waste or scrap materials are bought, sold, exchanged, stored, baled, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, bottles, used automobiles, used machinery, used building material and similar materials. A "junk" yard includes an auto wrecking yard. A lot with three or more unlicensed vehicles also constitutes a "junk" yard.

KENNEL - any premises on which household animals are boarded, bred, groomed, sold, or trained on a regular basis for commercial purposes.

LAKE – An inland body of water, either natural or artificially created, of five (5) acres or more.

LAKE (ARTIFICIAL) – A man-made (created) body of water, more than two (2) acres in water surface area and no more than five (5) acres in water surface area.

LIQUID WASTE - means process wastewater and waste liquid products, including silage leachate, whey, whey permeate, whey filtrate, contact cooling water or boiler water containing water treatment additives, and wash water generated in industrial, commercial, and agricultural operations which result in a point source discharge to a land treatment system. (NR 214.03(27))

LIVESTOCK - means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids (e.g., llamas, alpacas), ratites (e.g., ostrich, emu), and farm-raised fish.

LIVESTOCK FACILITY - a feedlot, dairy farm, or other operation where livestock are, or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A livestock facility includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area.

LIVING AREA - the total area bounded by the exterior walls of a building at the floor levels, but not including basements, utility rooms, garages, porches, breezeways, and unfinished attics.

LIVING QUARTERS - A building or a portion of a building which provides, as a minimum, an area equipped or furnished for sleeping purposes. Living quarters also include those finished portions of a building in which normal residential activities occur.

LOT - a parcel of land abutting on a public street having a width and depth sufficient to provide the space necessary for one (1) principal building and its accessory buildings together with the open spaces required by this Ordinance.

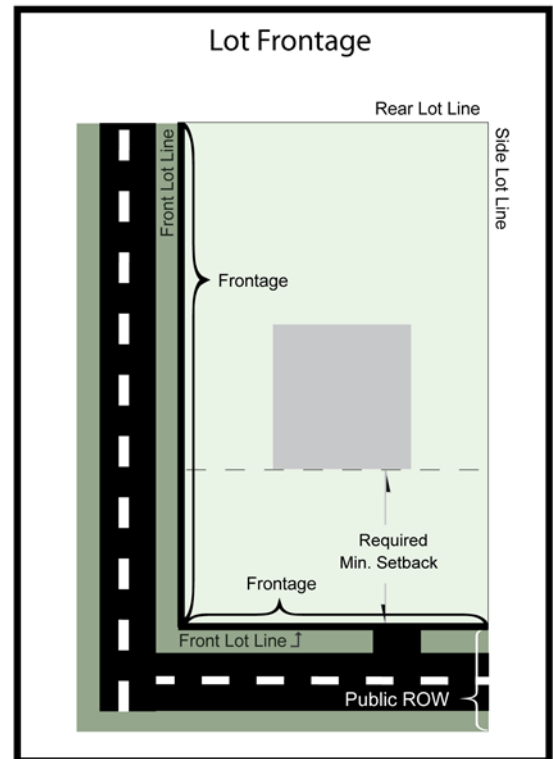
LOT OF RECORD - a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Kewaunee County; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the adoption of this Ordinance, and certified survey maps approved and recorded in the Register of Deeds Office of Kewaunee County.

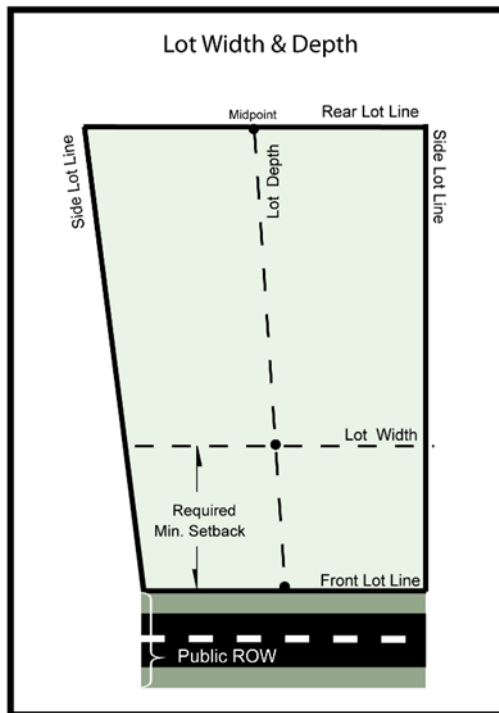
LOT, CORNER - a lot abutting on two or more streets at their intersection.

LOT, DEPTH OF - the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

LOT, FRONTAGE - the side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

LOT LINES AND AREA - the peripheral boundaries of a parcel of land including the street right-of-way lines and the total area lying within such boundaries.





LOT, WIDTH OF - the horizontal distance between the side lot lines of a lot at the rear line of the required front yard.

MANUFACTURED DWELLING - A factory built one or two family home regulated by the State of Wisconsin Uniform Dwelling Code. These homes are commonly referred to as modular.

MANUFACTURED HOME - Is that which is, or was, as originally constructed, a structure, transportable in one or more sections built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and is certified and labeled as a manufactured home under 42 U.S.C. §§ 5401-5426.

MANUFACTURED HOME DEFINED AS A SINGLE FAMILY DWELLING - A structure certified and labeled as a manufactured home under 42 U.S.C. sec. 5401 to 5426, which, when placed on the site:

- (a) Is set on an enclosed foundation in accordance with sec. 70.043(1), Stats., and subchapters III, IV and V of ch. ILHR 21, Wis. Admin. Code, or is set on a comparable enclosed foundation system approved by the Plan Commission. The Plan Commission may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
- (b) Is installed in accordance with the manufacturer's instructions.
- (c) Is properly connected to utilities.

MANURE AND/OR WASTE STORAGE FACILITY - means one or more manure storage structures. "Manure storage facility" includes stationary equipment and piping used to load or unload a manure storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Manure storage facility" does not mean equipment used to transfer or apply manure to land.

MANURE AND/OR WASTE STORAGE STRUCTURE - means a manure storage impoundment made by construction of embankments, excavating a pit or dugout, or fabricating a structure. "Manure storage structure" does not include equipment used to transfer and apply manure to land.

MANURE AND/OR WASTE STORAGE SYSTEM - means a storage facility and related practices needed for the environmentally safe storage of manure at that facility. A "manure storage system" does not include any of the following:

- (a) A milking center waste control system.
- (b) Nutrient management as defined in s.ATCP 50.78(1).
- (c) A barnyard runoff control system as defined in s.ATCP 50.64(1).
- (d) Equipment used to transfer or apply manure to land.
- (e) Headland stacking sites that comply with DNR regulations.

MOBILE HOME - Is that which is, or was, as originally constructed a structure, transportable in one or more sections built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in it, and built prior to the enactment of the Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976.

MOTEL - establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot and designed for use by transient guests; and where there is no permanent occupancy of any unit except by the owner, his agent or his employees.

MOTOR HOME - a motor vehicle designed to be operated upon a highway for use as a temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home (as defined in Section 5.2 of this Ordinance). This would include buses or vans equipped as living units.

MOTOR VEHICLE - any passenger vehicle, truck, truck trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

NON-CONFORMING USE - any use of land, building, or structure, lawful at the time of the adoption of this Ordinance, which does not comply with all of the regulations and standards of this Ordinance or of any amendment thereto governing use for the zoning district in which such use is located.

OTHER WASTES - means liquid waste, septage, sewage sludge, or any other material as defined by the DNR that is processed and mixed with animal waste.

PARKING SPACE - a graded and surfaced area of not less than two hundred square feet either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PERMITTED USE - uses listed under this heading are permitted as of right. This means that an applicant for a building permit must be given a permit if the applicant meets the other requirements of the Ordinance, e-g-, yards, setbacks, and so forth.

POND – An inland body of water, either natural or artificially created, of less than two (2) acres.

PRIME FARMLAND - means all of the following:

- (a) An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.

- (b) Land, other than land described in sub. (a), which is identified as prime farmland in Kewaunee County's certified farmland preservation plan.

PRINCIPAL BUILDING - the building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory of secondary importance. On agricultural zoned property the principal building may include barns and structures essential to the operation of a farm.

PRINCIPAL USE - the main use of land or buildings as distinguished from a subordinate or accessory use. A Principal Use may be a "permitted", "conditional" or "non-conforming".

PRIOR NONCONFORMING USE - means a land use that does not comply with this zoning ordinance, but which lawfully existed prior to the application of this ordinance.

PRIVATE SEWAGE SYSTEM - in this Ordinance, "private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located in the same parcel as the structure. This term also means an alternative sewage system approved by the Wisconsin Department of Industry, Labor and Human Relations including a substitute for the septic tank or absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

PROFESSIONAL OFFICE - the office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential occupation the office shall not exceed one-half (1/2) the area of only one (1) floor of the residence and only one (1) resident person is employed.

PROTECTED FARMLAND - means land that is any of the following:

- (a) Located in the A-1 zoning district certified under ch. 91, Wis. Stats.
- (b) Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
- (c) Covered by an agricultural conservation easement under Wis. Stat. § 93.73.
- (d) Otherwise legally protected from non-agricultural development.

REASONABLE ACCOMMODATION - a deviation from the strict requirements of this ordinance which is necessary to provide equal housing opportunity for a disabled person or persons. An accommodation is reasonable if it does not cause an administrative burden, fiscal burden, or undue hardship on the town and does not undermine the basic purpose of this ordinance.

RECREATION CAMPS AND RESORTS - areas of land improved with buildings or tents and sanitary facilities used for occupancy during a part of the year only.

REGISTERED SEX OFFENDER - *Reserved*

RENTAL CABINS OR COTTAGES - buildings designed for seasonal uses and occupancy by persons other than the owner upon periodical payment.

ROADSIDE STAND - structure not permanently fixed to the ground that is readily removable in its entirety; covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area and limited to a maximum height of 10 feet.

SAND AND/OR BEDDING SEPARATION SYSTEM - means facilities, structures, or systems, designed to separate sand and/or other bedding material from manure, liquid waste, septage, sewerage sludge, bio-solids, or other wastes. Sand and/or Bedding Separation Systems are considered part of a Manure and/or Waste Storage Facility, Structure, and/or System.

SEPTAGE - means the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies, or portable restrooms. (NR 113.03(55)).

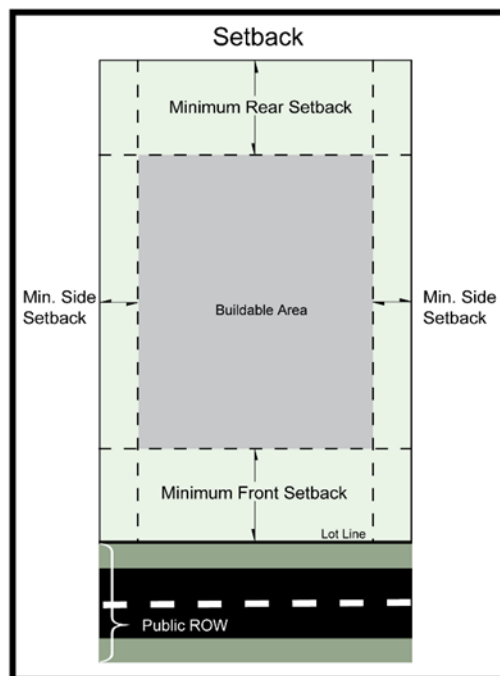
SETBACK - the distance from a lot line or other specified line to a structure or other specified point on a lot as measured perpendicularly to the lot line or other specified line.

SEWAGE SLUDER OR SLUDGE OR BIO-SOLIDS - means the solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes scum or solids removed in primary, secondary, or advanced wastewater treatment processes and material derived from sewage sludge.

SHORELAND ZONING - under an ordinance enacted by Kewaunee County under Wis. Stat. § 59.692, shoreland zoning limits or prohibits the construction or placement of buildings or structures.

SIGN - a structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

SITE BUILT HOME - A single or two family home built on site to the State of Wisconsin Uniform Dwelling Code.



STANDARDS - the setbacks, using vision corner, sideline requirements, height limitations, square footage requirements and other specifications as required by this Ordinance.

STOCKFARM - an agricultural operation, usually non-dairying in nature where livestock are raised to the required age or weight for slaughterhouse purposes or for sale to commercial feedlots.

STORY - that part of a building between any floor and the floor next above, and if there is no floor above, then the ceiling above. A basement is a story if its ceiling is five (5) feet or more above the level from which the height of the building is measured.

STREET - a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, land, throughway or otherwise designated, but does not include driveways or easements to buildings.

STRUCTURE - anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.

STRUCTURAL ALTERATION - any change, other than incidental repairs which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.

SUBSTANDARD LOT - means a lot which is recorded with the Register of Deeds prior to the adoption of this Ordinance, and is located in a zone requiring greater area, width, or other characteristics.

SUBSTANTIAL WORK - means a considerable amount of work has been done towards completing the project that received approval. The site work shall have progressed beyond grading and shall involve physically starting the building project. Site work shall involve the expenditure of at least 10% of the total project cost, with the burden of proof on the applicant. This may include obtaining necessary plot plans, surveys, engineering data, easements, deed restrictions, approvals, and permits. Completion of structural foundations and construction shall occur above grade within twelve (12) months of the effective date of the building permit or date of approval of an extension of the building permit. Construction must continue with reasonable progress and no interruption greater than one hundred eighty (180) consecutive days. Hardships shall be considered by the Board of Supervisors on a case by case basis.

SUBSTANTIALLY ALTERED - means a change initiated by an owner or operator that results in a relocation of a manure and/or waste structure, facility, or system, or significant changes to the size, depth, or configuration of a manure and/or waste structure, facility, or system including:

- (a) An increase in the volumetric capacity or area of a manure and/or waste storage structure or facility by any amount or size;

- (b) A change in a manure and/or waste storage structure or facility related to a change in livestock management from one species of livestock to another, such as cattle to poultry.

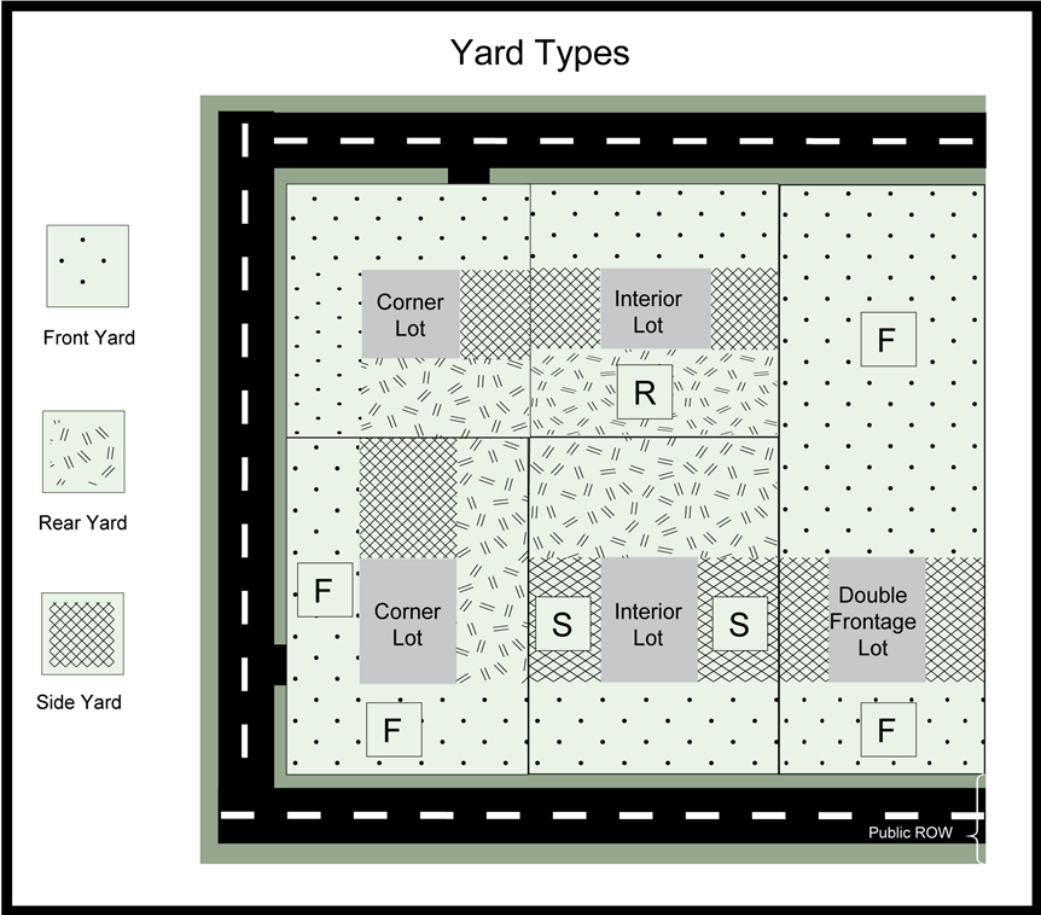
TEMPORARY USE - A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UNNECESSARY HARDSHIP - That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of the Ordinance. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property. The property owner bears the burden of proving the unnecessary hardship.

VARIANCE - An authorization granted by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with or contrary to the dimensional standards contained in this Ordinance. **Use Variances shall not be granted under this Ordinance.**

YARD-related definitions:

- (a) YARD - an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation.
- (b) YARD, FRONT - a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed road or highway right-of-way and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards.
- (c) YARD, REAR - a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the front yard or one of the front yards on a corner lot.
- (d) YARD, SIDE - a yard extending from the front yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.



10.0300 GENERAL PROVISIONS

10.0301 Jurisdiction

The jurisdiction of this Ordinance shall include all lands and waters within the town of Lincoln.

10.0302 Building and Use Restrictions

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with this Ordinance.
2. All principal structures shall be located on a lot, and only one principal structure shall be located, erected or moved onto a lot.
3. Permitted Principal Uses, Permitted Accessory Uses, and Conditional Uses are limited to the uses indicated for the respective zoning districts. If a use is not listed, it is prohibited. Unclassified or unspecified uses may be permitted by the Town Board after review by, and recommendation from, the Plan Commission and after a public hearing provided that the uses are similar in character to the principal uses permitted in the district.
4. Accessory uses and structures are permitted in any district, except as provided for by 10.0314 of this Ordinance Residential accessory uses shall not involve the conduct of any business, trade, or industry as a principal use.
5. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board and issuance of a conditional use permit.
6. No lot area shall be reduced so that the yards and open spaces are smaller than is required by this Ordinance.
7. Where the Town Building/Zoning Administrator has issued a Building Permit pursuant to the provisions of this Ordinance, such permit shall become null and void unless work thereon is substantially underway within six (6) months of the date of the issuance of such permit.
8. Where a building permit for a building or structure has been issued in accordance with the law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, the said building or structure may be completed in accordance with the approved plans.
9. Every building intended for human habitation or occupancy shall be provided with a properly functioning system for treatment of domestic waste to include a private sewage system as defined by Wis. Stat. § 145.01(12).

10.0303 Area Regulations

1. Lot sizes shall comply with the required regulations of the established zoning districts.

2. Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.
3. No Building Permit shall be issued for a lot that abuts on half a street. Said permit shall be issued only after the entire street right-of-way has been dedicated.

10.0304 Height Regulations

1. Except as otherwise provided in this Ordinance, the height of any building hereafter erected, converted, enlarged or structurally altered shall be in compliance with the regulations established herein for the district in which the building is located.
2. Except as otherwise provided in this Ordinance, belfries, cupolas, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, wind mills and wind energy systems, scenery lofts, tanks, water towers, ventilators, ornamental towers, spires, wireless television or broadcasting towers, masts or aerials, telephone, telegraph and power transmission poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby exempted from the height regulations of this Ordinance.
3. All other non-residential structures and public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district are each increased at least one (1) foot for each foot of additional building height.
4. Residences may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one (1) foot for each foot by which such building exceeds the height limit of the district in which it is located.

10.0305 Front, Side and Rear Yard Regulations

1. No part of the required front yard shall be used for permanent open storage of boats, vehicles or any other equipment except for vehicular parking on driveways. All open storage areas shall be properly landscaped.
2. No part of a yard or other open space provide about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of the yard or any other open space required for another building.
3. A setback less than the setback required by this Ordinance may be permitted where there are at least five (5) existing principal structures existing at the date of enactment of this Ordinance within five hundred (500) feet of the proposed site that are built to less than the required setback. In such case, the setback shall be the average of the nearest principal structure on each side of the proposed site or if there is no building on one side, the average of the setback for the principal structure on one side and the required setback. In no case shall the required setback be less than 10 feet. Such setback shall be granted by a permit from the Plan Commission and shall not require a variance.

10.0306 Minimum Lot Frontage

All lots shall abut upon a street, and each lot shall have a minimum frontage of 30 feet.

10.0307 Parking Standards

1. Parking areas may be located in any yard space for commercial uses and in any yard but the front yard for other uses, but shall not be closer than ten (10) feet to any street line. No parking space or area shall be permitted within five (5) feet of a property line in a side yard.
2. Each parking space shall not be less than two hundred (200) square feet, exclusive of the space required for ingress and egress. Minimum width of the parking space shall be ten (10) feet.
3. Where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory.
4. All off-street parking areas for more than ten (10) vehicles shall be graded and surfaced so as to be dust free and properly drained and shall have the aisles and spaces clearly marked.
5. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately from the hours of sunset to sunrise when the use is in operation. Adequate shielding shall be provided by commercial uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
6. Where a building permit has been issued prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, parking and loading facilities in the amounts required for the issuance of said building permit may be provided in lieu of any different amounts required by this Ordinance.
7. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor units, floor areas, seating capacity or other units of measurement specified herein for the required parking or loading facilities as required herein shall be provided for such increase in intensity to use and for at least fifty (50) percent of any existing deficiency in parking or loading facilities.
8. None of the off-street facilities as required in this Ordinance shall be required for any building or use lawfully existing, prior to the effective date of this Ordinance, unless said building or use shall be enlarged, extended or increased in which case the provisions of this Ordinance shall apply only to the enlarged, extended or increased portion of the building or use. Such lawfully existing buildings or uses shall comply with the Parking Standards contained in the Town of Lincoln Zoning Ordinance.

9. Required Number of Parking Stalls:

Table 10.1: Land Use and Minimum Parking Stalls Required, Town of Lincoln.

Use	Minimum Parking Required
Single-family dwellings and manufactured homes	Two (2) spaces for each dwelling unit
Multiple-family dwellings	One and a half (1.5) spaces for each dwelling unit
Motels, hotels	One (1) space for each guest room plus one (1) space for each three (3) employees
Hospitals	One (1) space for each two (2) beds plus one (1) space for each three (3) employees
Long term care and assisted living centers	One (1) space for each five (5) beds plus one (1) space for each three (3) employees
Medical, dental, health care facilities	Five (5) spaces for each doctor
Churches, theaters, auditoriums, community center, vocational and night schools, and other places of public assembly	One (1) space for each five (5) seats
Colleges, secondary and elementary schools	One (1) space for each two (2) employees plus one (1) space for each 10 students of 16 years of age or more
Restaurants, bars, places of entertainment, repair shops, and retail and service stores	One (1) space for each 150 square feet of floor area and one (1) space for each two (2) employees
Manufacturing and processing plants, laboratories, and warehouses	One (1) space for each two (2) employees
Financial institutions, and business, government, and professional offices	One (1) space for each 300 square feet of floor area and one (1) space for each two (2) employees
Funeral Homes	One (1) space for each four (4) seats
Bowling alleys	Five (5) spaces for each alley
Lodges and clubs	One (1) space for each five (5) members
Automobile repair garages	One (1) space for each regular employee plus one (1) space for each 250 square feet of floor area used for repair work

Uses Not Listed - For uses not listed, the Plan Commission shall determine the number of parking spaces to be required after considering, but not limited to the following: the amount of floor space, number of employees, the traffic generation potential, and the number of spaces required for uses that are specified.

10.0308 Loading Requirements

In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

10.0309 Parking of Commercial Vehicles, Buses, and Commercial Trailers

in Residential Areas Restricted

No commercially licensed motor vehicle having a gross weight in excess of 10,000 pounds, bus or commercially licensed trailer shall be parked or stored in any residential district, other than by a conditional use permit, except when loading, unloading or rendering a service.

School buses as defined in Wis. Stat. § 340.01(56) and regulated by Wisconsin Administrative Code Trans 300 are exempt from 10.0309 provided that no more than two school buses shall be parked or stored on a parcel and such buses must be operated by the occupants of the parcel.

10.0310 Driveways

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

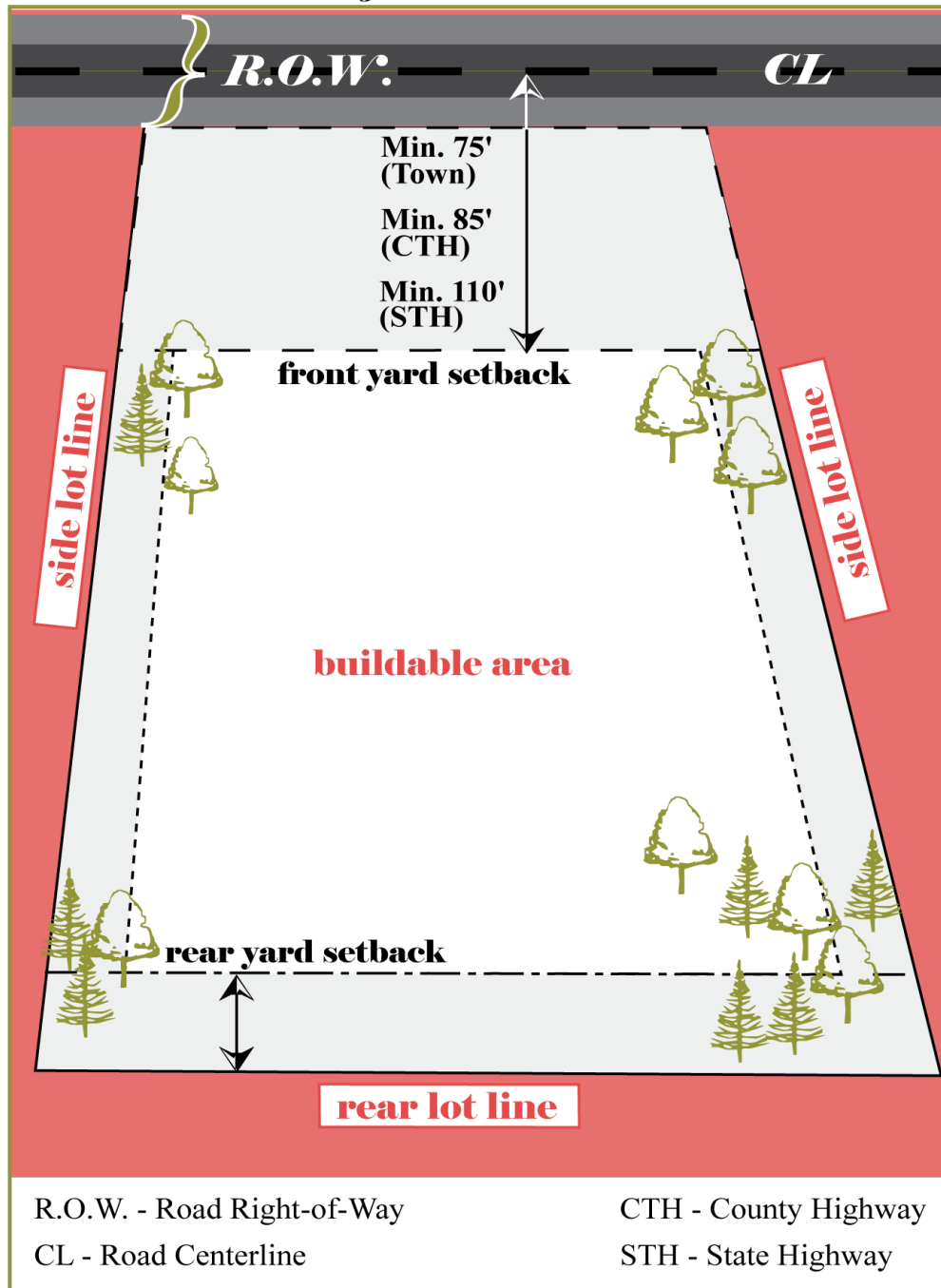
1. Islands between driveway openings shall be provided, with a minimum of 12 feet between all driveways and six (6) feet at all lot lines.
2. Openings for vehicular ingress and egress shall not be less than 35 feet for fields at the street line, and 28 feet for all other driveways at the street line unless a safety hazard identified by the Town Chair or Board of Supervisors designee requires construction of a wider driveway opening.
3. Vehicular entrances and exits to drive-in theaters; banks; restaurants; motels; funeral homes; vehicular sales, service, washing, and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
4. Driveway approaches shall be so constructed so as not to restrict the natural flow of water. Property owners shall be financially responsible for providing the proper size culvert necessary for driveways if needed as determined by the Town Zoning Administrator.

10.0311 Setback Requirements from State and Federal Highways, County Highways and Town Roads

Figure 10.1: Yard Requirements Applying to All Zoning Districts in the Town of Lincoln.

Front Yard setback requirements for all zoning districts.

Diagram is not to scale



10.0312 Visual Clearance Triangle

In each quadrant of every public street intersection, there shall be a visual clearance triangle bounded by the street center lines and a line connecting points on them 300 feet from a state or federal highway intersection, 200 feet from a county highway intersection and 150 feet from a town road intersection. Uses permitted in a visual clearance triangle include:

1. Open wire or rail fences.
2. Telephone, telegraph and power transmission poles, lines and portable equipment.
3. Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle so as to obstruct the view.

10.0313 Outdoor Lighting Regulations

It is the intent of this section to encourage outdoor lighting practices and systems which minimize light pollution of the night sky, glare, and light trespass while maintaining night time safety, utility, security, and productivity in the Town of Lincoln. This section shall apply to all districts.

1. All area lighting must be down lit and shielded in a manner that light rays emitted by the fixture either directly from the lamp or indirectly from the fixture are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted. Examples include but are not limited to spotlights, floodlights, and other sources of illumination used to illuminate yards, buildings, signs, landscaping, street graphics, parking and loading areas.
2. All lighting must be directed away from adjacent properties and public rights-of-way to prevent light from trespassing or spilling onto those properties.
3. There shall be no flashing, revolving, or intermittent lighting which could be considered a nuisance or distraction to neighbors or vehicular traffic.
4. Searchlights, lasers, or any similar high-intensity light shall not be permitted except use in emergency by police or fire personnel or at their direction.
5. All outdoor flood light projection above the horizontal is prohibited.
6. Only street lights approved by the town are permitted. For the purpose of this section, "Streetlights or street lighting" means lighting specifically designed and constructed for the purpose of illuminating a public roadway.
7. Lighting the American flag and holiday lighting are exempt from all lighting requirements of this section.
8. Temporary lighting which does not conform to the provisions of this section may be allowed for a total of no longer than 30 days within a year.

10.0314 Accessory Uses and Structures

1. Any permanent, roofed structure serving as an accessory use if attached to the principal building by an enclosed structure shall be considered a part of the principal building. If an accessory structure is not attached to the principal building as specified above, it shall conform to the setback and other dimensional requirements for accessory buildings within the zoning district.
2. Living Quarters Prohibited - Accessory buildings shall not contain living quarters (as defined in 10.0200 of this Ordinance).
3. Accessory uses and detached accessory structures are permitted in the rear and side yards only.
4. An accessory building may be permitted and constructed prior to the principle structure provided that building permits for both structures are approved at the same time.
5. Such items as, but not limited to boats, truck and van bodies, mobile homes, buses, railroad cars, and campers, shall not be used as accessory structures.

10.0315 Physical Requirements Applying to Single and Two Family Residential Dwellings

Commentary: Manufactured homes that meet the definition of MANUFACTURED HOMES DEFINED AS SINGLE FAMILY DWELLING in 10.0200 of this Ordinance and that comply with the provisions of 10.0315 are considered to be Single Family Residential Dwelling

1. Foundation:
Dwellings shall have a properly engineered, permanently attached means of support that meets the manufacturer's installation requirements and all applicable building codes.
2. Applicability of Wisconsin Uniform Dwelling Code to-Site Built Additions to Manufactured Homes:
Site built additions to a manufactured home, such as a basement, crawl spaces or room additions must meet the requirements of the Wisconsin Uniform Dwelling Code.
3. Siding Material:
Dwellings shall have exterior siding material that is residential in appearance. The exterior siding material shall extend to ground level, except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
4. Roof:
The roof must be covered with material that is residential in appearance.
5. Mobility:

Once placed on site, no modular home or manufactured home shall contain any axles, wheels, hitch, or any other device facilitating its mobility.

6. Any manufactured home not meeting the requirements of 10.0315 shall only be permitted as provided in 10.0500 of this Ordinance.

10.0316 Setback Requirements from Animal Waste Storage Facilities and Structures

All new construction of dwellings and business structures in the following zoning districts shall be located a minimum of 1,320 feet from any existing manure storage facilities, structures, or systems that are required to have a Livestock Facility Conditional Use Permit or WPDES Permit. These districts include:

A-2 General Agricultural District

Rs-1 Single-Family Residential District One

B-1 Business District

10.0317 Reasonable Accommodations for a Disabled Persons.

1. The Zoning Administrator will, upon receipt of a written request, issue a permit that waives one or more specific zoning requirements if the Zoning Administrator determines that all of the following conditions have been met:
 - (a) The requested waiver is necessary to afford a handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (b) The requested waiver is the minimum deviation from the terms of this ordinance necessary to provide the handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (c) The requested waiver will not unreasonably undermine the basic purposes this ordinance.
2. A permit issued pursuant to this section must state the provisions of this ordinance that are waived and describe with reasonable particularity the deviation from the terms of this ordinance that are authorized.
3. A permit issued pursuant to this section must state that the permit is issued pursuant to the requirements of the Americans with Disabilities Act, the Fair Housing Act, the Rehabilitation Act, the Wisconsin Open Housing Law, a local ordinance, or a combination of these acts, laws, and ordinances in order to provide the reasonable accommodation necessary to avoid discrimination on the basis of disability or handicap.
4. A permit issued pursuant to this section must include a provision stating that the permit is valid only for so long as the waiver is necessary for a disabled or handicapped person to occupy or use the premises and that the permit holder must notify the Zoning Administrator within 30 days of the date that the disabled or handicapped person no longer occupies or uses the premises.

5. A permit issued pursuant to this section must include a provision stating that any addition or external structural change allowed by the waiver must be constructed, insofar as is practicable, in such a way that it can be removed when the disabled or handicapped person no longer occupies or uses the premises, unless the department determines that removal will not be required and includes a written statement of the reason that removal is not required as part of the permit.
6. A permit issued pursuant to this section which requires the removal of any addition or external structural change will not become effective until the permit holder:
 - (a) Signs an affidavit that contains the legal description of the property, acknowledges that waiver granted by permit is authorized only for so long a disabled or handicapped person uses the premises, agrees to notify the Zoning Administrator within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person, and agrees to remove any addition or external structural change authorized by the permit within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person; and
 - (b) Records the affidavit with the Town Clerk.

10.0318 Kewaunee County Shoreland Zoning Ordinance

The Town recognizes that Kewaunee County has adopted a Shoreland Zoning Ordinance in compliance with Wisconsin Statutes. Accordingly, the Zoning Administrator for the Town of Lincoln shall refer to Kewaunee County all applicants seeking building permits for structures or uses which are proposed to be located or conducted within the shoreland area subject to county regulations. If the Zoning Administrator determines that any Town building permit is required for such project, a permit will not be issued within Shoreland Zoning until approval from Kewaunee County has been granted.

10.0400 ESTABLISHMENT OF ZONING DISTRICTS

10.0401 Establishment of Districts

For the purpose of this Ordinance, the town of Lincoln, Kewaunee County, Wisconsin, is hereby divided into the following zoning districts:

- A-1 Exclusive Agricultural District
- A-2 General Agricultural District
- Rs-1 Single-Family Residential District One
- B-1 Business District

10.0402 Zoning Map

The location and boundaries of the districts established by this Ordinance are set forth on the zoning map entitled "Zoning Map for the Town of Lincoln, Kewaunee County, Wisconsin" dated July 7, 1986, which are incorporated herein and hereby made a part of this Ordinance. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein. The Town Clerk shall keep a revised version of said map reflecting any and all changes of zoning boundaries.

10.0403 Interpretation of District Boundaries

The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning map.

1. District boundary lines are the center lines of highways, streets, alleys, and pavements; or right-of-way lines of railroads and expressways; or section, division of section, tract and lot lines; or such lines extended, unless otherwise indicated.
2. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall be hereafter erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
3. No building or other structure shall hereafter be erected or altered.
 - (a) To exceed the height or bulk;
 - (b) To accommodate or house a greater number of families;
 - (c) To occupy a greater percentage of lot area;
 - (d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner contrary to the provisions of this Ordinance.

10.0404 A-1 Exclusive Agricultural District

1. Purpose and Intent of the A-1 Exclusive Agricultural District.

- (a) The purposes of the A-1 District are to:
 - (1) Preserve productive agricultural land;
 - (2) Maintain a viable agricultural base to support agricultural processing and service industries;
- (b) The A-1 District is generally intended to apply to lands in productive farm operations including:
 - (1) Lands historically exhibiting high crop yield or capable of such yields;
 - (2) Lands, which have been demonstrated to be productive for dairying, livestock raising, and grazing;
 - (3) Other lands which are integral parts of each farm operation; and
 - (4) Land used for the production of specialty crops.

As a matter of policy, agricultural uses in the A-1 District are encouraged to transition to more sustainable agricultural practices that focus on the health of the soil, the groundwater and the environment of the Town of Lincoln. Some A-1 parcels may be better suited for uses other than agriculture.

Note: Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.

** This district serves as a Farmland Preservation Zoning District for the Town of Lincoln.

2. Permitted Principal Uses

The following principal uses are permitted uses in the A-1 district:

- (a) Agricultural uses (see Section 10.0202) except:
 - (1) Livestock facilities with 500 or more animal units require a conditional use permit under Section 10.0404(4)(i).
- (b) Essential services consistent with Wis. Stat. § 91.44.
- (c) Livestock facility, less than 500 animal units.
- (d) Farm ponds.
- (e) Maple syrup processing.

- (f) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place, or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.
- (g) Undeveloped natural resource and open space areas.

3. Permitted Accessory Uses

The following accessory uses are permitted in the A-1 district only when there is a permitted principal use present:

- (a) Agricultural accessory uses (see Section 10.0202), except:
 - (1) Aircraft facilities, consistent with Wis. Stat. § 91.01(1), that are incidental to the farm operation and located on a farm, require a Conditional Use permit under Section 10.0404(4)(b).
 - (2) Livestock facilities with 500 or more animal units require a conditional use permit under Section 10.0404(4)(i).
 - (3) All manure and/or waste storage facilities, structures, and systems serving a livestock facility require a Conditional Use permit under Section 10.0404(4)(j).
 - (4) Manure digesters, bio-fuel facilities, or other facilities serving a livestock facility require a Conditional Use permit under Section 10.0404(4)(k).
 - (5) Agricultural tile lines (see Section 10.0404(5)).
- (b) Farm residence, one single family.
- (c) Solar energy systems that provide energy primarily for the residence and on-site structures.
- (d) Roadside stand, one per farm, provided that the structure does not cover more than 300 square feet in ground area and does not exceed 10 feet in height and is consistent with Wis. Stat. § 91.01(1).
- (e) Home occupations, consistent with Wis. Stat. § 91.01(1)(d), conducted on the primary farm premises, and that are incidental to the farm operation.
- (f) Uses related to the Ice Age Trail under Wisconsin Stats. 23.17 and 23.293.
- (g) Hunting cabins or warming shacks, consistent with Wis. Stat. § 91.01(1)(a), providing no water or sewerage facilities are included.

4. Conditional use

The following uses may be allowed in the A-1 district subject to the issuance of a conditional use permit:

- (a) Agriculture-related uses (see Section 10.0202).
- (b) Airfields, airports, and heliports, consistent with Wis. Stat. § 91.01(1), that are incidental to the farm operation and located on a farm, however are not open to the public.
- (c) Artificial lakes.
- (d) One additional farm residence, single family dwelling.
- (e) Transportation, communications, pipeline, electric transmission, utility, or drainage uses consistent with Wis. Stat. § 91.46(4).
- (f) Farm Consolidation

For the purposes of farm consolidation, farm dwellings and related farm structures existing prior to December 1, 1986, may be separated from the farm plot provided that the parcel created conforms with all regulations set forth in the General Agricultural District (A-2) and is no larger than reasonably necessary to accommodate the proposed use.

- (g) Fur farming.
- (h) Institutional, governmental uses, and religious uses consistent with Wis. Stat. § 91.46(5) such as: colleges, universities, schools (elementary, junior high and senior high), hospitals, churches and other religious institutions, cemeteries, public parks, public recreation sites, and public golf courses.
- (i) Livestock Facility/Animal Feedlot: A new or expanded Livestock Facility/Animal Feedlot, 500 or more animal units, may be permitted as a Conditional Use in A-1 Exclusive Agricultural District per the procedures under Wis. Stat. § 93.90 and Wis. Admin. Code ch. ATCP 51.

- (1) Pursuant to the provisions of Wis. Stats.93.90, the Town of Lincoln does hereby adopt and incorporate into its existing Zoning Ordinance the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code. The Town of Lincoln's Zoning Ordinance hereby reflects the provisions of Wis. Stats. 93.90 and ATCP 61 of the Wisconsin Administrative code as if said statutory and administrative provisions were set forth in their entirety within the text of the Town's Zoning Ordinance.

- (2) Conditional Use Permit applications for Livestock Facilities/Animal Feedlots, 500 or more animal units must include state mandated application materials per Wis. Admin Code ch., ATCP 51.30.
- (3) The Town shall follow state standards (Wis. Admin. Code ch. ATCP 51) for approving Conditional Uses for new or expanding Livestock Facilities/Animal Feedlots of 500 or more animal units
- (4) All requirements and restrictions for A-1 Exclusive Agricultural District and 10.1200 Conditional Use Permits shall apply.
- (5) Chapter 11: Livestock Facility Siting and Conditional Use Permit Ordinance of the Town of Lincoln Code of Ordinances shall apply.
- (6) Additional Town Requirements. The Town Board hereby declares the following more stringent local standards are deemed necessary to protect the public health, safety, welfare or convenience and, to that end, adopts the following legislative findings of fact:
 - a. Concentrated farm operations of greater than 500 animal units will result in a higher level of traffic moving raw materials into and finished products out of such large farm operations. More traffic generated by a large farm operation increases the likelihood of accidents and the endangerment of local residents and operators of trucks or farm equipment traveling on the same roadways within the Town of Lincoln (public safety).
 - b. Bedrock within the Town of Lincoln consists of dolomite with frequent vertical and horizontal fractures (Muldoon). Animal waste rapidly infiltrates into the groundwater table due to the fractured limestone (karst) underlying the shallow top-soil in much of the township (Borchardt, Muldoon, Parsen, Bonness and Masarik). Due to the characteristics of such low attenuation areas, the Town of Lincoln will not allow agricultural siting operations or the spreading of liquid manure in these mapped sensitive areas. (public safety)
 - c. In large portions of the Town of Lincoln, the water table can be at a depth of 0 to 36 inches (Hanson), especially when adjacent to wetlands, streams, ponds and around closed depressions (Parson). Pollutants

that reach these waters or areas with rapid recharge rates have been known to contaminate the groundwater that is consumed by local residents who get their water from wells (Borchardt and Muldoon). (public health).

- d. The Town will review, on a case by case basis, the merits of siting agricultural operations or the spreading of liquid manure when such operations are within 75 feet of a shallow water table (0 to 36 inches) or when adjacent to wetlands, streams, and ponds, or closed depressions.
- (j) Manure and/or waste storage facilities, structures, and systems serving a livestock facility. The facilities must be located on the same parcel or an adjacent parcel as the livestock facility producing the manure and/or waste and must be owned by the same enterprise. A manure storage structure construction permit issued by the Kewaunee County Land and Water Conservation Department is required.
- (k) Manure digester, bio-fuel facility, or other facility serving a livestock facility and consisting of a sealed structure in which manure is subjected to managed biological composition. The facility must be located on the same parcel or on an adjacent parcel as the livestock facility producing the manure and/or waste.
- (l) Quarries, sand, and gravel pits and non-metallic mining consistent with Wis. Stat. § 91.46(6).
- (m) Riding academies and stables, if a farm family business.
- (n) Stockyards.
- (o) Wildlife sanctuaries and game preserves consistent with Wis. Stat. § 91.46(5).
- (p) Wind energy systems that provide energy primarily for the residence and on-site structures.
- (q) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - (1) It is conducted on a farm by an owner or operator of that farm.
 - (2) It requires no buildings, structures, or improvements other than a building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use; or a farm residence.
 - (3) It employs no more than 4 full-time employees annually.
 - (4) It does not impair or limit the current or future agricultural use of the farm or other protected farmland.

5. Prohibited uses.

Consistent with the Town’s comprehensive plan, installation or replacement of agricultural tiles lines is prohibited.

6. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-1 district, with the exception of manure storage facilities and manure storage structures and systems. See subsections (8), (9), (10) and (11) of this section) for manure storage facility, structure, and system requirements:

Exclusive Agricultural (A-1)	
Lot Size:	
Minimum lot area	35 acres
Minimum lot width at building line	200 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	50 ft.
Side Yard Minimum:	20 ft.
Principal	25 ft. (one side)
Accessory	10 ft. (one side)
Height:	
Maximum Farm Residence:	35 ft.
Maximum Farm Residence Accessory:	22 ft. or the height of the residence, whichever is greater
Maximum Agricultural Structures:	60 feet

7. Principal Dwelling Floor Area: Not applicable.
8. Maximum Lot Coverage: Not Applicable
9. Yard Requirements for Livestock facilities with 500 or more but less than 1,000 animal units within the A-1 district:

Property line setback	100 ft.
Road Right of Way	100 ft.

10. Yard Requirements for Livestock facilities with 1,000 or more animal units within the A-1 district:

Property line setback	200 ft.
Road Right of Way	150 ft.

11. Yard Requirements: Livestock facilities with less than 100 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	100 ft.
Road Right of Way	100 ft.
Existing Residential Dwellings	100 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	100 ft.

12. Yard Requirements: Livestock facilities with 100 but less than 500 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	350 ft.
Road Right of Way	350 ft.
Existing Residential Dwellings	650 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	650 ft.

13. Yard Requirements: Livestock facilities with 500 or more animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	350 ft.
Road Right of Way	350 ft.
Existing Residential Dwellings	1,320 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	1,320 ft.

14. Permitted Nonconforming Uses

- (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.)
- (b) Isolated commercial uses that existed prior to the effective date of this ordinance adopted are allowed by the Town Board as nonconforming uses.
- (c) Residences existing prior to the effective date of this ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

15. Rezoning of Exclusive Agricultural District Lands

In addition to the provisions of 10.1400 Changes and Amendments, the following provisions shall apply:

- (a) Town of Lincoln may not rezone land out of the A-1 zoning district unless the town does all of the following prior to the rezoning:
 - (1) Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-1 zoning district.
 - b. The rezoning is consistent with Chapter 5 on Land Use of the Comprehensive Plan which is in effect at the time of the rezoning especially Chapter 5 on Land Use, the Agricultural Transition Map, and the Sensitive Areas Map.
 - c. The rezoning is substantially consistent with the Kewaunee County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (b) Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.
- (c) By March 1 of each year, the Zoning Administrator shall provide a report to the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) identifying the number of acres that the Town has rezoned out of the A-1 zoning district during the previous calendar year and a parcel map that clearly shows the location of those acres.
- (d) By March 1 of each year, the Zoning Administrator shall submit a copy of the information that it reports to DATCP under Section 10.0404(12)(b) to Kewaunee County.

16. Variances

In addition to the provisions of section 10.1400 Board of Appeals, any variance that is granted must be found to be “consistent with agricultural use”. Variance requests for any facility that may wish to expand its storage capacity, modify its storage facilities to meet additional days of storage, or add a sand and/or bedding separation system must specifically comply with Section 10.1404 and 10.1407.

10.0405 A-2 General Agricultural District

1. Purpose and intent of Agricultural District

The purpose of the A-2 District is to provide a mixture of low density residential and agricultural land uses. This district is designed to permit utilization of smaller land parcels in predominantly agricultural areas for small scale agriculture and rural residential uses. The intent of the A-2 District is that it is to be applied to those rural lands with less than 35 acres.

As a matter of policy, agricultural uses in A-2 districts are encouraged to transition to more sustainable practices that focus on the health of the soil, the groundwater, and the environment of the Town of Lincoln. Some A-2 parcels may be better suited for uses other than agriculture.

2. Permitted Uses

The following uses are permitted in this district:

- (a) Single family dwellings.
- (b) General farming including livestock and poultry raising, nurseries, and other similar enterprises or uses.
- (c) In-season roadside stands for the sale of farm products produced on the premises.
- (d) Gardening, including truck gardens, nurseries, greenhouses, and orchards.
- (e) Governmental buildings.
- (f) Public parks, playgrounds, recreational and community center buildings and grounds.
- (g) Grade schools, cemeteries, churches and their affiliated uses.
- (h) Water storage facilities and their accessory structures.
- (i) Accessory buildings, including buildings clearly incidental to the residential use of the property; provided however, that no necessary building may be used as a separate dwelling unit.
- (j) Hunting cabins or warming shacks providing no water or sewerage facilities are included.
- (k) Home occupations when such operation is incidental to the residential use of the premises.
- (l) Solar energy systems that provide energy primarily for the residence and on-site structures.
- (m) Uses customarily incidental to any of the above uses; provided that no such use generates traffic or noise that would create a public or private nuisance.

3. Conditional Uses

A conditional use in this district is to permit the following uses only after public meeting and approval of the Town Board.

- (a) Professional offices, when such office is conducted solely by a member or members of the resident family.
- (b) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums. Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.
- (c) Commercial kennels.
- (d) Two-family dwelling only as a result of the conversion of an existing single-family dwelling.
- (e) Day Care Center, Group.
- (f) Camps and recreational vehicle parks.
- (g) Wind energy systems that provide energy primarily for the residence and on-site structures.
- (h) Warehouses, garages, shops and storage areas.
- (i) Telecommunication towers.
- (j) No subdividing of A-2 parcels without obtaining a conditional use permit for more than one single family dwelling.

4. Prohibit Uses

Consistent with the Town's comprehensive plan, installation of agricultural tile lines are prohibited.

5. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-2 district, with the exception of manure storage facilities and manure storage structures and systems. See subsections (6), and (7) of this section for manure storage facility, structure, and system requirements.

General Agricultural (A-2)	
Lot Size:	
Minimum lot area	5 acres
Maximum lot area	35 acres
Minimum lot width at building line	200 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	50 ft.
Side Yard Minimum:	20 ft.
Principal	25 ft. (one side)
Accessory	10 ft. (one side)
Height:	
Maximum Farm Residence:	35 ft.
Maximum Farm Residence Accessory:	22 ft. or the height of the residence, whichever is greater
Maximum Agricultural Structures:	60 feet

6. Yard Requirements: Livestock facilities with less than 100 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	100 ft.
Road Right of Way	100 ft.
Existing Residential Dwellings	100 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	100 ft.

7. Yard Requirements: Livestock facilities with 100 but less than 500 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	350 ft.
Road Right of Way	350 ft.
Existing Residential Dwellings	650 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	650 ft.

- (a) Minimum setbacks for dwellings or businesses from existing manure and/or waste storage facilities, structures, and/or systems

with a Livestock Siting Conditional Use Permit or WPDES Permit shall be 1,320 feet.

- (b) Building Area—no minimum
- (c) Maximum Lot Coverage - 20 percent.
- (d) Density: Maximum of two dwelling units per public land survey quarter quarter section (40 acres). A density of three to eight units per public land survey quarter quarter section may be permitted by a conditional use permit.

10.0406 RS-1 Single-Family Residential District One

1. Purpose and intent of the RS-1 Residential District

The RS-1 District is intended to provide for a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of non-compatible land uses.

2. Permitted Uses

The following-uses are permitted uses in this District:

- (a) Single-family dwellings.
- (b) Public parks, playgrounds, and athletic fields.
- (c) Churches, chapels, temples, synagogues, rectories, parsonages, and parish houses.
- (d) Community living arrangements with a capacity of 8 or fewer persons served by the program.

3. Permitted Accessory Uses

The following uses are permitted in this district only when there is a principal permitted use present:

- (a) Floriculture, forestry, greenhouses, horticulture, nurseries, orchards, truck farming, wildlife sanctuaries.
- (b) Livestock and poultry raising limited to one half animal unit per acre.
- (c) Private garages, carports, and driveways.
- (d) Home occupations.
- (e) Tool houses, sheds and other similar buildings used for the storage of common supplies.
- (f) Roadside stands provide the structure does not cover more than 300 square feet in ground area and does not exceed 10 feet in height.
- (g) Solar energy systems that provide energy primarily for the residence and on-site structures.
- (h) Day Care Home, family.

4. Conditional Uses

A conditional use in this district is to permit the following uses only after a public meeting and approval of the Town Board.

- (a) General farming, dairying, grazing, hatcheries, livestock raising, paddocks, pastures, poultry raising, truck farming, game farms, and game preserves, riding academies and stables.
- (b) Public and private campgrounds.

- (c) Water storage facilities.
 - (d) Fire stations, police stations, post offices and other municipal facilities necessary for town operation.
 - (e) Two-family dwellings.
 - (f) Day Care Center, group.
 - (g) Community living arrangements with a capacity of 9 to 15 persons served by the program.
 - (h) Professional offices, bed and breakfasts.
 - (i) Wind energy systems that provide energy primarily for the home and on-site structures.
 - (j) Subdividing of RS-1 parcels for additional residential dwellings
5. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the SR-1 district.

Single-Family Residential District One (RS-1)	
Lot Size:	
Minimum lot area	1.5 acres
Maximum lot area	5 acres
Minimum lot width at building line	100 ft.
Minimum width corner lot	120 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	25 ft.
Side Yard Minimum:	15 ft.
Minimum combined	30 ft.
Principal	25 ft. (one side)
Accessory	10 ft. (one side)
Height:	
Maximum Residence:	35 ft.
Maximum Residence Accessory:	22 ft. or the height of the residence, whichever is greater
Maximum Lot Coverage	30 percent

- (a) Minimum setbacks for dwellings or businesses from existing manure and/or waste storage facilities, structures, and/or systems with a Livestock Siting Conditional Use Permit or WPDES Permit shall be 1,320 feet.
- (b) Building Area - not applicable

10.0407 B-1 Business District

1. Intent and Purpose

The primary purpose of the Business District is to serve the retail and service needs of area residents with a wide range of products and services for both daily and occasional shopping. The following regulations shall apply in the B-1 Districts:

2. Permitted Uses

- (a) Licensed professional services.
- (b) Art supplies and galleries
- (c) Auto supply stores
- (d) Home improvement stores and services
- (e) Hair salons
- (f) Bed and breakfast establishments
- (g) Outdoor and recreational equipment dealers
- (h) Garden supply stores and landscape services
- (i) Campgrounds
- (j) Eating and drinking establishments
- (k) Farm machinery and equipment sales and service
- (l) Food stores
- (m) Beer or wine production facilities
- (n) Equine supplies and services
- (o) Antique, auction, and resale shops

3. Accessory Uses

- (a) Parking lots
- (b) Solar energy systems that provide energy primarily for on-site buildings.
- (c) Accessory buildings or use incidental to principal use

4. Conditional Uses

- (a) Amusement establishments - archery ranges, shooting galleries, game rooms, swimming pools, skating rinks, and other similar amusement facilities
- (b) Automotive repair shops
- (c) Contractor's yards - Plumbing, heating, etc.
- (d) Attached dwelling units for the owner or operator of the principal use

- (e) Motor vehicle sales (New and used)
 - (f) Sports and recreation sales and facilities
 - (g) Telecommunication towers
 - (h) Welding and metal fabrication
 - (i) Wind energy systems that provide energy primarily for on-site buildings.
 - (j) Woodworking and cabinetmaking
5. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the B-1 district.

Business (B-1)	
Lot Size:	
Minimum lot area	2 acres
Maximum lot area	
Minimum lot width at building line	150 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	25 ft.
Side Yard Minimum:	20 ft.one side
Minimum Combined:	40 ft.
Accessory Use Minimum Setback:	15 ft.
Height:	
Principal Building:	35 ft.
Accessory Building:	20 ft.
Maximum Lot Coverage	60 percent

- (a) Minimum setbacks for dwellings or businesses from existing manure and/or waste storage facilities, structures, and/or systems with a Livestock Siting Conditional Use Permit or WPDES Permit shall be 1,320 feet.
- (b) Plans and Specifications to be submitted to Plan Commission
A site plan shall be submitted to the Plan Commission in accordance 10.0800 of this Ordinance.

10.0500 SUPPLEMENTARY USE REGULATIONS

10.0501 Fences and Hedges

1. Definition - For the purposes of this Ordinance a fence is herein defined as an enclosing barrier consisting of vegetation, wood, stone, metal, brick, cement or other material. The term "fence" shall be construed to include planting, such as hedges, hedgerows, and treelines.
2. Location - Fences must be located on the land owner's property
3. No fence or other structure consisting in whole or in part of barbed wire, rods or bands or other material dangerous to life and limb, shall be erected along or within four (4) feet of any public streets, sidewalks or alleys.
4. Construction and Maintenance - Fences shall be constructed in a workmanlike manner and of substantial material reasonably suited for its intended purpose. Every fence shall be maintained on both sides in a condition of good repair and shall not be allowed to become or remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public health or welfare, is a public nuisance, and the Town may commence property proceedings for the abatement thereof.
5. Electric fences shall not be permitted except for agricultural purposes.
6. Barbed wire fences shall only be permitted for agricultural uses.
7. Hedges and other plantings shall be trimmed and all parts thereof confined to 'the property on which planted.
8. Consistent with the Town's comprehensive plan to promote natural resources, wildlife, and recreational opportunities, fencerows and fence lines shall not be removed. Egress sufficient for agricultural equipment to move between adjacent fields shall not exceed 30 (thirty) feet along a single tree line.
9. Residential Fences - No fence or hedges exceeding two and one-half (2-1/2) feet in height shall be allowed within the building setback limits adjacent to a street right-of-way, except in rear yard setback where there is no access to a street right-of-way, the maximum height may be six (6) feet. The maximum height of fences or any other boundary line shall not be more than six (6) feet in height, except the hedges may be permitted to grow to their natural height. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited. The most attractive side of a fence shall face adjoining property.
10. Commercial and Agricultural Fences - Fences used for commercial and agricultural, purposes shall have a maximum height of eight (8) feet, except within the required front or corner setback areas wherein such height shall be limited to two and one-half (2-1/2) feet. Arms or extensions which project from the fence must project into the lot proper.
11. Swimming Pool Fences - All permanent in-ground or above ground private swimming pools shall be completely enclosed by a fence of not less than four

(4) feet in height so as to prevent uncontrolled access by children. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors which shall have self-closing and self-latching so as to be inaccessible to small children.

10.0502 Quarries and Mines

1. **Applicability** - The following regulations shall apply to mining operations on activities for the extraction from the earth of mineral aggregates such as stone, sand and gravel; nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc; and other natural material; and to related operations or activities such as excavation, grading or dredging; and related processes such as crushing, screening, scalping, dewatering and blending.
2. **Exempt Activities** - These regulations do not apply to the following activities:
 - (a) Excavations or grading by a person solely for domestic use at his or her residence.
 - (b) Excavations or grading conducted for highway construction purposes within the-highway right-of-way.
 - (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
 - (d) Excavations for building construction purposes.
3. **Permit** - The application for a conditional use permit shall be submitted to the Town Zoning Administrator on forms provided by the Town of Lincoln. The application shall be signed and dated by the applicant and shall be accompanied by information which shall include but not be limited to the following:
 - (a) **General Information** - The name and address of the operator.
 - (b) **Lease(s)** - A signed copy of the lease(s) or a letter(s) signed by the owner(s) of record which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this Ordinance. The expiration date of the lease of agreement shall clearly be indicated thereon.
 - (c) **Legal Description** - A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.
 - (d) **General Map** - Two copies of a general map which shall be drawn at a scale of no less than one (1) inch equals 200 feet and shall include the following:
 - (1) Property boundaries of the operator's owned or leased land and the location of other owners' property boundaries at the point where they abut the boundary of the project site.
 - (2) Topography of affected lands at intervals no greater than

ten feet.

- (3) Location and names of all streams and roads, on or within 300 feet of the project site.
 - (4) Location of all structures on or adjacent to the site and the purpose for which each structure and the adjoining land is used.
 - (5) Boundaries of previous excavations on the site.
 - (6) Location and description of mining site boundary stakes and permanent reference point. Boundary stakes may not be required for projects which are to be completed in six (6) months or less.
4. Operational Plan - All horizontal and vertical measurements shall be referenced to a permanent reference point. The operational plan shall include two (2) copies of maps, information about the site, a description of the proposed mining operation, methods and procedures to be used in mining the site and a proposed timetable for completion of various stages of the operation as follows:
 5. Observed or estimated depth to groundwater.
 6. Type of mining and processing.
 7. Estimated total volume of materials to be extracted.
 8. A timetable for the commencement and cessation of mining operations, and if seasonal operations are intended, the months of operation shall be identified.
 9. Measures to be taken to screen the operation from view of surrounding land uses or a written explanation of why such measures are not needed.
 10. Plan view drawing and a description of the sequential stages of mining. The drawing shall show the location of the stage boundary stakes, the location and extent of the mining site to include but not be limited to mining refuse dumps, sediment and/or wash ponds, and sediment basins.
 11. Two (2) copies of a plan showing temporary erosion control measures to be used during excavation.
 - (a) Temporary stabilization measures shall describe how such things as haul roads and stockpiles will be dealt with to minimize erosion and contamination of surface and groundwater.
 - (b) Temporary stabilization measures may be ordered by field directive by the Town Zoning Administrator or his designee to correct situations which arise out of the operation of a project site.
 - (c) Temporary stabilization may include but need not be limited to the following: Silt fencing, bale check dams, sod strips, rock riprap, hard surfacing through the use of concrete or blacktop, slope or

high-wall reduction, temporary seeding, erosion mat placement, mulching and sediment basin construction.

12. Proposed truck and machinery access to the site.
13. Types and location of temporary or permanent buildings and structures to be erected on the site.
14. Approximate number of trucks and other types of machinery to be used at the site.
15. Reclamation Plan - All horizontal and vertical measurements shall be referenced to a permanent reference point. The reclamation plan including maps, information about the site, a description of the proposed reclamation including methods and procedures to be used and a proposed timetable for completion of various stages of reclamation of the mining site shall be provided as follows:
 - (a) Two (2) copies of a plan and description of the proposed reclamation including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures.
 - (b) Description of topsoil stripping, stabilization and conservation methods that will be used during replacement.
 - (c) Two (2) copies of a plan and description of anticipated final topography, water impoundments, artificial lakes, and anticipated future land use of the site.
 - (d) Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining.
 - (e) The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned.
 - (f) A seeding plan which shall include methods of seedbed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
 - (g) A timetable of the commencement, duration, -and cessation of reclamation activities.
16. Other Information - The Plan Commission and the Town Board may require the submittal of such other information as may be necessary to determine the nature of the mining operation and proposed reclamation.
17. Conditions - These conditions shall apply to the Permit in addition to those established under 10.1300.
 - (a) No fixed machinery shall be erected or maintained within 200 feet of any property or street right-of-way.
 - (b) No excavation shall take place within 100 feet of any property line or 100 feet of an existing or platted street right-of-way.

- (c) Screening, silting, washing, crushing or other forms of processing conducted upon the premises shall be at least 500 feet from any residential zone.
- (d) The following conditions shall apply to reclamation work:
 - (1) Slopes - No site shall exceed a three (3) feet horizontal to one foot vertical incline. This angle of repose shall extend vertically six (6) feet below the lowest seasonal groundwater level. This angle of repose may be modified to a flatter but not a steeper angle if it is shown that the material to be excavated or to be used in reclamation of the site will be unstable at three-to-one (3:1) ratio.
 - (2) Topsoil Storage and Reapplication - All topsoil on a mining site shall be saved for future application unless it can be proven that it is not all needed for reclamation. Topsoil shall be reapplied to the slopes as uniformly as possible. Sites which lack adequate topsoil shall have the topsoil applied preferentially to the sloped areas.
 - (3) Seeding/Re-vegetation/Stabilization - Seeding shall be done in accordance with a Soil Conservation Service Critical Area Plan or Wisconsin Department of Transportation, Road and Bridge Standards, 1981 Edition, Section 630, entitled, "Seeding", except that seeding rates listed in subsection 630.3.3.4.2 shall be doubled.

18. Standards Applied to all Permits:

- (a) Right of Access - The filing of an application shall grant the Town the right of access onto the site and contiguous lands owned or leased by the applicant for any purposes relative to this Ordinance.
- (b) Boundary Staking - All excavation and phase boundaries shall be staked or otherwise marked and the operator shall notify the department that the site is staked at least two work days prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the Town. Stakes may be removed after reclamation-is completed and accepted. Painted wood lath may be used for operations of one year or less. Staking may be waived with department approval if an operation boundary is the same as an existing fence line or other easily identifiable feature.
- (c) Permit Period - Permits shall be granted for a specified period of time not to exceed two (2) years based on the nature of the operation.
- (d) Limits of Operation - Projects shall be limited to approved dimensions and depths.

- (e) Conflicts with other Regulations - It is the responsibility of the operator to obtain any local, state and federal permits or approvals.
- (f) Compliance with Reclamation - The operator shall comply with progressive and final reclamation plans for the site.
- (g) Notification of Commencement and Secession - The operator shall notify the department, in writing, at least fifteen (15) working days prior to initial mining operations and at least thirty (30) work days prior to final completion of project reclamation. All stages within a site shall also comply with the notification requirements above. When a stage is complete, the operator shall notify the Town for approval of the reclamation before entering the next stage.
- (h) Other Standards - The Town may apply such other requirements as are necessary to ensure progressive and final reclamation in a manner consistent with the Ordinance and to limit environmental pollution.

19. Renewal of a Permit

- (a) Requests for permit renewal must be submitted in writing to the Town Zoning Administrator prior to the 60 days expiration date of the existing permit.
- (b) Permit renewals may be granted by the Town Board for not more than the duration of the original permit.
- (c) No permit renewal shall be granted unless the project is in reasonable compliance with the terms of the existing permit.
- (d) Permit renewals may be conditioned upon correction of any unanticipated environmental pollution occurring during the original permit.

20. Project Site Modification or Enlargement and Transfer of Permit

- (a) Site modification - An operator may apply, in writing, to the Town Zoning Administrator, for a modification or cancellation of a permit or for a change in the reclamation plan for a project site. This application shall identify the area to be removed as affected by a change on the operation and reclamation plans.
- (b) Transfer of Permit - When one operator succeeds to the interest of another in an uncompleted site, the Town Board shall release the first operator of the responsibilities imposed by the permit only if:
 - (1) Both operators are in compliance with the requirements and standards of this Ordinance.
 - (2) The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.

- (c) Site Enlargement - Any proposed enlargement may be approved by the Town Board subject to the Town Board's evaluation of the revised reclamation plan.

21. Fees

- (a) The application for a permit shall be accompanied by a permit fee established by the Town Board.
- (b) The Applicant shall furnish the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The form and type of such sureties shall be approved by the Town Attorney.

10.0503 Hunting Cabins

- 1. Where Permitted. Hunting Cabins are allowed as a permitted or an accessory use in the A-1 Exclusive Agricultural District and the A-2 General Agricultural Zoning
- 2. Lot Size, Bulk Restrictions and Yard Requirements - All bulk restrictions and yard requirements for A-1 or A-2 apply.

Comment: Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.

- 3. Commercial use of hunting cabins are not permitted
- 4. Site Plan Required: A site plan is required under the provision of 10.0800 of this ordinance. The Zoning Administrator may approve the site plan for hunting cabins on behalf of the Plan. There is no site plan review fee for hunting cabins.
- 5. Sanitation Facility Removed: To ensure that the hunting cabin is not used for as a permanent dwelling, toilet facilities are not permitted. Existing toilet facilities such as those in mobile home used as hunting cabins must be removed.

10.0504 Adult Entertainment Establishments

In recognition of the protection afforded to the citizens under the 1st and 14th Amendments of the Constitution of the United States, the purpose of this section is to regulate the location of specifically defined activities and materials consistent with the town's interest in the present and future character of its development, and this section is not intended to inhibit any person's freedom of speech or the freedom of the press. For that reason, commercial establishments dealing in adult entertainment activities and materials may be permitted as a conditional uses in designated zoning districts.

- 1. The following Conditional Uses may only be allowed as herein provided:
 - (a) Commercial establishments which display, sell, have in their possession for sale, offer for view, publish, disseminate, give, lease, or otherwise deal in any written or printed matter, pictures,

films, sound recordings, machines, mechanical devices, models, facsimiles, or other material and paraphernalia depicting sexual conduct or nudity and which exclude minors by reason of age.

- (b) Commercial establishments which display for viewing any film or pictures depicting sexual conduct or nudity and which exclude minors by reason of age.
- (c) Commercial establishments in which any person appears or performs in a manner depicting sexual conduct or involving nudity and from which minors are excluded by reason of age.

2. Definitions

- (a) As used herein, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.
- (b) As used herein, "sexual conduct" means acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.

3. The conditional uses allowed by this section are subject to the following provisions:

- (a) No permit shall be granted where the proposed establishment is within 500 feet of any hospital, church, school, funeral parlor, restaurant, library, museum, or playground, or any other public or private building or premises likely to be utilized by persons under the age of 18 years.
- (b) No permit shall be granted where the proposed establishment is within 1,000 feet of any area zoned residential or agricultural in the same or a contiguous town or municipality.
- (c) The applicant shall furnish the Town detailed information as to the nature of use and activity of the proposed establishment. If the application is for an establishment under s. 10.0605, subparagraph (1)(a) or (1)(b), the applicant shall furnish representative samples of the materials to be dealt in. If the application is for an establishment under s. 10.0605, subparagraph (1)(c), the applicant shall in detail specify the nature of the activity to be engaged in.
- (d) The applicant for the permit shall provide the names and addresses of the owners and occupants of all property within 300 feet of the proposed establishment.
- (e) Advertisements, displays, pictures, or other promotional materials shall not be shown or exhibited on the premises in a manner which

makes them visible to the public from pedestrian ways or other public or semipublic areas.

- (f) All points of access into such establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior from any public or semipublic area.
- (g) In case of a protest signed by 20 percent or more of the persons of the area within 300 feet of the proposed establishment, the grant of such permit shall require a unanimous vote of the Town Board.
- (h) The Town Board in determining whether to grant a permit hereunder shall, in addition to considerations otherwise taken into account when acting on Conditional Use Permits, consider the protection of property values in the affected area; the preservation of neighborhoods, the tendency of such use to attract an undesirable quantity or quality of transients; the tendency of such use to cause increases in crime, especially prostitution and sex-related crimes and the need for policing; the tendency of such use to cause increases in noise, traffic, and other factors interfering with the quiet and peaceful enjoyment of the neighborhood; the tendency of such use to encourage residents and businesses to move elsewhere; the protection of minors from such materials and activities; and any other factor created by the type of use being considered, along with the health, safety and general welfare of the community.

10.0600 RESERVED

10.0700 SITE PLAN REVIEW AND APPROVAL AND ARCHITECTURAL CONTROL

10.0701 Purpose and Intent

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall be issued a permit for new construction or additions without first obtaining the approval of the Plan Commission of a site plan as set forth in this section.

The Plan Commission shall insure that such construction is in accord with any official map, subdivision ordinance and comprehensive plan of the town of Lincoln and other applicable codes and ordinances of the town of Lincoln.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading in the case of commercial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

10.0702 Exceptions

1. Residential development consisting of one dwelling on a lot of record of record are exempt from the site plan review.
2. Manufactured homes located in the A-1 Exclusive Agricultural District and A-2 General Agricultural District and hunting cabins are not exempt from the provision of 10.0700; however, the Zoning Administrator may approve the site plan for hunting cabins on behalf of the Plan Commission. There is no site plan review fee for hunting cabins.
3. The Zoning Administrator or the Plan Commission may waive certain site plan materials that are not critical to the purpose and intent of this section.

10.0703 Fee

All site plans submitted to the Town of Lincoln for review and approval shall be accompanied by a site plan review fee as established from time to time by the Town Board.

10.0704 Principles

To implement and define criteria for the purposes set forth in 1, the following principles are established to apply to all new structures and uses and to changes or revise the additions to existing structures and uses.

1. No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
2. No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.

3. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
4. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
5. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the town.
6. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.

10.0705 Site Plan Materials

Four copies of the site plan shall be submitted to the Zoning Administrator who shall transit all applications and their accompanying plan to the Plan Commission for their review. Plan data to be submitted with all review applications shall include the following:

1. Site plan drawn to a recognized engineering scale not less than one (1) inch equals 50 feet.
2. Name of project noted.
3. Owner's and/or developer's name and address noted.
4. Architect and/or engineer's name and address noted.
5. Date of plan submittal.
6. Scale of drawing noted on plan.
7. North arrow shown.
8. Existing and proposed topography shown at a contour interval not less than two (2) feet.
9. The characteristics of soils related to contemplated specific uses.
10. Total number of parking spaces noted including location and dimension.
11. Dimensions of lot.
12. The type, size, and location of all structures with all building dimensions shown including setbacks.
13. Indicate height of building(s).
14. Existing and proposed street names indicated.
15. Indicate existing and proposed rights-of-way and widths.

16. Locate existing and general location of proposed sanitary disposal systems.
17. Locate any proposed storm water management facilities, including detention/retention areas.
18. Locate existing trees and wetlands.
19. Note location, extent, and type of proposed plantings.
20. Note location of pedestrian sidewalks and walkways.
21. A graphic outline of any development staging which is planned is required to be shown on the site plan.
22. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
23. Setbacks or buildings and other structures from property lines and roads.
24. Location of proposed, existing, and abandoned wells on the property and their setbacks from all existing and proposed buildings and other structures, property lines, and roads.
25. Setbacks from all drainage features on the property.
26. Location of any Karst features on the property, especially sink holes, closed depressions, and internal drainages.
27. Location of driveways, parking, and provisions for traffic circulation.
28. Outdoor area lighting and locations.
29. Any future expansion plans.
30. A certified survey may be required by the Plan Commission.

10.0706 Review and Findings

The Plan Commission shall review the referred plans at the first regular Plan Commission meeting following their submittal. The Plan Commission shall render a decision no later than the following regular Plan Commission meeting. The Plan Commission shall not approve any plans unless they find after viewing the application that the structure or use, as planned, will not violate the intent and purpose of this Ordinance. The Plan Commission will approve said plans only after determining the proposed building or buildings will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety. The Plan Commission may, at its discretion, require an application for a Building Permit requiring a Site Plan Review to enter into a Development Agreement with the Town. All Development Agreements shall be approved by the Town Board of Supervisors.

10.0707 Sureties

The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission shall

require appropriate sureties to guarantee that requirements will be completed on schedule. Failure to complete required improvements within specified time limits shall constitute a zoning violation, and the Zoning Administrator shall initiate the appropriate action to correct the violation pursuant to Section 10.1108 of this Ordinance.

10.0800 RESERVED

10.0900 NONCONFORMING USES AND STRUCTURES

10.0901 Purpose and Intent

The purpose and intent of this section is to provide for the regulation of non-conforming buildings, structures, land and other uses and to specify those circumstances and conditions under which such non-conforming buildings structures, land and uses shall be permitted to continue. Any non-conforming buildings, structure, land or other use which existed lawfully at the time of the adoption or amendment of this Ordinance is subject to the regulations which follow.

10.0902 Buildings Under Construction

Buildings or structures on which construction was started or for which a construction contract was entered into before the effective date of this Ordinance or amendment of this Ordinance may be constructed notwithstanding this Ordinance, provided that the construction was legal and had received any necessary permits under the ordinances in effect on the date the construction project commenced.

10.0903 Existing Structures: Dimensional Nonconformance

Buildings which were constructed prior to the effective date of this Ordinance or amendment of this Ordinance, which are conforming to the Ordinance as to use, but do not conform as to dimensional rules (setbacks, height, yard spaces, separations, etc.) are subject to the following requirements.

1. Repairs and improvements of a maintenance nature are allowed.
2. Alterations, additions and expansions which change the exterior dimensions of the structure or building and which conform to the dimensional rules of this Ordinance are allowed.
3. Alterations, additions and expansions which change the exterior dimensions of the structure or building, and which do not conform to this Ordinance, but which do not increase the dimensional nonconformity beyond that which existed before the work commenced are allowed provided that they do not exceed 50 percent of full market value of the structure or building.
4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.

10.0904 Existing Uses and Structures: Use Nonconformance

The lawful conforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; provided that:

1. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to this Ordinance.
2. A nonconforming use may be changed to another nonconforming use only as a special exception. A nonconforming use which is changed to a conforming

use shall not revert back to a nonconforming use or structure.

3. Permitted Nonconforming Uses in the A-1 Exclusive Agricultural District:
 - (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.0906 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.)
 - (b) Isolated commercial uses that existed prior to the effective date of this ordinance are allowed by the Town Board as nonconforming uses.
 - (c) Residences existing prior to the effective date of December 1, 1986 of the Town of Lincoln Zoning Ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

10.0905 Existing Structures and Uses: Other Standards and Requirements

1. Restoration of Certain Nonconforming Structures. In accordance with Wis. Stat. § 60.61(5m), a nonconforming structure that is damaged or destroyed by fire, flood, ice, infestation, mold, snow, vandalism, or violent wind may be restored to the size, location, and use that it had immediately before the damage or destruction occurred. The size of the nonconforming structure may be enlarged, but only to the extent necessary for the structure to comply with applicable state and federal requirements.
2. Except for historic buildings, no repairs or restoration of nonconforming structures shall be located within any public right-of way.
3. Isolated substandard parcels less than 35 acres in size that existed prior to the effective of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with Section 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.).
4. Permitted Nonconforming Uses in the A-1 Exclusive Agricultural District:
 - (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.).
 - (b) Isolated commercial uses that existed prior to the effective date of this ordinance are allowed by the Town Board as nonconforming uses.

- (c) Residences existing prior to the effective date of this ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

10.0906 Substandard Lots

Any nonconforming lot of record in the Kewaunee County Register of Deeds Office prior to the effective date of this Ordinance may be developed even though it does not meet the minimum lot size and lot width requirements of this ordinance if the proposed use is a principal or accessory use in the district in which it is located.

1. Compliance with the standards of the Kewaunee County Sanitary Code shall be a condition for the granting of a building permit.
2. Compliance with the Kewaunee County Conservation Department and NR 313 shall be a condition of the granting of a building permit for a manure storage structure.
3. Substandard lots granted permits under this Section shall be required to meet the setback and other yard requirements of this Ordinance. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance is issued by the Board of Appeals.
4. Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.).
5. Creation of new non-conforming A-1 parcels is not allowed.
6. Permitted Nonconforming Uses in the A-1 Exclusive Agricultural District:
 - (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.)
 - (b) Isolated commercial uses that existed prior to the effective date of this ordinance are allowed by the Town Board as nonconforming uses.
 - (c) Residences existing prior to the effective date of this ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

10.1000 ADMINISTRATION AND ENFORCEMENT

10.1001 Purpose

This section of the Ordinance shall set forth the requirements to adequately provide for the proper administration and enforcement of this Ordinance.

10.1002 Administrative Structure

1. This Ordinance hereby establishes a Town Building/Zoning Administrator, and Plan Commission.
2. This section shall provide the authority and necessary requirements for issuance of land use permits; amendments; conditional uses; special exceptions; fees; and penalties.

10.1003 Building/Zoning Administrator

The Town Board of Lincoln shall appoint a Building/Zoning Administrator. It will be the primary responsibility of the Building/Zoning Administrator to administer and enforce the provisions of this Ordinance. The Town of Lincoln Building/Zoning Administrator shall have the following responsibilities and duties:

1. Issue all land and building permits and make and maintain records thereof.
 - (a) “Substantial” versus “minor” changes in a building permit: The Zoning Administrator, in consultation with the Plan Commission Chair and/or the Chair of the Board of Supervisors, shall make a determination as to whether the changes made to the plans for a building permit are substantial or minor. If the determination is that the changes are substantial, the applicant must re-apply for the building permit and undergo a site plan review as required.
2. Issue all rezoning certificates and make and maintain records thereof.
3. Conduct inspection of buildings, structures, and use of land and water to determine compliance with the terms of this Ordinance.
4. Provide and maintain a public information bureau relative to all matters arising out of this Ordinance.
5. Forward to the Town of Lincoln Plan Commission all applications for rezoning requests, conditional uses and for amendments to this Ordinance that are initially filed with the Building/Zoning Administrator.
6. Forward to the Board of Appeals applications of appeals, variances, or other matters on which the Board of Appeals is required to pass under this Ordinance.
7. Maintain permanent and current records of this Ordinance including, but not limited to: all maps, amendments, conditional uses, variances, appeals, and applications thereof.
8. Initiate, direct and review from time to time, a study of the provisions of this Ordinance and to make reports of its recommendations to the Plan

Commission.

9. If the Building/Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall consult with the Town Board and only with their advice and consent, shall thereafter notify, in writing, the person responsible for such violation and ordering the action necessary to correct it.

10.1004 Plan Commission

The Town Plan Commission shall perform the duties set forth in Wis. Stat. § 62.23 and in accordance with the Town Board Ordinance that established the Plan Commission.

1. The Town of Lincoln Plan Commission shall have the power to carry out the following duties under this Ordinance:
 - (a) To review all conditional use permits and conduct site plan reviews in accordance to the provisions of this Ordinance and report in writing said findings and recommendations to the Town Board. As appropriate, to draft Development Agreements that result from Conditional Use Permit Hearings and forward them on to the Town Board for approval.
 - (b) To review and vote on all zoning changes requests and report said findings and recommendations to the Town Board.
 - (c) To receive from the Building/Zoning Administrator or Town Board recommendations as related to the effectiveness of this Ordinance and craft ordinance revisions as appropriate, including holding public hearings on any proposed ordinance changes. Ordinance revisions shall then be passed on to the Town Board for adoption.
 - (d) As requested by the Town Board, to draft and edit resolutions and pass them on to the Town Board of Supervisors.
 - (e) To periodically review and revise the Town's Comprehensive Plan and forward the Plan to the Town Board for adoption. In conjunction with the Town Board, to carry out the Implement Section of the Comprehensive Plan.
 - (f) To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the Plan Commission and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.
 - (g) Other duties as assigned by the Town Board.

10.1005 Membership

1. The Plan Commission shall consist of five (5) members appointed by the Town Board Chairperson and subject to the confirmation of the Town Board. One member shall be a Town Board member and the Town Chairperson shall appoint the Commission's presiding officer. The Building/Zoning Administrator shall be an ex officio member and shall attend all Plan Commission meetings but shall not be a voting member.
2. The four citizen members shall serve for terms of three years. The term of the Town Board member shall be for one year, to be reappointed annually.
3. Whenever a vacancy shall occur, the Town Board shall elect or appoint the appropriate member to complete the unexpired term.
4. Town Board Chairperson will appoint an Alternate Member, subject to the confirmation of the Town Board, for a term of three (3) years. The Alternate Member shall act only when a regular member is absent or refuses or is disallowed to vote by the Town Board because of conflict of interest.

10.1006 Meetings

1. All meetings of the Plan Commission shall be held at the call of the Chairperson of the Commission or the Town Chairperson and at such times as the Commission may determine.
2. The Plan Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing vote, indicating such fact and shall also keep records of its hearings and other official actions.
3. Three members shall constitute a quorum to transact any business and formulate its proper action.

10.1007 Permit Fees

All persons, firms or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Town Zoning and Building Inspector, to help defray the cost of administration, investigation, advertising, and processing of permits, licenses and variances. The permits for which a fee is required include but are not limited to the Building Permit, Conditional Use Permit, Site Plan Review Fee, Development Agreement Fee, and Quarry and Mine Fee. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate, except where specifically listed in this Ordinance.

10.1008 Violations and Penalties

1. Complaints Regarding Violations
Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building/Zoning

Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance. The Building/Zoning Administrator may also investigate violations on his/her own initiative (see 10.1103).

2. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute the basis for a civil forfeiture action on behalf of the Town of Lincoln. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, forfeit not less than \$100.00 and not more than \$5,000.00 or in lieu of payment thereof be imprisoned for not more than 30 days and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the Town of Lincoln from taking such other lawful action as is necessary to prevent or remedy any violation.

3. Abatement of Violation

Any person, firm, or corporation who violates, disobeys, neglects, omits, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, remove the building, structure or part thereof or discontinue the use thereof which violates the terms of this Ordinance. Such removal may be performed by a Town agency or by contract arrangements with private persons and the cost of such removal shall become a lien upon the property, collectible as are other taxes.

10.1100 BUILDING PERMITS

10.1101 Cases Where Building Permits are required

1. Where any building or other structure is erected, moved or structurally altered.
2. Where any land is substantially altered.
3. Where 50 percent or more of the fair market value of a structure is destroyed and it is being repaired or altered.
4. For any accessory building or structure where the market value of the labor and materials exceeds \$2,000.
5. For any interior improvements where the market value of the labor and materials exceeds \$2,000.
6. For any exterior improvements having a cost or fair market value of \$2,000 or more.

10.1102 Cases Where Building Permits are not required

1. For any accessory structure where the market value of the labor and materials does not exceed \$2,000, provided that such building conforms to this Ordinance including all the setback, yard and open space requirements.
2. For any interior improvements or alterations to an existing building where the market value of the labor and materials does not exceed \$2,000, which shall not affect a structural change in use or encroach upon any yard or open space.
3. For any exterior improvements having a cost or fair market value of less than \$2,000 which shall not affect a structural change in use or encroach upon any yard or open space.
4. Any ADA structures.

10.1103 Application for Building Permit

1. Application for a building permit shall be made to the Lincoln Town Building/Zoning Administrator by the landowner or his authorized agent and shall include the following, where applicable.
 - (a) Plans and information required by 10.0800 of this Ordinance.
 - (b) A copy of the plat or certified survey map of the proposed building site.
 - (c) A plat, in duplicate, drawn at a minimum scale of one inch to 100 feet showing the ground area, height, and bulk of building or structure, the building lines in relation to lot lines, the use to be made of the building, structure, or land; and such other information as may be required by the Plan Commission and Building/Zoning Administrator for the proper enforcement of this Ordinance.
 - (d) Estimated cost of the construction activity.

- (e) For new residential dwellings, proposed sewage disposal plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Kewaunee County Zoning Administrator for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.
- (f) Additional information as may be required by the Plan Commission and Building/Zoning Administrator.
- (g) A building permit shall be granted or denied in writing by the Building/Zoning Administrator. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

10.1104 Building Permit Fee

The applicant, upon filing of the Building Permit with the Building/Zoning Administrator, shall pay a fee to the Building/Zoning Administrator in accordance with 10.1107 of this Ordinance.

10.1105 Building Permit

No vacant land shall be built upon or occupied; and no building or premises shall be erected, altered, moved or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until an building permit shall have been applied for and received from the Building/Zoning Administrator. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such permit shall be applied for prior to excavation or construction and shall be accompanied by the fee set forth in 10.1107 of this Ordinance. Hunting cabins are not exempt from Building Permits.

10.1106 Occupancy Permit

No building shall be occupied or used; and no building or premises shall be erected, altered, moved or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended by more than 25 percent until an occupancy permit shall have been applied for and issued by the Building Inspector. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such permit shall be applied for at the time of occupancy of any land and/or building and shall be accompanied by the fee set forth in 10.1107 of this Ordinance. Hunting cabins are exempt from Occupancy Permits.

10.1107 Delinquency

No license, rezoning, permit, conditional use permit, development agreement, or renewal thereof will be granted to any person or entity or any premises which is delinquent in submission of documents or payment or in any obligation due to the Town for any taxes, assessments, forfeitures from ordinance violations, or other

charges or completion of duties or obligations due to the Town, the Zoning Administrator, or the Plan Commission, including obligations for any granted rezoning, any conditional use permit, development agreement, or other permit requirements.

10.1200 CONDITIONAL USE PERMITS

10.1201 General Provisions

Any use listed as a conditional use in this Ordinance shall be permitted only upon application in duplicate to the Building/Zoning Administrator and issuance of a Conditional Use Permit by the Town Board after recommendation by the Plan Commission. A Conditional Use Permit shall be issued only upon satisfaction of the requirements listed herein, in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess such unique and special characteristics that each specific use shall be considered as an individual case.

10.1202 Application

The application for a Conditional Use Permit shall be filed with the Town Building/Zoning Administrator on a form so prescribed by the Town of Lincoln. The application shall be accompanied by such plans and data prescribed by the Town Board and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards, purpose and intent set forth in the respective zoning district. The Plan Commission Chair and the Zoning Administrator shall set a date for a public hearing on the condition use request. After receiving testimony at the public hearing, such application shall be considered by the Plan Commission and conditions, if any, reviewed and voted on by the Plan Commission. A written conditional use permit recommendation thereon shall be submitted to the Town Board. In order to secure evidence upon which to base its recommendation, the Plan Commission or the Town Board may require, in addition to the information required for a Conditional Use Permit, the submission of plans of buildings, arrangement of operations, plat of grounds showing location of buildings, stockpiles, equipment storage, fences or screens, specifications of operations, parking areas, traffic access, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of this Ordinance.

The Plan Commission may, at its discretion, require an applicant for a Conditional Use Permit requiring a Site Plan Review to enter into a Development Agreement with the Township. All Development Agreements shall be approved by the Board of Supervisors.

10.1203 Standards Applicable to All Conditional Uses

1. In passing upon a Conditional Use Permit application, the Plan Commission and Town Board shall consider the following factors:
 - (a) The location, nature, and size of the proposed use with respect to other uses in the immediate area.
 - (b) The location of the site with respect to existing or future roads giving access to it.
 - (c) Provisions for safe vehicular and pedestrian access and circulation.
 - (d) Its compatibility with existing uses on land adjacent thereto.

- (e) Its harmony with the existing and future development in the township.
 - (f) Whether the proposed use will adversely affect property values in the area.
 - (g) Whether the proposed use creates noise, odor, and dust that is incompatible with the area.
 - (h) Whether the proposed use creates excessive exterior lighting glare, or spillover lighting onto neighboring properties.
 - (i) Existing topography, drainage, soil types, groundwater and surface water flow, and vegetative cover.
 - (j) Provisions for proper surface drainage and erosion control.
 - (k) The impact of the proposed project on the public health, safety, and welfare of the Town and its residents.
 - (l) Its relationship to the public interest, the purpose and intent of this Ordinance, and substantial justice to all parties concerned.
 - (m) Whether the proposed use is consistent with the Town's Comprehensive Plan, especially Chapter 5 on Land Use, the Agricultural Transition Map, and the Sensitive Areas Map; which is in effect at the time of the rezoning.
2. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the town may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the town zoning board. Wis. Stat. § 60.61(4e)(d)
 3. The applicant for the conditional use has the burden of showing why the conditional use should be approved.

10.1204 Authorization

For each application for a conditional use, the Plan Commission shall report in writing its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

10.1205 Conditions Attached to Conditional Use Permit

Upon consideration of the factors listed above and prior to the granting of any conditional use, the Plan Commission may recommend and the Town Board shall attach such conditions, in addition to those otherwise specifically listed, that it deems necessary to fulfill the purpose and intent of this Ordinance. The conditions may include measures to minimize odors, noise, and dust, landscaping, architectural design, type of construction, construction commencement and completion date, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, road dedication,

certified survey maps, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional conditions may be recommended by the Plan Commission and may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

10.1206 Notice and Public Hearing

Upon receipt of a request, the Plan Commission, shall hold a public hearing on the proposed conditional use. Notice of such public hearing specifying the time, place and matters to come before at Commission shall be given as a Class 2 notice as referred to in Chapter 985 of the Wisconsin Statutes. Due notice of the hearing shall be given to parties of interest as well as owners of property within 200 feet of the proposed conditional use.

10.1207 Conditional Use Permit Fee

The applicant, upon filing of the application, shall pay a fee to the Building/Zoning Administrator in accordance with 10.1107 of this Ordinance. Costs incurred by the Town Board in retaining legal, planning, engineering, and other technical and professional advice in connection with the review of Conditional Use applications and the preparation of conditions to be imposed on such uses shall be charged to the applicant.

1. Expiration. All Conditional Use Permits shall expire 12 months from the date of issuance where no action has commenced to establish the authorized use as determined by the Town Board. If a time limit has been imposed as a condition for the Permit, the Permit shall expire at the end of the time limit.
2. Amendments. Changes subsequent to the initial issuance of a Conditional Use Permit which would result in a need to change the initial conditions shall require an Amendment to the Conditional Use Permit. The process for amending a Conditional Use Permit shall generally follow the procedures for granting a Conditional Use Permit as set forth in Section 10.1200.
3. Revocation of a Conditional Use Permit. Should a Permit applicant, his or her heirs or assigns, fail to comply with the conditions of the Permit issued by the Town Board, or should the use, or characteristics of the use be changed without prior approval by the Town Board, the Conditional Use Permit may be revoked. The process for revoking a Permit shall generally follow the procedures for granting a Conditional Use Permit as set forth in Section 10.1200.
4. Permit fees are set by resolution by the town board of supervisors from time to time.

10.1300 BOARD OF APPEALS

10.1301 Establishment

There is hereby established a Board of Appeals for the Town of Lincoln for the purpose of Public Hearing appeals and applications, and granting Variances to the provisions of this Ordinance.

10.1302 Membership

1. The Board of Appeals shall consist of **five (5) members** appointed by the Town Chairperson and confirmed by the Town Board.
2. **Terms** shall be for staggered three-year periods.
3. **Chairperson** of the Board of Appeals shall be designated by the Board of Appeals.
4. **Two Alternate Members** shall be appointed by the Town Chairperson for a term of three (3) years. The first alternate shall act, with full power, only when a member of the Board of Appeals refuses to vote because of conflict or potential conflict of interest or when a member is absent. The second alternate shall act only when the first alternate so refused or is absent or when more than one member of the Board of Appeals so refuses or is absent.
5. **No member** shall be a Town Board member, Plan Commission member, or the Zoning Administrator.
6. The Town Clerk shall act as Secretary of the Board of Appeals.
7. **Zoning Administrator** shall attend meetings for the purpose of providing technical assistance when requested by the Board of Appeals.
8. **Conflict of Interest.** Any member who has any interest in a matter before the Board of Appeals shall not vote thereon and shall remove himself or herself from any meeting or Public Hearing at which said matter is under consideration.
9. **Official Oaths** shall be taken by all members in accordance with Wis. Stat. § 19.01, within 10 days of receiving notice of their appointment.
10. **Vacancies** shall be filled for the unexpired term in the same manner as appointments for a full term.

10.1303 Organization

1. The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance.
2. Meetings shall be held at the call of the Chairperson and shall be open to the public; however, the Board of Appeals may convene in closed session in accordance with s Wis. Stat. § 19.85.
3. Minutes of the proceedings and a record of all actions shall be kept by the Secretary showing the vote of each member upon each question, the reasons

for the Board of Appeal's determination, and its findings of facts. These records shall be immediately filed in the office of the Town Clerk and shall be a public record.

4. A majority vote of four (4) members of the Board of Appeals shall be necessary to correct an error; grant a Variance; make and interpretation, and allow a substituted use.

10.1304 Powers

The Board of Appeals shall have the following powers:

1. Errors. To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Plan Commission or Zoning Administrator.
2. Variances. To hear and decide appeals for Variances where based on special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. Such a Variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purpose of this Ordinance shall be observed and the public safety, welfare, and justice secured. **Use Variances and self-imposed hardships shall not be granted.**
3. Interpretations. To hear and decide application for interpretations of the codes, regulations, ordinances and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
4. Substitutions. To hear and decide application for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board of Appeals allows such substitution, the use may not thereafter be changed without application.
5. Permits. The Board of Appeals may reverse, affirm wholly or partly, modify the order, requirement, decision, or determination appealed from, and may issue or direct the issuance of a permit.
6. Assistance. The Board of Appeals may request assistance from other Town officers, and Kewaunee County officials, departments, commissions and boards.
7. Oaths. The Chairperson of the Board of Appeals shall administer oaths and may request the attendance of witnesses.
8. Renewable Energy. To grant Variances for Renewable Energy Resource Systems. If the Board of Appeals denies an application for a Variance for a Renewable Energy Resource System, the Board of Appeals shall provide a written statement of its reasons for denying the application.

10.1305 Appeals and Applications

Appeals to the Board of Appeals may be made by any person aggrieved or by any officer, department, or board of the Town affected by any decision of the Zoning

Administrator concerning the literal enforcement of this Ordinance. Such appeals shall be filed with the Secretary within sixty (60) days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and application shall include the following:

1. Name and Address of the appellant or applicant and all abutting and opposite property owners of record and owners within two hundred (200) feet.
2. Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 12.3 for a Building Permit.
3. Additional Information required by the Plan Commission, Board of Appeals or Building/Zoning Administrator.
4. Fee Receipt from the Town Clerk in the amount specified by 10.1107 of this Ordinance.

10.1306 Hearings

The Board of Appeals shall hold a public hearing within thirty (30) days of receiving written application for the hearing, give public notice thereof at least ten (10) days prior to the hearing by publication of a Class 2 notice under Chapter 985 of the Wisconsin Statutes, and shall give due notice to the parties in interest, the Building/Zoning Administrator and the Plan Commission. At the hearing, the appellant or applicant shall appear in person, by agent, or by attorney.

10.1307 Findings

No variance to the provisions of this Ordinance shall be granted by the Board of Appeals unless it finds beyond a reasonable doubt that all of the following facts and conditions exist and so indicates such in the minutes of its proceedings:

1. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
2. Exceptional Circumstances: 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 of uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
3. Economic Hardship and Self-Imposed Hardship Not Grounds for-Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-Imposed hardships shall not be considered as grounds for the granting of a variance.
4. Preservation of Property Rights: The variance must be necessary for the

preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

5. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

10.1308 Decision

1. The Board of Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board of Appeals decision to the appellant or applicant, Building/Zoning Administrator and Plan Commission.
2. Conditions may be placed upon any Building Permit ordered or authorized by the Board of Appeals.
3. Variances, Substitutions, or Use-Permits-Granted by the Board of Appeals shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

10.1309 Review by Court of Record

Any person or persons aggrieved by any decision of the Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Town Clerk.

10.1400 CHANGES AND AMENDMENTS

10.1401 Authority

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this Ordinance when the amendment is consistent with the purposes and intent of this Ordinance.

Such Change or Amendment shall require the review and recommendation of the Plan Commission.

Additionally, the Town Board shall report to DATCP prior to the local approval of a comprehensive revision to the ordinance or any local governmental approval of a text or map amendment to the A-1 Exclusive Agricultural District. The Town Board shall delay the effective day of any revision or amendment until such revision or amendment has been certified by the Land and Water Conservation Board under s. 91.06 or until the Town Board is notified by DATCP that such amendment does not require certification under s.91.06. This is to help ensure that the tax credit coverage is maintained uninterrupted.

10.1402 Initiation

A change or amendment may be initiated by the Town Board, Plan Commission, or by a petition of one or more of the owners or an agent of property within the area proposed to be changed.

10.1403 Petitions

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Building/Zoning Administrator, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

1. Plot Plan drawn to scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and current use of all properties within five hundred (500) feet of the area proposed to be rezoned.
2. Owner's Names and addresses of all properties lying within five hundred (500) feet of the area proposed to be rezoned.
3. Additional Information required by the Plan Commission or the Town Board.
4. Fee Receipt from the Town Clerk in the amount specified by 10.1107 of this Ordinance.
5. Certified Survey as may be required by the Plan Commission or the Town Board.

10.1404 Recommendation

The Plan Commission shall review all proposed changes and amendments within the limits of the Town and shall recommend that the petition be granted as

requested, modified, or denied. Where the purpose and effect of the proposed amendment is to change the zoning classification of a particular property, the Plan Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

1. Existing uses or property within the general area of the property in question.
2. Zoning classification of property within the general area of the property in question.
3. Suitability of the property in question to the uses permitted under the existing zoning classification.
4. Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.
5. The Plan Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.
6. Whether the proposed use is consistent with the Town's Comprehensive Plan, especially Chapter 5 on Land Use, the Agricultural Transition Map, and the Sensitive Areas Map.

10.1405 Hearings

The Town Clerk shall notify all property owners within five hundred (500) feet of the land in question and after publishing a Class 2 notice under Chapter 985 of the Wisconsin Statutes, listing the time, place, and the changes or amendments proposed, the Town Board shall hold a public hearing upon each recommendation. The Town Board shall also give at least ten (10) days prior written notice to the Clerk of the municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.

10.1406 Town Board's Action

Following such hearing and after careful consideration of the Plan Commission recommendations, the Town Board shall vote on the passage of the proposed change or amendment.

Recommendations of the Plan Commission with respect to said petition may only be overruled by a unanimous vote of the entire Town Board membership.

10.1407 Protest to Proposed Change

In the event of protest against a proposed district change or amendment to this Ordinance, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed amendment, or by the owners, of 20 percent or more of the area of the land immediately adjacent extending 200 feet from, or by the owners of 20 percent or more of the land directly opposite thereto extending 200 feet from the street frontage of such opposite land, such amendment

shall not become effective except by the favorable vote of two thirds of the members of the Town Board voting on the proposed change.

10.1408 Rezoning Record

The Town Board shall keep a record of all rezoning activities, including the rationale for rezoning.

10.1500 ADOPTION AND EFFECTIVE DATE

10.1501 Plan Commission

The Plan Commission of the Town of Lincoln recommended the adoption of this Ordinance at a meeting held on the 9th day of January, 2019.

10.1502 Public Hearing

Pursuant to and in accordance with the Laws of the State of Wisconsin, the Town Plan Commission held a public hearing on this Ordinance on the 9th day of January, 2019.

10.1503 Town Board Approval

The Town Board concurred with the recommendations of the Plan Commission and adopted the Zoning Ordinance at a meeting held on the 11th day of March, 2019.

10.1504 Effective Date

This Ordinance shall take effect upon adoption by the Town Board and the filing of proof of publication or posting in the office of the Town Clerk.

APPENDIX:

**FARMLAND PRESERVATION ZONING
DATCP CERTIFICATION MATERIALS**

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**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

TOWN OF LINCOLN, KEWAUNEE COUNTY FARMLAND PRESERVATION ZONING ORDINANCE (TEXT AND MAP).	DARM Docket No. 061-44425-O-18 F-1218 ORDER CERTIFYING ORDINANCE THROUGH DECEMBER 31, 2027
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INTRODUCTION

The Town of Lincoln in Kewaunee County has asked the Department of Agriculture, Trade and Consumer Protection (“DATCP”) to certify a farmland preservation ordinance, pursuant to s. 91.36, Wis. Stats. DATCP has considered the request and adopts the following decision:

FINDINGS OF FACT

(1) DATCP is an agency of the State of Wisconsin, and is responsible for administering Wisconsin’s farmland preservation law under ch. 91, Wis. Stats., as repealed and recreated by 2009 Wis. Act 28.

(2) The Town of Lincoln is a town in the State of Wisconsin. The Town of Lincoln is a political subdivision that is authorized to adopt a farmland preservation zoning ordinance under s. 91.30, Wis. Stats.

(3) Under s. 91.36, Wis. Stats., DATCP may certify a farmland preservation zoning ordinance or ordinance amendment for compliance with statutory standards. Certification allows farmers covered by the ordinance to claim farmland preservation tax credits under subch. IX of ch. 71, Wis. Stats.

(4) A political subdivision may ask DATCP to certify a farmland preservation zoning ordinance or ordinance amendment. The political subdivision must submit an application under s. 91.40, Wis. Stats. As part of the application, the political subdivision must certify that the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. Among other things, the ordinance or amendment must be consistent with the *county’s* certified farmland preservation *plan*.

(5) DATCP may certify a farmland preservation zoning ordinance or amendment if the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. DATCP may certify based on the representations contained in the political subdivision’s application, but DATCP may conduct its own review and verification as it deems appropriate.

(6) DATCP may make its certification contingent upon the political subdivision’s adoption of the certified ordinance or amendment, in the form certified. DATCP may also withdraw its certification at any time if, as a result of subsequent changes to the ordinance or the county’s certified farmland preservation plan, the ordinance no longer meets minimum certification standards under s. 91.38, Wis. Stats.

(7) Kewaunee County has a certified farmland preservation plan. This plan is currently

certified through December 31, 2026.

(8) The Town of Lincoln has a certified farmland preservation ordinance. This ordinance is currently certified through December 31, 2018.

(8) On November 9, 2018, DATCP received an application from the Town of Lincoln, in which the Town asked DATCP to certify the Town's farmland preservation ordinance. The Town of Lincoln submitted the application in the form required under s. 91.40, Wis. Stats. The application included the representations required under ss. 91.40(3) and (4), Wis. Stats.

(9) The farmland preservation zoning ordinance is part of the general Town of Lincoln Zoning Ordinance, and is intertwined with other provisions of that zoning code. The ordinance includes an ordinance text, together with an ordinance map.

(10) On November 15, 2018, DATCP confirmed by letter that the Town of Lincoln certification application was complete, and that DATCP would proceed to review the complete application.

(11) DATCP may certify a farmland preservation ordinance for a period of time specified in the certification order. Certification of an ordinance may not exceed 10 years. See s. 91.36(2)(b), Wis. Stats.

CONCLUSIONS OF LAW

(1) Based on the representations made by the Town of Lincoln in its application for certification of a farmland preservation ordinance, DATCP concludes as follows:

(a) The proposed Town of Lincoln farmland preservation ordinance, consisting of a proposed ordinance text dated November 19, 2018, and map dated November 9, 2018, meet certification requirements under s. 91.38, Wis. Stats.

(b) DATCP may certify the proposed ordinance pursuant to s. 91.36, Wis. Stats.

(2) Pursuant to s. 91.36(2)(b), Wis. Stats., DATCP should certify the proposed ordinance through December 31, 2028.

(3) Pursuant to s. 91.36(7), Wis. Stats., the effective date of the certification should be the date on which the ordinance is signed.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

(1) The proposed Town of Lincoln farmland preservation ordinance, consisting of the proposed ordinance text dated November 19, 2018, and map dated November 9, 2018, are hereby certified under s. 91.36, Wis. Stats.

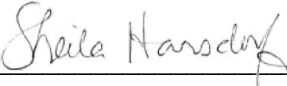
(2) The certified farmland preservation zoning districts for the Town of Lincoln is the Prime Agriculture (A-1) district.

(3) This certification takes effect on the date on which the certification order is signed.

(4) This certification expires at the end of the day on December 31, 2027.

Dated this 30th day of November, 2018

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 
Sheila E. Harsdorf, Secretary

Parties for purposes of review under s. 227.53, Wis. Stats.:

Town of Lincoln

Copies to:

Mick Sagrillo, Chair, Plan Commission
E3971 Bluebird Road
Forestville, WI 54213

Brandon Robinson, Community Assistance Planner
Bay-Lake Regional Planning Commission

Prepared by:



Bay-Lake Regional Planning Commission
425 South Adams Street, Suite 201
Green Bay, WI 54301
920 448 2820
www.baylakerpc.org

Bay-Lake Regional Planning Commission

Cindy Wojtczak, Executive Director

Jeffrey Agee-Aguayo, Transportation Planner

Nicole Barbiaux, GIS Specialist

Emily Pierquet, Administrative Assistant

Brandon Robinson, Community Assistance Planner

Elizabeth Runge, Economic Development Planner

Madison Smith, Environmental Planner



**Ordinance Adopting Changes to the Town of Lincoln Zoning Ordinance
Ordinance # 2020-1**

Authority

The following changes to the Town of Lincoln's Zoning Ordinance are adopted pursuant to the authority granted under Wis. Stats. §60.01 to "enter into contracts necessary for the exercise of its corporate powers", §60.61 to adopt a zoning ordinance, and the Town's exercise of Village Powers under §60.10 and 60.62.

10.0404 A-1 Exclusive Agricultural District

4. Conditional Uses

The following uses may be allowed in the A-1 District subject to the issuance of a conditional use permit:

- (r) Mini-warehouses, warehouses, storage buildings, garages, and workshops.
(added to the bottom of page 10-35)

10.0405 A-2 General Agricultural District

3. Conditional Uses

A conditional use in this district is to permit the following uses only after public meeting and approval of the Town Board.

- (k) Mini-warehouses, warehouses, storage buildings, garages, and workshops.
(added to the bottom of page 10-40).

10.0407 B-1 Business District

4. Conditional Uses

- (k) Mini-warehouses, warehouses, storage buildings, garages, and workshops.
(added to the top of page 10-46).

Enacted this 3rd day of August, 2020 by the Town Board of Supervisors of the Town of Lincoln.


TOWN BOARD



Cory Cochart, Chairman



Jordan Nowak, Supervisor #1

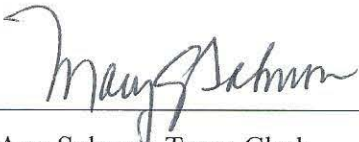


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing Ordinance changes were duly adopted by the Town Board of the Town of Lincoln on this

3rd day of August, 2020



Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Ordinance # 2019-2

Ordinance Adopting the Wisconsin Uniform Dwelling Code

1.1 AUTHORITY.

These regulations are adopted under the authority granted by s. 101.65, Wisconsin Statutes

1.2 PURPOSE.

The purpose of this ordinance is to promote the general health, safety and welfare and to maintain required local uniformity with the administrative and technical requirements of the Wisconsin Uniform Dwelling Code.

1.3 SCOPE.

The scope of this ordinance includes the construction and inspection of one- and two-family dwellings built since June 1, 1980.

Notwithstanding s. SPS 320.05 or any other exemptions of the Uniform Dwelling Code, the scope of this ordinance also includes the construction and inspection of alterations and additions to one- and two-family dwellings built before June 1, 1980. Because such projects are not under state jurisdiction, petitions for variance and final appeals under ss. SPS 320.19 and 320.21, respectively, shall be decided by the municipal board of appeals. Petitions for variance shall be decided per s. SPS 320.19 (Intro.) so that equivalency is maintained to the intent of the rule being petitioned.

1.4 WISCONSIN UNIFORM DWELLING CODE ADOPTED.

The Wisconsin Uniform Dwelling Code, Chs. SPS 320-325, and its successors, of the Wisconsin Administrative Code, and all amendments thereto, is adopted and incorporated by reference and shall apply to all buildings within the scope of this ordinance.

1.5 BUILDING INSPECTOR.

There is hereby created the position of Building Inspector, who shall administer and enforce this ordinance and shall be certified by the Division of Professional Credential Processing, as specified by Wisconsin Statutes, Section 101.66 (2), in the category of Uniform Dwelling Code Construction Inspector. Additionally, this or other assistant inspectors shall possess the certification categories of UDC HVAC, UDC Electrical, and UDC Plumbing.

1.6 BUILDING PERMIT REQUIRED.

If a person alters a building in excess of \$2,000 value in any twelve month period, adds onto a residence in excess of \$2,000 in any twelve month period, or builds or installs a new residence, within the scope of this ordinance, they shall first obtain a building permit for such work from the zoning administrator. Any structural changes or major changes to mechanical systems that involve extensions shall require permits if over the forgoing thresholds. Restoration or repair of an installation to its previous code-compliant condition as determined by the building inspector is exempted from permit requirements. Re-siding, re-roofing, finishing of interior surfaces and installation of cabinetry as determined by the zoning administrator shall be exempt from permit requirements.

1.7 BUILDING PERMIT FEE.

The building permit fees shall be determined by resolution and shall include the applicable fee per ch. SPS 302 to be forwarded to the Wisconsin Department of Safety & Professional Services for a UDC permit seal that shall be assigned to any new dwelling.

1.8 PENALTIES.

The enforcement of this section and all other laws and ordinances relating to residences shall be by means of the withholding of building permits, imposition of forfeitures and injunctive action. Forfeitures shall be not less than \$25.00 nor more than \$1,000.00 for each day of noncompliance.

1.9 COMPLETED INSPECTIONS.

The building inspector(s) shall keep a log of all inspections completed. A copy of each building inspection shall be filed with the town zoning administrator.

1.10 EFFECTIVE DATE.

This **Ordinance** is effective on publication or posting.

The town clerk shall properly publish this Resolution as required under s. 60.80, Wis. Stats.

Adopted this 11th day of March, 2019.

Cory Cochart
Cory Cochart, Chairman

Nick Cochart, Supervisor #1

Jesse Jerabek
Jesse Jerabek, Supervisor #2

Attest:

Mary Ann Salmon
Mary Ann Salmon, Town Clerk

Date: 3/11/19.

Town of Lincoln, Kewaunee County, Wisconsin

Short-Term Rental Licensing Resolution

Resolution # 2019-1

WHEREAS, the Town of Lincoln identified Agri-tourism and Eco-tourism as Economic Development Opportunities in its Comprehensive Plan Update of 2017

WHEREAS, the availability of short term rental property would be an example of promoting Agri-tourism and Eco-tourism in Lincoln Township, and

WHEREAS, the Town of Lincoln identified Recreational Opportunities as a drawing point of the township, and

WHEREAS, one way to highlight the township's Recreational Opportunities is by attracting tourists to Kewaunee County and especially Lincoln Township, and

WHEREAS, the Town's Zoning Ordinance allows for Bed and Breakfasts as home businesses within Lincoln Township, and

WHEREAS, ss. 66.1014 Wis. Stats. limits the prohibition of residential dwelling rentals,

BE IT THEREFORE RESOLVED that the Town of Lincoln Board of Supervisors hereby adopts by this resolution the following Short-Term Rental Licensing Ordinance until such time as the Plan Commission may hold a public hearing on the ordinance and the Town Board of Supervisors can adopt said ordinance.

Town of Lincoln, Kewaunee County, Wisconsin

Short-Term Rental Licensing Ordinance

Ordinance # _____

Section I: Purpose:

The purpose of this ordinance is to ensure that the quality and nature of the short-term rentals operating within the Town of Lincoln are adequate: to protect public health, safety, and general welfare; to determine the responsibilities of the owners, operators, and property managers offering their properties for tourists and transient occupants; to protect the character and stability of neighborhoods within the town: and to provide provisions for the administration and enforcement thereof.

Section II: Authority

The Town Board of the Town of Lincoln has been authorized to exercise village powers pursuant to ss. 60.10(2)(c) and s. 60.22(3), Wis. Stats. The Town Board adopts this ordinance under its general village powers authority and s. 66.1014 of Wisconsin Statutes.

Section III: Definitions

“Property Manager” means a person is not the property owner and who provides property management services for one or more short-term rentals and who is authorized to act as the agent of the property owner for the receipt of service of notice of municipal violations and for service of process pursuant to this ordinance.

“Property Owner” means the person who owns the residential dwelling that is being rented.

“Residential dwelling” means any building, structure, or part of the building or structure, that is used or intended to be used as a home, residence, or sleeping place by one or more persons maintaining a common household, the exclusion of all others.

“Short-term rental” means a residential dwelling that is offered for rent for a fee and for fewer than 29 consecutive days.

Section IV: Short-Term Rental License

- 1) No person may maintain, manage, or operate a short-term rental for more than six nights each year without a town short-term rental license issued pursuant to this ordinance.
- 2) Issuance of a Short Term Rental License assumes that the owner has obtained all appropriate licenses, permits, liability insurance, and met all other requirements necessary to operate the property as a Short Term Rental.
- 3) Licenses shall be issued using the following procedures:
 - a) All applications for a short-term rental license shall be filed with the town zoning administrator on the forms provided. Applications must be filed by the Property Owner. No license shall be issued unless the completed application form is accompanied by payment of the required application fee.
 - b) Each application shall include, at a minimum, the following information and documentation for each short-term rental unit:
 - i) A copy of the State of Wisconsin License for a Tourist Rooming House License issued under Wis. Stat. Sec. 254.64;
 - ii) A copy of a completed State Lodging Establishment Inspection form dated within 1 year of the date of issuance or renewal.
 - iii) Designation of the Property Manager with complete 24 hour contact information.
 - c) The filing fee shall be paid upon filing of the applications. Any application which does not include all of the information and documentation and the filing fee shall not be considered as complete.
 - d) When satisfied that the application is complete, the zoning administrator shall forward the initial application for license to the Town Board of Supervisors. If there are questions or unresolved issues with the application, the application shall be forwarded to the Plan Commission at the discretion of the Zoning Administrator. If the Board of Supervisors determines that the application is complete and meets the requirements of this ordinance, they

may approve the application. If the Board of Supervisors determines that the application does not meet the requirements of this ordinance, they may refer the application back to the Zoning Administrator.

- e) No license shall be issued or renewed if the applicant or property has any outstanding fees, taxes, or forfeitures owed to the Town of Lincoln, unless arrangements for payment have been approved by the town board.
- 4) The town zoning administrator shall issue a short term rental license to the applicant following payments of the required fee, receipt of all information, and documentation requested by the application, and town board approval of the application.
- 5) The short-term rental license shall be effective for one year from the time of approval by the Town Board, and may be renewed for additional one year periods provided no violations are in effect at the time of renewal. A renewal application and renewal fee must be filed with the Zoning Administrator at least 45 days prior to license expiration so that the town board has adequate time to consider the application. The renewal application shall include any updated information since the filing of the original application. A renewal application shall also be filed with the Zoning Administrator any time there is information to be updated. An existing license becomes void and a new application is required any time the ownership of a residential dwelling license for short-term rentals changes. Change of ownership requires a new review by the Zoning Administrator.
- 6) The Town Board has the right to suspend, revoke, or non-renew a short-term rental license following a due process hearing if the Town Board determines that the licensee:
 - a) Failed to comply with any of the requirements of this ordinance;
 - b) The Owner has been charged with or the Property Manager or renters have been charged with engaging in illegal activity while on the short-term rental premises on two or more separate occasions with the past 12 months;
 - c) has outstanding fees, taxes, or forfeitures owed to the town per section 10.1107 of Chapter 10 Town of Lincoln Zoning Ordinance.

Section V: Operation of a Short-Term Rental

Each short-term rental shall comply with all of the following requirements:

- 1) Each short-term rental shall hold a valid State of Wisconsin Tourist Rooming House License and shall provide proof of such license by attaching a copy to the initial license application and all subsequent renewal applications.

- 2) Each short-term rental shall hold a valid Town of Lincoln Short-Term Rental License, which shall be displayed so as to be visible from the road. In addition, each license shall also be displayed on the inside of the main entrance door of each short-term rental.
- 3) Off-site advertising in media channels relating to the availability of the rental may take place only after State and Town licenses have been obtained.
- 4) On-site signs shall comply with the requirements of the Town of Lincoln Sign Ordinance.
- 5) All activities and incidences occurring at a short-term rental shall be in compliance with the Town of Lincoln Public Nuisance Ordinance.
- 6) No recreational vehicle, camper, tent, or other temporary lodging arrangement shall be permitted on site as a means of providing additional accommodations for paying guests or other invitees.
- 7) The number of occupants in any short term rental shall not exceed the limits set forth in the State of Wisconsin Uniform Dwelling Code and other applicable county and state regulations based upon the number of bedrooms in the rental.
- 8) Compliance with all applicable state, county, and local codes and regulations is required.
- 9) No residential dwelling may be rented for a period of six or fewer days.
- 10) For the first year of operation, if a residential dwelling is rented for periods of more than six but fewer than 29 consecutive days, the total number of days within any consecutive 365-day period that the dwelling may be rented shall not exceed 180 days.
- 11) The Property Owner or Property Manager shall notify the town Zoning Administrator in writing when the first rental within the 365-day period begins.
- 12) A local Property Manager contact (either the Property Owner or an appointed Property Manager) must be on file with the town clerk at all times and must be located within **25** miles of the short-term rental. The Property Owner and / or Property Manager must provide the town with current contact information and must be available 24 hours a day, 7 days a week by telephone. The town must be notified within 24 hours of any change in contact information.
- 13) Each short term rental shall maintain a register and require all guests to register with their actual names, addresses, cell phone numbers, driver's license numbers and vehicle license plate numbers. The register shall be kept on file for at least one year. The register shall also include the time period for the rental.

Section VI: Renewal of License

- 1) Each application for a renewal of a short-term rental license shall include updated information for the documentation on file with the zoning administrator and payment of the applicable renewal fee.
- 2) For the renewal years of operation, if a residential dwelling is rented for periods of more than six but fewer than 29 consecutive days, the total number of days within any consecutive 365-day period that the dwelling may be rented may be 365 days, at the discretion of the town board of supervisors.
- 3) The zoning administrator shall verify that the information provided on the renewal application is complete and in accordance with the requirements of this ordinance.
- 4) The zoning administrator shall document all reasonable and substantiated complaints received over the prior year regard the short term rental.
- 5) Within 30 days of receiving a completed renewal application and renewal fee, the zoning administrator shall present the application, along with any and all reasonable and substantiated complaints received over the prior year about the short term rental, to the town board for approval, unless the application is incomplete or otherwise not in compliance with the requirements of this ordinance.
- 6) No license shall be renewed if the short-term rental or property is in violation of the Nuisance Ordinance. If the short-term rental property is in violation of the Nuisance Ordinance, the license shall be denied until the property comes into compliance with the Nuisance Ordinance.
- 7) If the town board finds that the license should not be renewed, the town board shall explain that decision to the property manager or owner in written format within 14 days of their decision.
- 8) No license shall be issued or renewed if the applicant or property has any outstanding fees, taxes, or forfeitures owed to the Town of Lincoln, unless arrangements for payment have been approved by the town board.

Section VII: Appeal and License Revocation

- 1) The denial of any license application or renewal under this ordinance may be appealed by filing a written request with the Town Clerk within 10 days of the Town's notice of denial. The appeal shall be heard by the Plan Commission, which shall make a recommendation to the Town Board. The Town Board shall consider the application or renewal and recommendations and may approve or deny the application or renewal.

- 2) A license may be revoked by the Town Board for one or more of the following reasons:
- a) Failure to make payment of property taxes taxes or debt owed to the Town;
 - b) Three or more calls for police service, or building inspection, or health department, or town board for nuisance activities or other law violations in a 12 month period as defined by the Town of Lincoln Nuisance Ordinance;
 - c) Failure to maintain all required local, county, and state licensing requirements;
 - d) Any violation of local, county, or state laws that substantially harm or adversely impact the use or nature of surrounding properties.

Section VIII: Penalties

Any person, partnership, corporation, LLC, or other legal entity that fails to comply with the provision of this ordinance shall, upon conviction, pay a forfeiture of not less than \$1000.00 nor more than \$2000.00, plus all applicable surcharges, assessments, attorney fees, and costs for each violation. Each day a violation exists or continues constitutes a separate offense under this ordinance. The minimum and maximum forfeitures specified in this section may be doubled each time that a person is convicted of the same violation occurring within any 24-month period.

Penalties set forth in this section shall be in addition to all other remedies of injunction, abatement or costs whether existing under this ordinance or otherwise.

Section IX: Fees

The town board shall set the cost of the Initial Short-term License Application Fee and the Renewal Short-term Rental License Application fee, and update these costs as necessary.

Section X: Severability


Should any portion of this ordinance be declared invalid or unconstitutional by a court or competent jurisdiction, such a decision shall not affect the validity of any other provisions of this ordinance.

Section XI: Effective Date and Publication

This ordinance shall become effective upon adoption and publication as required under s. 60.80, Wis. Stat.

Adopted by a vote of 2 for and 0 against on this 14th day of March, 2019.

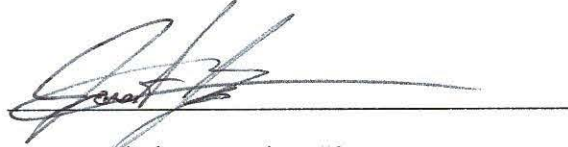
By the Town Board of Lincoln Town of Lincoln Board of Supervisors



Chairman

Cory Cochart, Chairman

Nick Cochart, Supervisor #1

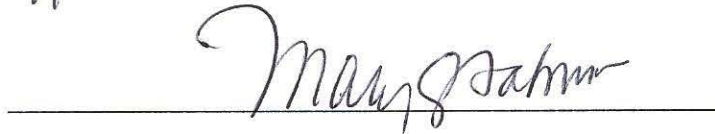


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

1st day of March, 2019



Mary Ann Salmon, Town Clerk

Town of Lincoln, Kewaunee County, Wisconsin

Ordinance # 2018-1

Regulation of Outside Storage, Unsightly Premises, and Hazards

The Town of Lincoln Board of Supervisors does ordain the Regulation of Outside Storage, Unsightly Premises, and Hazards as follows:

1. TITLE AND PURPOSE.

The title of this ordinance is the Town of Lincoln Regulation of Outside Storage, Unsightly Premises, and Hazards. The purpose of this ordinance is to regulate for public health and safety reasons the outside storage, unsightly premises, hazards and certain uses and activities in the Town of Lincoln.

2. AUTHORITY.

The town board has specific authority under Chapters 60 and 66, Wis. Stats., and general authority under its village powers under sec. 60.22, Wis. Stats., to adopt this ordinance.

3. ENFORCEMENT.

The enforcement of this ordinance shall be in accordance with the Wisconsin Statutes, with specific attention to Chapters 340, 778, 814, and 823, Kewaunee County Ordinances, the Town of Lincoln Nuisance Ordinance, and this ordinance of the Town of Lincoln.

4. ADOPTION OF ORDINANCE.

This ordinance, adopted by majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, provides for the regulation of the outside storage, treatment, disposal, and discharge of certain junk and other items, uses, and activities in the Town of Lincoln.

5. PUBLIC NUISANCE PROHIBITED.

Any violation of the provisions of this ordinance regulation the outside storage, unsightly premises, and hazards and certain uses and activities are hereby declared to be a public nuisance. No person shall erect, contrive, cause, continue, maintain or permit to exist, any public nuisance within the Town of Lincoln.

6. OUTSIDE STORAGE, UNSIGHTLY PREMISES, AND HAZARDS.

- a. **Accumulation and Storage.** The accumulation and storage of the following items are hereby specifically declared to be a nuisance when not properly stored, but such enumerations shall not be construed to exclude other items coming within the definition herein: inoperable, junked or junk automobiles, trucks, tractors, boats, or parts thereof, refrigerators, furnaces, washing machines, stoves, machinery or parts thereof, junk wood, bricks, cement or cement blocks or other unsightly debris, such as may tend to depreciate property values in the area or create an nuisance or hazard and

45 shall not be allowed on any lot or parcel of land within the Town of Lincoln except when
46 such materials are properly housed and screened with a fence or hedge of sufficient
47 height and length to completely block from public view.

- 48 b. **Outside Storage.** No outside storage shall be permitted of any vehicles, boats,
49 machinery or equipment which are not in operating condition, licensed and ready for
50 use unless properly housed or screened with a fence or hedge of sufficient and length to
51 completely block from public view.
- 52 c. **Screening, Fences and Hedges.** Any fence or hedge used to screen the accumulation
53 and storage of items enumerated in paragraphs 5a and 5b above shall be maintained in
54 a clean, trimmed and functional manner less they become a nuisance in their own right.
55 Tarpaulins, regardless of the material used not constitute proper screening and shall not
56 be allowed as a means of concealment.
- 57 d. **Licensed or Permitted Repair Facilities.** Any legally licensed or permitted auto repair or
58 farm implement repair facility shall be allowed to temporarily park vehicles or
59 equipment awaiting repair.
 - 60 i. The definition of Temporarily Parked shall not be more than seventy two (72)
61 hours in any period of seven consecutive days on the same premises.

62 63 **7. ABATEMENT OF PUBLIC NUISANCE / PERMIT REVOCATION**

64 **a. Inspection of Premises.**

- 65 i. Whenever it becomes apparent or a complaint is made to the town board, town
66 clerk, town chair or any appropriate town committee or agent that a public
67 nuisance under this ordinance or a violation of a permit issued under this
68 ordinance, or any other permit that is associated with the complaint, issued
69 under the Town of Lincoln's village powers under sec. 60.22, Wis. Stats., may
70 exist within the Town of Lincoln, the town chair, town committee, or other
71 agent of the town board may inspect or cause to be inspected the premises
72 complained of and if necessary report the findings to the town board.
- 73 ii. Except as otherwise provided by law, if the person subject to the complaint
74 holds a current permit under this ordinance, or any other permit that is
75 associated with the complaint, issued under the Town of Lincoln's village
76 powers under sec. 60.22, Wis. Stats., the town chair, town committee or other
77 agents of the town board may request the town board to hold a public hearing
78 to consider a suspension or revocation of the permit for refusal to comply with
79 the permit conditions and this ordinance. The town board may hold a public
80 hearing prior to taking any action to revoke or suspend a permit. The permit
81 holder shall be notified of the public hearing by the U.S. mail of a First Class
82 notice letter to the last known address of the permit holder noted on the permit
83 or permit application.
- 84 iii. Except as otherwise provided by law, the town board may, in the alternative to
85 revocation, suspend any issued permit for a period of up to six (6) months. Any
86 revocation shall be for a period in excess of six (6) months. No application or
87 reapplication can be received or acted upon by the town board for the premises
88 or for the owner or occupant of the premises for any activity, use, or item

89 prohibited by or requiring a permit under this ordinance, or any other permit
90 that is associated with the complaint, issued under the Town of Lincoln's village
91 powers under sec. 60.22, Wis. Stats. During the suspension or revocation
92 period.

- 93 iv. The town board shall advise the permit holder of any decision regarding the
94 status of the permit.

95 **b. Owner of Premises Responsibility**

96 Any owner or occupant of land in the Town of Lincoln is responsible for the compliance
97 with this ordinance of the owner's or occupant's land regardless of the ownership of
98 and responsibility for the uses, activities, or things located on the land that are subject
99 to this ordinance.

100 **c. Summary Abatement**

- 101 i. **Notice to Owner:** If the town chair, town committee, or other town agent of the
102 town board determine that a public nuisance exists under this ordinance within
103 the Town of Lincoln on private or public lands and there is great, immediate,
104 and substantial danger or threat to the public health or safety, the town board,
105 town chair, town committee, or other agents of the town board may serve a
106 written order upon the person who is causing, permitting, or maintaining the
107 public nuisance, and the owner or occupant of the premises where the public
108 nuisance is caused, permitted, or maintained. The order notice shall direct the
109 owner or occupant to remove the public nuisance within a time frame deemed
110 to be reasonable by the town board and shall state that unless the public
111 nuisance is so timely abated, the town may cause, due to the emergency
112 conditions, the public nuisance to be abated and shall charge the costs of
113 abatement, including all attorney fees, inspection fees, permit fees, and any and
114 all other charges associated with the abatement to the owner, occupant or
115 person causing, permitting, or maintaining the public nuisance.

- 116 ii. **Abatement by Town:** If the public nuisance is not abated within the time
117 provided in the notice under paragraph 7.c.i or if the owner, occupant, or
118 person causing, permitting, or maintaining the public nuisance, if known, cannot
119 be found, the town chair, town committee, or other agents of the town board,
120 with the approval of the town board, may cause the abatement or removal of
121 the public nuisance by seeking for the Town of Lincoln a court order that allows
122 for the immediate enjoinder and abatement of the public nuisance.

- 123 d. **Abatement by Court Action.** If the town board determines that a public nuisance exists
124 in the Town of Lincoln on public or private premises but that the nature of the nuisance
125 does not threaten great, immediate, and substantial danger to the public health or
126 safety, the town board may at its discretion direct the town clerk to take on or more of
127 the following actions:

- 128 i. Cause to be issued and served a written order to cease and desist the public
129 nuisance upon the person causing, permitting, or maintaining the public
130 nuisance and the owner or occupant of the premises where the public nuisance
131 is located.

- 132 ii. Cause to be issued and served a citation for the violation of this ordinance upon
- 133 the person causing, permitting, or maintaining the public nuisance and the
- 134 owner or occupant of the premises where the nuisance is located.
- 135 iii. Cause the town attorney to draft a formal civil complaint to be filed and served
- 136 upon the alleged violators based upon the alleged violation of this ordinance or
- 137 the conditions of any permit issued.
- 138 iv. Have drafted by the town attorney to be filed and served a formal complaint for
- 139 abatement of the public nuisance under Chapter 823, Wis. Stats.

140 **e. Other Methods Not Excluded.**

- 141 i. Nothing in this ordinance may be construed as prohibiting the injunction and
- 142 abatement of public nuisances against any person, including against a permit
- 143 holder that holds a current and valid permit issued under this or any other Town
- 144 of Lincoln ordinance, by the town or its officials in accordance with the laws of
- 145 the State of Wisconsin or in this ordinance.
- 146 ii. The provisions of this ordinance may be enforced by any member of the public,
- 147 without inclusion of the Town of Lincoln in the enforcement proceedings, in
- 148 order to secure compliance with the provisions of this ordinance. Any private
- 149 enforcement action shall not include the remedies of obtaining a fine or
- 150 forfeiture, costs of prosecution or attorney fees in the enforcement
- 151 proceedings. The sole remedy available for private enforcement is injunctive
- 152 relief.

154 **8. COSTS OF ABATEMENT OF DISPOSAL.**

155 In addition to any other penalty imposed by this ordinance for the erection, contrivance,
156 creation, continuance, or maintenance of a public nuisance and violation of this ordinance, the
157 cost of abatement, including all attorney fees, inspection fees, permit fees, witness fees, and
158 any and all other charges associated with the abatement of any public nuisance by the Town of
159 Lincoln may be collected under this ordinance or sec 823.06, Wis. Stats., as a debt or expense,
160 from the owner or occupant of the real property for causing, permitting, or maintaining the
161 public nuisance. If notice to abate the nuisance has been given to the owner or occupant
162 previously, the cost of abatement, including all attorney fees, inspection fees, permit fees,
163 witness fees, and any and all other charges associated with the abatement of the public
164 nuisance by the Town of Lincoln may be assessed against the real property for services rendered
165 and incurred by the Town of Lincoln to enjoin or abate the public nuisance as a special charge
166 under sec. 66.0627, Wis. Stats., unless paid earlier. If any vehicle, structure, equipment,
167 implement, appliance, or animal is abandoned or remains unclaimed in violation of this
168 ordinance, the town board of the Town of Lincoln may proceed to declare this personal property
169 abandoned and proceed to dispose of this personal property under 66.0139, Wis. States., by
170 public auction or other means as determined by the town board.

172 **9. PENALTY.**

- 173 a. **First Offense Penalty.** Any person who shall violate this ordinance or any part thereof
- 174 shall upon conviction thereof forfeit not less than One Hundred Dollars (\$100.00) nor
- 175 more than Five Hundred Dollars (\$500.00) for each such offense, together with the cost

176 of prosecution, including all attorney fees, inspection fees, witness fees, permit fees,
177 and any and all other charges associated with the proceedings. Each day of the violation
178 shall be considered a separate and distinct violation.

179 **b. Second Offense Penalty.** Any person guilty of violating this ordinance or any part
180 thereof who shall previously have been determined to be in violation of this ordinance
181 shall forfeit not less than Five Hundred Dollars (\$500.00) nor more than One Thousand
182 Dollars (\$1000.00) for each such offense, together with the cost of prosecution,
183 including all attorney fees, inspection fees, witness fees, permit fees, and any and all
184 other charges associated with the proceedings. Each day of the violation shall be
185 considered a separate and distinct violation.

186
187 **10. SEVERABILITY.**

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

192
193 **11. EFFECTIVE DATE.**

194 This ordinance shall become effective upon publication. The town clerk shall properly publish
195 this ordinance as required under sec. 60.80, Wis. Stats.

196
197
198 This Resolution is effective on publication or posting.

199 The town clerk shall properly publish this Resolution as required under s. 60.80, Wis. Stats.

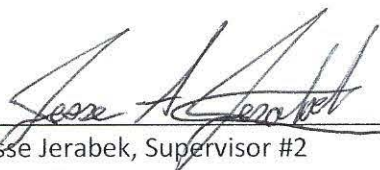
200
201
202
203 Adopted this 3rd day of December, 2018.

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209 _____
Cory Cochart, Chairman

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215 _____
Nick Cochart, Supervisor #1

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221 _____
Jesse Jerabek, Supervisor #2

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240

Attest:

Mary Ann Salmon

Mary Ann Salmon, Town Clerk

Date: 12/3/18

1 **TOWN OF LINCOLN, KEWAUNEE COUNTY, WISCONSIN**

2
3 **ORDINANCE # 2018-2**

4
5
6 **PUBLIC NUISANCE ORDINANCE**

7
8 The Town Board of the Town of Lincoln, Kewaunee County, Wisconsin, does ordain the following:

9
10 **SECTION I – TITLE AND PURPOSE**

11
12 The title of this Ordinance is the Town of Lincoln Public Nuisance Ordinance. The purpose of this
13 Ordinance is to regulate for public health, safety, and welfare reasons public nuisances and certain uses
14 and activities in the town.

15
16 **SECTION II – AUTHORITY**

17
18 The town board has the specific authority under ss. 60 and 66, Wis. Stats., and general authority under
19 its village powers under s. 60.22, Wis. Stats., to adopt this Ordinance.

20
21 **SECTION III - ADOPTION OF ORDINANCE**

22
23 This Ordinance, adopted by a majority of the town board on a roll call vote with a quorum present and
24 voting and proper notice having been given, provides for the regulation of the storage, treatment,
25 disposal, and discharge of certain junk and of other items, uses, and activities in the town.

26
27 **SECTION IV – PUBLIC NUISANCE DEFINED**

28
29 "Public nuisance" means a thing, act, occupation, condition, or use of property that continues in the
30 town for such time as to do any of the following:

- 31 1. Substantially annoy, injure, or endanger the comfort, health, repose, safety, or welfare of the
32 public.
33 2. In any way render the public insecure in life or in the use of property.
34 3. Greatly offend public sensibility or decency.
35 4. Unlawfully and substantially interfere with, obstruct, or attempt to obstruct or render
36 dangerous for passage any street, alley, highway, navigable body of water, or other public way,
37 or the use of public property.

38
39 **SECTION V – PUBLIC NUISANCE PROHIBITED**

40
41 No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within
42 the Town of Lincoln.

47 SECTION VI - NUISANCES AFFECTING PUBLIC HEALTH

48

49 The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances
50 affecting health and / or safety and are banned and not allowed:

51

52 ABANDONED VEHICLES: No person shall leave unattended or stored any vehicle, regardless
53 of the vehicle's physical condition, registration, or license held, any appliance, equipment, or
54 machinery, or parts thereof, on any public street, public road, public highway, or other public
55 property in the town, including the road right-of-way, for such time and under such
56 circumstances as to cause the vehicle, appliance, equipment, or machinery to reasonably appear
57 to have been abandoned. When any vehicle, machinery, appliances, or equipment has been left
58 unattended, parked, or stored on any public street, road, highway, or other public property,
59 including a road right-of-way, within the town for a period of more than 72 hours, the vehicle,
60 structure, machinery, appliances, or equipment is presumed by the town to be abandoned and a
61 public nuisance and may be removed in accordance with s. 342.40, Wis. Stats.

62

63 ABANDONED WELLS: All abandoned wells on private or public property must be reported to
64 the WDNR and properly filled and sealed by a licensed well driller or plumber.

65

66 ACCUMULATION OF REFUSE: All accumulations of putrescible and non-putrescible solid or
67 liquid wastes such as animal or vegetable matter, trash, rubbish, lumber, bedding, packing
68 material, scrap metal or other trash in which disease-carrying insects, rodents, or other vermin
69 are present or may reasonably be expected to be present.

70

71 ADULTERATED FOOD: All decaying, harmfully adulterated or unwholesome food or drink
72 sold or offered for sale to the public.

73

74 BREEDING PLACES FOR RATS AND VERMIN: Any place in the town where rats or other
75 vermin are located or frequent on public or private land, and those conditions are not removed or
76 destroyed within 30 after receipt of written notice to remove from the town board.

77

78 BURN BARRELS and OPEN BURNING that are used to burn garbage, rubbish, household,
79 trash, debris, asphalt, garbage, metal, petroleum products, plastics, tires, rubber, painted or
80 treated wood, wire, electronics, recyclables, or anything other than what is specifically allowed
81 by the Wisconsin Department of Natural Resources are illegal and banned. Open burning does
82 not include the occasional bon fire or camp fire, or brush and tree limbs, or for grass or weed
83 control. Notification of intent to burn a large bon fire requires the notification and written
84 permission of the town board or board chairperson.

85

86 DUMPSTERS, GARBAGE CANS, AND PRIVY VAULTS which are not rodent proof.

87

88 EXPLOSIVE AND INFLAMMABLE LIQUIDS: Any explosive or inflammable liquid,
89 combustible material, or other hazardous substance stored or used in any manner which
90 endangers the health and safety of the public.

91

92 FERAL CATS

93
94 FOUL ODORS: Any use of property, substances or things within the Town emitting or causing
95 any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or
96 substances offensive to the physical senses to an ordinary person possessed of ordinary tastes and
97 susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of
98 persons within the Town.
99

100 GROUNDWATER OR SURFACE WATERWATER CONTAMINATION:

- 101 1. No person or activity shall locate, store, discharge, or permit the discharge of any
102 treated, untreated, or inadequately treated solid, liquid, or gaseous materials of such
103 nature, quantity, obnoxiousness, toxicity, or temperature that would be likely to run off,
104 seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or
105 harm groundwater or surface waters, or cause nuisances such as objectionable shore
106 deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or
107 be harmful to human, animal, plant, or aquatic life.
108
109 2. In addition, no person or activity shall discharge any solid, liquid, or gaseous materials
110 so as to exceed or contribute toward the exceeding of the minimum standards and those
111 other standards and the application of those standards set forth in Chapter NR 102 of the
112 Wisconsin Administrative Code for all navigable waters.
113

114 HAZARDOUS, TOXIC, OR SOLID WASTE FACILITY OR SITE AREAS: Any place or solid
115 waste facility in the town where the discharge, disposal, storage, or treatment of hazardous,
116 toxic, or solid waste occurs on private or public lands without approval and licensing or
117 permitting of the discharge, disposal, storage, or treatment by all proper federal, state, county,
118 and town governing authorities and full compliance with all applicable laws, rules, regulations,
119 or ordinance of the federal, state, county, or town, and the activity or condition is not timely
120 removed or discontinued within 10 business days after receipt of written notice to remove from
121 the town board. To constitute a public nuisance under this paragraph, an area, facility, or site
122 must threaten or cause serious discomfort or serious injury to the health or cause serious
123 inconvenience to the health or safety of a significant number of persons within the town, as
124 determined by the town board.
125

126 INDUSTRIAL WASTE: The land application of industrial waste, such as sludge, animal
127 renderings, or slaughterhouse waste, whether combined with agricultural waste or not, is not
128 allowed in the township.
129

130 JUNK, JUNK VEHICLE, APPLIANCE, MACHINERY, JUNKYARD, AND JUNK PART
131 AREAS: Any place where junked vehicles or junked vehicle parts, appliances, machinery,
132 junkyard and junk parts are accumulated or stored outside of a building for a period exceeding 72
133 hours if on public property or 30 days if on private property.
134

135 From the Town of Lincoln Zoning Ordinance:

136 *JUNK – As regards to outside storage, any scrap metal, wood, concrete, or synthetic or organic*
137 *material; any parts of any junked, inoperative, unlicensed, unregistered vehicles, or parts of*
138 *agricultural use equipment; any agricultural use equipment not in usable condition; any*

139 *dilapidated or broken down structure or building or parts thereof; any abandoned, discarded or*
140 *unused objects or equipment such as furniture, appliances, stoves, refrigerators, freezers,*
141 *machinery, tires, barrels, cans, containers, trash or debris, or contaminated recyclable material.*
142

143 *JUNK VEHICLE – As regards to outside storage, any inoperable, disassembled, dismantled,*
144 *partially dismantled, junked, wrecked, or unlicensed motor vehicle; any truck bodies, tractors,*
145 *trailers, boats, or campers in such a state of physical or mechanical ruin or condition as to be*
146 *incapable of propulsion or of being in operating condition upon the public streets, highways, or*
147 *waterways except as noted and permitted elsewhere in this ordinance.*
148

149 NOXIOUS LIQUIDS: Any use of property which shall cause any noxious, nauseous, or
150 unwholesome liquid or substance to flow into or onto any road, road-right-of-way, or private
151 property within the town.
152

153 NOXIOUS ODORS: Any use of property, substances or things within the Town emitting or
154 causing any foul, offensive, noisome, nauseous, noxious or disagreeable odors, gases, effluvia or
155 stench extremely repulsive to the physical senses of ordinary persons which annoy, discomfort,
156 injure or inconvenience the health of any appreciable number of persons within the Town.
157

158 NOXIOUS EMISSION ODOR AREAS: Any place in the town where noxious odor, stench, or
159 gas escapes or is emitted into the open air from sources located on public or private land, and
160 these conditions are not timely removed or discontinued within 48 hours after receipt of written
161 notice to remove from the town board. In this subsection, "noxious odor" means an odor that is
162 extremely repulsive to the senses of ordinary persons in the town and that seriously annoys or
163 causes serious discomfort or serious injury to the health or causes serious inconvenience to the
164 health or safety of a significant number of persons within the town, as determined by the town
165 board.
166

167 POLLUTION OF ANY WELL, cistern, stream, lake, or other body of water by sewerage, waste,
168 manure, agricultural wastewater, or other substance.
169

170 SEPTAGE: The application of human waste on agricultural fields is not allowed in the town.
171

172 STAGNANT WATER: All stagnant water in which mosquitoes, flies, or other biting or disease
173 carrying insects can multiply.
174

175 UNLICENSED OR UNREGISTERED VEHICLES: Any place in the town where for a period
176 exceeding 30 days upon private property a not registered, unlicensed, or unregistered vehicle is
177 parked, stored, or otherwise kept outside a building without the written permission of the town
178 board and is not timely removed or discontinued within 30 days of receipt of written notice to
179 remove from the town board.
180

181 UNBURIED ANIMAL CARCASSES: Any unburied animal carcass or carcasses located on
182 private or public land that are not timely removed or discarded, including by timely burial in a
183 sanitary manner per DNR guidelines.
184

185 SECTION VII – NUISANCES AFFECTING PUBLIC SAFETY:

186

187 No person may create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in
188 the town a public nuisance associated with, causing, or likely to cause danger, disturbance, or injury to
189 the public health or safety. The following acts, uses, activities, things, occupations, places, or physical
190 conditions, not properly and timely removed after written notice to remove from the town board to any
191 owner or occupant of the land where the act, use, activity, thing, occupation, place, or physical condition
192 exists, is located, or occurred, or to any person responsible for the creation, maintenance, or providing of
193 the act, use, activity, thing, occupation, place, or physical condition, are specifically declared to be a
194 public nuisance:

195

196 DANGEROUS DOGS: Refer to ANIMALS SUSPECTED OF BITING PEOPLE and
197 DANGEROUS DOG ORDINANCE.

198

199 DANGEROUS TREE AREAS: Any place in the town where any trees or tree limbs located on
200 public lands or over road right of ways constitute a dangerous or unsafe condition and these
201 dangerous or unsafe conditions have not been timely removed within 48 hours after receipt of
202 written notice to remove from the town board.

203

204 FARMING IN ROAD RIGHT OF WAYS, including tillage and planting of crops, and disposal
205 of rocks and other debris picked up from farm fields into road right of ways and ditches.

206

207 FIRE HAZARD AREAS: Any place in the town where combustible materials are located and
208 stored on private or public lands and the materials are not timely removed or safely stored within
209 48 hours after receipt of written notice from the town board.

210

211 OBSTRUCTION OF INTERSECTIONS: All trees, hedges, billboards or other obstructions
212 which prevent persons driving vehicles on public streets, alleys or highways from obtaining a
213 clear view of traffic when approaching an intersection or pedestrian crosswalk.

214

215 OPEN EXCAVATIONS: All open and unguarded pits, wells, excavations or unused basements
216 accessible from any public street, alley or sidewalk.

217

218 UNAUTHORIZED TRAFFIC SIGNS: All unauthorized signs, signals, markings or devices
219 placed or maintained upon or in view of any public highway or railway crossing which purport to
220 be or may be mistaken as an official traffic control device, railroad sign or signal or which,
221 because of its color, location, brilliance or manner of operation, interferes with the effectiveness
222 of any such device, sign or signal.

223

224 WIRES OVER STREETS: All wires over streets, alleys or public grounds which are strung less
225 than sixteen (16) feet above the surface thereof.

226

227 SECTION VIII – NUISANCES AFFECTING PUBLIC PEACE AND ORDER

228

229 No person may create, contrive, erect, maintain, cause, continue, install, construct, or permit to exist in
230 the town a public nuisance associated with, causing, or likely to cause potential danger, disturbance, or

231 injury to the public peace and order. The following acts, uses, activities, things, occupations, places, or
232 physical conditions, not properly and timely removed after written notice to remove from the town board
233 to the owner or occupant of the land where the public nuisance occurred or is maintained in the town, or
234 to any persons responsible for the creation, maintenance, or permitting of such nuisance in the town, are
235 specifically declared to be a public nuisance:

236
237 DISORDERLY CONDUCT AREA: Any place in the town where unpermitted, abusive,
238 indecent, profane, or boisterous sounds, unpermitted human or animal fighting, brawling, or
239 rioting, or other unpermitted disorderly conduct conditions, are located or occur on private or
240 public lands and these disorderly conditions are not timely removed or discontinued within 24
241 hours of receipt of written notice to remove from the town board.

242
243 ENGINE BRAKING, compression braking, or jake-braking, except in case of an emergency.

244
245 FLASHING SIGNS AND LIGHTS: Also see SIGN ORDINANCE

246
247 GLARING LIGHTS: Any place in the town where inappropriate or excessive use of artificial
248 light which includes glare, sky-glow, or light trespass beyond one's own property lines.

249
250 LOUD NOISE AREAS: Any place or source in the town where any unreasonably loud,
251 discordant, frequent, and unnecessary sound or vibrations conditions, including sounds or
252 vibrations from vehicles, equipment, machinery, guns, fireworks, or enclosed domestic or other
253 animals (either attended or unattended), or from any human-created or -aided sounds, including
254 alleged music, is located on private or public land without written approval of the town board
255 and is not timely removed or discontinued within 24 hours of the written receipt of notice to
256 remove from the town board.

257
258 LOUD VEHICLES OR MACHINERY OF ANY TYPE: Including cars, trucks, semis, tractors,
259 or other machinery on all roads or private or public land unless associated with a specific event
260 (show, race, competition, festival, etc.) previously approved by the Town Board of Supervisors
261 for a specific date and times.

262
263 NOISY ANIMALS OR FOWL: The keeping or harboring of any animal or fowl which, by
264 frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly
265 annoy or disturb a neighborhood or any considerable number of persons within the Town.

266
267 SECTION IX – ABATEMENT OF PUBLIC NUISANCES

268
269 A. Inspection of Premises: Whenever a complaint is made to the town board, town clerk, town chair, or
270 any appropriate town committee or agent that a public nuisance under this Ordinance or a violation of a
271 permit issued under this Ordinance exists within the town, the town chair, town committee, other agents
272 of the town board, or law enforcement agency shall promptly inspect or cause to be inspected the
273 premises complained of and shall make a written report of its findings to the town board, which report
274 shall thereafter be filed with the town clerk and kept of record in the office of the town clerk. Whenever
275 practicable, the town chair, town committee, other agents of the town board, or law enforcement agency
276 shall cause photographs to be made of the premises for inclusion in the written report to the town board.

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B. Owner of Premises Responsibility. Any owner or occupant of land in the town is responsible for compliance with this Ordinance on the owner's or occupant's land regardless of ownership of and responsibility for the uses, activities, or things located on the land that are subject to this Ordinance.

C. Summary Abatement.

1. Notice to Owner. If the town chair, town committee, or other agents of the town board determine, by written notice to the town board, that a public nuisance exists under this Ordinance within the town on private or public land and that there is great, immediate, and substantial danger, a threat to the public health or safety, or any other public nuisance, the town board, town chair, town committee, or other agents of the town board shall serve a written order upon the person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant of the premises where the public nuisance is caused, permitted, or maintained. If immediate personal service cannot be made, one copy of the written notice shall be posted on the premises in a location likely to attract the attention of the owner or occupant of the premises or the person who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall be served by mailing by U.S. mail of a First Class letter to the last known address for the owner or occupant of the premises. The order notice shall direct the owner or occupant to remove the public nuisance within 24 hours and shall state that unless the public nuisance is so timely abated, the town may cause, due to the emergency conditions, the public nuisance to be abated and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or maintaining the public nuisance.

2. Abatement by town. If the public nuisance is not abated within the time provided in the notice under paragraph 1 above or if the owner, occupant, or person causing the public nuisance, if known, cannot be found, the town chair, the town committee, or other agents of the town board, with approval of the town board, shall cause the abatement or removal of the public nuisance by immediately seeking for the town a court order that allows for the immediate injunction and abatement of the public nuisance.

D. Abatement By Court Action. If the town board determines that a public nuisance exists on public or private premises but that the nature of the nuisance does not threaten great, immediate, and substantial danger to the public health or safety, the town board shall file a written report or its resolution of its findings with the town clerk who shall, after approval and filing of the report or resolution by the town board, take one or more of the following actions, as directed by the town board:

1. Issue and serve a written order to cease and desist the public nuisance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
2. Issue and serve a citation for violation of this Ordinance upon the person causing, permitting, or maintaining the public nuisance and the owner or occupant of the premises where the public nuisance is located.
3. Cause the town attorney to draft a formal civil complaint to be filed and served upon the alleged violators based upon an alleged violation of this Ordinance or the conditions of any

323 permit as issued or have drafted by the town attorney to be filed and served a formal complaint
324 for abatement of the public nuisance under chapter 823, Wis. stats.

325
326 E. Other Methods Not Excluded. Nothing in this Ordinance may be construed as prohibiting the
327 injunction and abatement of public nuisances against any person, including against a permit holder that
328 holds a current and valid permit issued by the town under this Ordinance, by the town or its officials in
329 accordance with the laws of the State of Wisconsin or this Ordinance.

330 SECTION XI – COSTS OF ABATEMENT OR DISPOSAL

331
332
333 In addition to any other penalty imposed by this Ordinance for the erection, contrivance, creation,
334 continuance, or maintenance of a public nuisance and violation of this Ordinance, the cost of abatement
335 of any public nuisance by the town may be collected under this Ordinance or s. 823.06, Wis. Stats., as a
336 debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining
337 the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously,
338 the cost of abatement may be assessed against the real property for services rendered and incurred by the
339 town to enjoin or abate the public nuisance as a special charge under s. 66.0627, Wis. Stats., unless paid
340 earlier. If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed
341 in violation of this Ordinance, the town board may proceed to declare this personal property abandoned
342 and proceed to dispose of this personal property under s. 66.0139, Wis. Stats., by public auction or other
343 means as determined in writing by the town board.

344 SECTION XII – ENFORCEMENT PROVISIONS

345 A. Penalties.

346
347
348 1. 1st Offense. Any person who violates this Ordinance shall, upon conviction, forfeit not less
349 than \$100 nor more than \$500 together with the costs of prosecution, and in default of payment
350 of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the
351 forfeiture and costs are paid, but not exceeding 90 days.

352
353 2. Second and Subsequent Offenses; Penalty. Any person guilty of violating this Ordinance or
354 any person who has previously been convicted of a violation of this Ordinance shall, upon
355 conviction, forfeit not less than \$500 nor more than \$1,000 for each offense, together with the
356 costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall
357 be imprisoned in the county jail until the forfeiture and costs of prosecution are paid, but not
358 exceeding 6 months.

359
360 B. Separate Violations. Each day of violation of this Ordinance constitutes a separate offense.

361 SECTION XII – SEVERABILITY

362
363
364 If any provision of this Ordinance or its application to any person or circumstance is held invalid, the
365 invalidity does not affect other provisions or applications of this Ordinance that can be given effect
366 without the invalid provision or application, and to this end the provisions of this Ordinance are
367 severable.

369 SECTION XIV – EFFECTIVE DATE

370

371 This Ordinance is effective on publication or posting.

372 The town clerk shall properly publish this Ordinance as required under s. 60.80, Wis. Stats.

373

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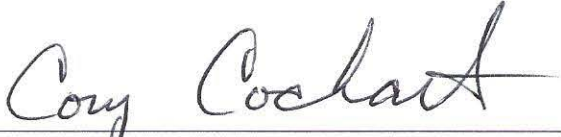
375 Adopted this 3 day of December, 2018.

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380 Cory Cochart, Chairman

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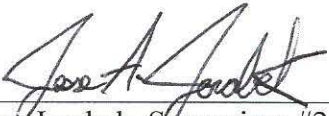
385 Nick Cochart, Supervisor #1

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390 Jesse Jerabek, Supervisor #2

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393 Attest:

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400 Mary Ann Salmon, Town Clerk

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402

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404

Date: 12/3/18

Town of Lincoln Sign Ordinance

Ordinance # 2020-2

The Town Board of Supervisors of the Town of Lincoln (“Town Board”), Kewaunee County, Wisconsin, does ordain as follows:

Authority

The following change to the Town of Lincoln’s Zoning Ordinance is adopted pursuant to the authority granted under Wis. Stats. §60.01 to “enter into contracts necessary for the exercise of its corporate powers”, §60.61 to adopt a zoning ordinance, and the Town’s exercise of Village Powers under §60.10 and 60.62.

SECTION 9.0 – SIGNS (following the old numbering system)

9.1 Purposes

The purpose of this Ordinance is to promote and protect the public safety, comfort, convenience and general welfare by the orderly placement and erection of signs and billboards in the Town of Lincoln.

9.2 Definitions

Animated sign - A sign with action or motion, flashing, color changes requiring electrical energy, electronic, or manufactured sources of supply, but not including wind actuated elements, such as flags, banners, holiday decorations, or specialty items. This definition does not include public service signs, such as time and temperature, revolving or changeable message signs.

Architectural Projection - Shall mean any projection which is not intended for occupancy and which extends beyond the face of an exterior wall of a building, but shall not include signs.

Area of Copy - The entire area within a single, continuous perimeter composed of squares or rectangles which encloses the extreme limits of the advertising message, announcement, or decoration of a wall sign.

Area of Sign - The area of the largest single face of the sign within a perimeter which forms the outside shape, but excluding the necessary supports or uprights on which the signs may be placed. If the sign consists of more than one (1) section or module, all areas will be totaled. Any irregular shaped sign area shall be computed using the actual sign-face surface.

Background Area of Sign - The entire background area of a sign upon which copy could be placed. In computing area of sign background, only that face or faces which can be seen from any one direction at one time shall be counted.

Billboard - See “Off-Premise Signs”

Building Facade - That portion of any exterior elevation of a building extending from grade to the top of the parapet wall or eaves and the entire width of the building elevations.

Building Facade Facing - A resurfacing of an existing facade with approved material illuminated or non-illuminated.

Building Identification Sign - Any sign which promotes the name and type of business only on the premises where it is located.

Canopy Sign - Any sign attached to or constructed in, on, or under a canopy or marquee. For the purpose of this Ordinance, canopy signs shall be controlled by the rules governing projecting signs.

Changeable Message Sign - A sign, such as a manual, electronic or electric controlled time and temperature sign, message center or reader board, whether electronic, electric or manual, where copy changes. Any sign may be, or include as part of it, a changeable message sign.

Directional Sign - On-premise incidental sign designed to guide or direct pedestrians or vehicular traffic.

Double Faced Sign - A sign with copy on two (2) parallel faces that are back to back, facing in opposite directions.

Free Standing Signs - A sign which is supported by one or more columns, uprights or braces, in or upon the ground.

Grade - The elevation or level of the street closest to the sign to which reference is made, measured at the street's center line.

Ground Sign - A sign erected on one or more freestanding supports or uprights and not attached to any building.

Gross Area - The area of a sign determined by using the outside perimeter dimensions of the sign. If the sign consists of more than one module or section, their areas will be totaled. If the modules are formed in the shape of letters or symbols, the rules for area or copy apply.

Height of Sign - The vertical distance measured from the grade at the street right-of-way line where the sign is located to the highest point of such sign.

Home Occupation - Defined in Section 2.2. A gainful occupation conducted by a member of the family within her or his residence.

Illuminated Signs - A sign in which a source of light is used in order to make the message readable. This definition shall include internally and externally lighted signs. Does not pertain to illuminated house numbers or residential mailboxes.

Legal Nonconforming Sign - A nonconforming sign that did not meet code regulations when it was originally installed.

Marquee - Marquee is permanent roofed structure attached to and supported by the building and projections over public property.

Marquee Sign - Any sign attached to or constructed in a marquee.

Multiple Copy Sign - A sign which advertises both the name and product of the primary business and a secondary product or service.

Nonconforming Sign - A sign that does not meet code regulations.

Off-Premise Sign - A sign which advertises goods, products, facilities or services not located on the premises where the sign is located, or directs persons to a different location from where the sign is located. Also known as "Billboards".

On-Premise Sign - A sign which advertises goods, products, facilities or services that is located on the same parcel where the sign is located.

Political or Campaign Sign - A Sign on behalf of a candidate for public office, political party, or measure on an election ballot.

Permanent Sign - A sign that is erected for purpose other than promoting events, temporary notices, and the like.

Projecting Sign - Any sign identifying or advertising a business, person, activity, goods, products, or services located on a premise where the sign is installed and maintained.

Public Notices - Official notices posted by public officers or employers in the performance of their duties.

Public Signs - Signs required as specifically authorized for public purpose by any law, statute, or ordinance.

Roof Sign - A sign erected upon or above a roof or parapet wall of a building and which is wholly or partially supported by said building.

Seed Signs - A sign erected in a cultivated field promoting a seed company and specific planting.

Sign - Any emblem, painting, banner, pennant, placard, design, identification, description, illustration or device, illuminated or non-illuminated, to advertise identify, convey information or direct attention to a product, service, place, activity, person, institution, business, or solicitation, including any permanently installed or situated merchandise. For the purpose of removal signs shall also include all sign structures.

Sign Structure - Any structure which supports or is capable of supporting any sign as defined in this code. A sign structure may be a single pole or may or may not be an integral part of the building.

Swinging Sign - A sign installed on an arm, mast or spar that is not permanently fastened to an adjacent wall or upright pole.

Temporary Sign - A sign which is intended to advertise community or civic project, construction projects, real estate for sale or lease, or other special events on a temporary basis.

Under Marquee Sign - A lighted or unlighted display attached to the underside of a marquee protruding over public or private sidewalks or right-of way.

Wall Sign - A sign which is in any manner affixed to any exterior wall of a building or structure and which projects not more than eighteen (18) inches from the building or structure wall and which does not exceed more than six (6) feet above the parapet, eaves, or building facade of the building on which it is located or a sign which is painted on any exterior wall.

Window Sign - A sign installed on a window for purposes of viewing from outside the premises.

Zoning District - Shall mean the land use district as established by the Town Board.

9.3 General Requirements

1. Scope. This Ordinance pertains to and regulates all bill boards and sign in the Town of Lincoln.
2. Animated, Changing Message, flashing and flashing text or graphics or that scroll or Illuminated Signs are not allowed in any district unless a conditional use permit has been obtained.
3. Inflatable signs, mechanical –movement signs, reflective or mirror signs, obscene signs, signs that emit smoke, vapors, particulate matter, sounds, odors or open flames are not allowed in any district unless a conditional use permit has been obtained.
4. Permanent off premise signs are prohibited in the Town of Lincoln regardless of the nature, size or location.
5. Maximum Area of Signs. The maximum area of signs shall be the accumulation of the area of all signs located on a parcel of record. The maximum area of signs may differ according to the zoning classification of a lot.
6. Illumination of the American flag is exempt from consideration under this ordinance.

9.4 Specific Sign Requirements

1. Awnings. Awning signs may consist of one (1) line of copy.

2. Building Facade Signs. Copy area of a building facade facing shall not exceed forty (40) percent of the background facing to which it is applied
3. Bulletin Boards. Bulletin boards or similar devices for churches and religious institutions shall not exceed thirty-two (32) square feet in area located on the premises. Height of said sign shall not exceed eight (8) feet and may not be located within the building setback lines.
4. Construction Signs. Limited to two (2) construction signs per construction site, not exceeding one hundred (100) square feet in area each, shall be confined to the site of construction, and shall be removed thirty (30) days after completion of construction.
5. Directional and Instructional Non-Electric Sign. Directional and instructional non-electric signs, which provide instruction or direction and are located entirely on a property to which they pertain and do not exceed eight (8) square feet each in area and do not in any way advertise a business. This includes, but not limited to, such signs as those identifying rest rooms, telephone, parking area, entrances and exits.
6. Government Signs. Government signs for control of traffic and other regulatory purposes, danger signs, railroad crossings signs, and signs of public utilities indicating danger, and aids to service or safety which are erected by or on the order of a public officer in the performance of his/her public duty.
7. Home Occupation Signs. A sign, not exceeding two (16) square feet in size, which is located on the parcel on which the business operates.
8. House Numbers and Name Plates. House numbers and name plates not exceeding two (2) square feet in area for each residential, commercial or industrial building.
9. All electrical signs shall conform to State electrical requirements. Illumination is limited to internal or if externally illuminated must be directed entirely and downward onto the sign face.
10. Memorial Signs and Plaques. Memorial signs or tablets, names of buildings and date of erection, which are cut into masonry surface or inlaid so as to be part of a building or when constructed or bronze or other noncombustible material not more than four (4) square feet in area.
11. Marquee Signs. Marquee signs may be placed on, attached to, or constructed in a marquee. The area of a marquee sign shall be limited to thirty two (32) square feet.
12. Multiple Copy Signs.
 - a. Principle identification is that which identifies the name of the business and the principle product or service. These signs are limited to an area of 32 square feet.
 - b. Secondary product or business identification not to exceed thirty (30) percent of principle sign to which applied.
13. No Trespassing, Hunting or No Dumping Signs. Considered a temporary sign. No trespassing, no hunting and no dumping signs not to exceed one and one-half (1-1/2) square feet in area per sign.
14. On-Premise Symbols or Insignia. Religious symbols, commemorative plaques of recognized historic agencies, or identification emblems of religious orders or historic agencies are limited to not more than four (4) square feet in area.
15. On-Premise business signs. Used for purpose of advertising a commercial, business or AI agricultural enterprise on same parcel (does not apply to home occupation businesses)
 - a. The gross area in square feet of any signs on a zoning lot shall not exceed three hundred (300 square feet).
 - b. Signs shall not exceed a height of thirty (30) feet.
 - c. One (1) ground sign shall be allowed per parcel.
 - d. Signs shall meet all setback requirements of the zoning district, except those instances as set forth in Section 7.3 (8) a, b, and c of this Ordinance.
16. Political and Campaign Signs. Political and campaign signs on behalf of candidates for public office or measures on election ballots provided that said signs are subject to the following regulations:
 - a. Said signs may be erected not earlier than sixty (60) days prior to the primary election and shall be removed within fifteen (15) days following said general election.

- b. Each sign, except billboards, shall not exceed thirty two (32) square feet in nonresidential zoning districts and eight (8) square feet in residential zoning districts.
 - c. No sign shall be located within fifteen (15) feet of the public right-of-way at a street intersection, nor within the right-of-way.
 - d. Political and campaign signs must have a minimum setback of ten (10) feet to adjacent property lines unless permission is granted by the adjacent property owner.
17. Public Notices. Official notices posted by public officers or employers in the performance of their duties.
18. Public Signs. Signs required as specifically authorized for public purpose by any law, statute, or ordinance.
19. Real Estate Signs
- a. One (1) real estate sales sign on any lot or parcel, provided such sign is located entirely within the property to which the sign applies and is not illuminated.
 - b. In residential districts, such signs shall not exceed six (8) square feet in area and shall be removed within thirty (30) days after the sale, rental, or lease has been accomplished.
 - c. On corner lots, two signs, one facing each street or road, are approved.
 - d. In all other districts, such signs shall not exceed thirty-two (32) square feet in area and shall be removed within thirty (30) days after the sale, rental, or lease has been accomplished.
20. Temporary Event Signs pertaining to drives or events of civic, philanthropic, educational or religious organizations may be erected 60 days prior to the event and must be removed 15 days after the event.
21. Temporary Window Signs. In business, commercial and industrial districts, the inside surface of any ground floor window may be used for attachment of temporary signs. The total area of such signs made with opaque materials, however, shall not exceed fifty (50) percent of the total window area, and shall not be placed on door windows or other windows needed to be clear for pedestrian safety.
22. Wall Sign. Background area of wall signs shall not exceed thirty (30) percent of the building façade on which sign is placed.

9.5 Signs Requiring a Permit

- 1. Permits shall not be required for a change of copy on any sign, nor for the repainting, cleaning and other normal maintenance and repair of the sign and the sign structure.
- 3. It shall be unlawful for any person to erect, construct, enlarge or structurally modify any permanent sign in Business, Commercial or Agricultural A1 districts as covered in this ordinance, or cause the same to be done in the Town of Lincoln, without first obtaining a sign permit for each such sign from the Zoning Administrator, as required by this Ordinance.
- 4. It shall be unlawful for any person to erect, construct, enlarge or structurally modify any permanent, illuminated, animated, or changing message sign in any district as covered in this ordinance or cause the same to be done in the Town of Lincoln without first obtaining a conditional use permit for each such sign from the Zoning Administrator, as required by this Ordinance.
- 5. Application for a Permit. Application for a permit shall be filed with the Zoning Administrator upon forms provided by the Zoning Administrator. The applicant shall provide all information required on the application for the permit.
- 6. Permit Fees. Application for permit shall be filed with the Zoning Administrator, together with a permit fee for each sign as established by the Town Board.

9.6 Signs Not Requiring a Permit

1. All Temporary signs, as covered by this ordinance, do not require a permit. These include:
 - a) Construction Signs
 - b) Holiday decorations
 - c) No Trespassing, Hunting or No Dumping Signs
 - d) Public Notices
 - e) Political and Campaign Signs
 - f) Real Estate Signs
 - g) Seed signs
 - h) Temporary Event Signs
 - i) Temporary Window Signs
2. Any permanent sign, as covered by this ordinance, which is erected in Residential or A2 Agricultural districts, do not require a permit. These include:
 - a) Awnings
 - b) Bulletin Boards
 - c) Directional and Instructional Non-Electric Sign
 - d) Government Signs
 - e) Home Occupation Signs
 - f) House Numbers and Name Plates
 - g) Memorial Signs and Plaques
 - h) Neighborhood Identification Signs
 - i) Public Signs
 - j) On-Premise Symbols or Insignia
 - k) Vehicular Signs

9.7 Sign Locations and Setbacks

1. All free standing, ground, seed, and portable signs shall be located within the sign owner's property lines.
2. Signs may not be located within the road right of way.
3. Signs shall meet all yard requirements of the zoning district.
4. Free-standing permanent signs less than ten (10) feet in height must have a minimum setback of ten (10) feet to right of way and adjacent property lines. Signs greater than ten (10) feet in height must observe a setback equal to or greater than the sign's height.
5. Only one (1) permanent ground sign shall be allowed in the front building setback per parcel.
6. Signs facing a Residential district must be set back a minimum of twenty-five (25) feet to that district line.
7. A sign in direct line of vision of any traffic signal, from any point in the traffic lane, shall not have red, green or amber illumination, nor be illustrated in such a way so as to interfere with vision of said signal, nor be illustrated in such a way as to be distracting.

9.8 Safety, Repair and Maintenance Standards.

1. Every sign, including, but not limited to, those signs for which permits are required, shall be maintained in a safe, presentable, and good structural condition at all times, including replacement

of defective parts, painting except when a weathered or natural surface is intended, repainting, cleaning and other acts required for the maintenance of said sign.

2. The Zoning Administrator shall require compliance with all standards of this Ordinance. If any sign is not modified to comply with maintenance and safety standards outlined in this Ordinance, the Zoning Administrator shall require its removal in accordance with this section.
3. Mounting. All signs shall be mounted in one of the following manners:
 - a) Flat against a building or wall.
 - b) Copy covers both sides of the sign.
 - c) Back to back in pairs, so that back of sign will be screened from public view.
 - d) In clusters in an arrangement which will screen the back of the signs from public view.
 - e) Or otherwise mounted so that the backs of all signs or sign structures showing to public view shall be painted and maintained a neutral color or a color that blends with surrounding environment.
4. Projection. In Districts, where limitations are imposed by this Ordinance on the projection of signs, from the face of the wall of any building or structure, such limitations shall not apply to identification canopy or marquee signs indicating only the name of the building or the name of the principal occupant of the building or the principal product available therein, provided that any identification sign located on a marquee or canopy shall be affixed flat to the vertical face thereof.
5. Stability. Signs shall be constructed so that they will withstand a wind pressure of at least thirty (30) pounds per square foot surface, and will otherwise structurally be safe, and shall be securely anchored or otherwise fastened, suspended or supported that they will not be a menace to persons or property.
6. Removal of Obsolete, Non-maintained, or Abandoned Signs. All signs, including those painted on a building, which no longer serve the purpose for which they were intended, or are not maintained, or which have been abandoned, shall be removed by the business or property owner within thirty (30) days. Upon failure of such removal, the town shall remove such signs at the expense of the property owner.
7. Removal by Town. The Zoning Administrator shall cause to be removed any signs found to be non-compliant under this section under the provisions of Wis. Statutes 66.05. If the owner or lessee fails to remove the sign, the Zoning Administrator shall give the owner sixty (60) days written notice to remove said sign. Upon failure to comply with this notice, the Town of Lincoln may cause removal to be executed, the expenses of which will be assessed to the tax roll of the property on which the abandoned sign is located.

9.9 Alteration and or Relocation of Existing Signs

No sign or billboard in the Town of Lincoln shall hereafter be altered, rebuilt, enlarged, extended or relocated, except in conformity with the provisions of this Ordinance. The changing of movable parts of signs that are designed to be changed or the repainting of display matter in conformity herewith shall not be deemed to be alterations within the meaning of this Ordinance.

9.10 Notification of Nonconformance

1. After enactment of this Ordinance the Zoning Administrator shall survey the Town of Lincoln to inventory all signs. Upon determination that a sign is nonconforming, the Zoning Administrator shall use reasonable efforts to so notify, either personally or in writing, the user or owner of the property on which the sign is located of the following:
 - a. The sign's nonconformity.
 - b. Whether the sign is eligible for characterization as a legal nonconforming sign or is deemed unlawful.

2. Signs Eligible for Characterization as Legal Nonconforming

Any sign located within the Town of Lincoln on the date of adoption of this Ordinance, which does not conform with the provisions of this Ordinance is eligible for characterization as a legal nonconforming sign and is permitted, providing it also meets the following requirements:

- a. The sign was covered by a proper sign permit prior to date of adoption of this Ordinance.
- b. If no permit was required under applicable law for the sign in question and the sign was in all respects in compliance with applicable law on the date of adoption of this Ordinance.

3. Loss of Legal Nonconforming Status

A sign loses its nonconforming status if one or more of the following occurs:

- a. The sign is structurally altered in any way, except for normal maintenance or repair, which tends to or makes the sign less in compliance with requirements of this Ordinance that it was before alteration.
- b. The sign is relocated.
- c. The sign fails to conform to the Ordinance regarding maintenance and repair, abandonment, or dangerous or defective signs.
- d. On the date of occurrence of any of the above, the sign shall be immediately brought in compliance with this Ordinance with a new permit secured, therefore, or shall be removed.

4. Legal Nonconforming Sign Maintenance and Repair

Nothing in this Ordinance shall relieve the owner or user of a legal nonconforming sign or the owner of the property in which the sign is located from the provisions of this Ordinance regarding safety, maintenance, and repair of signs.

9.11 Penalty

The remedies in this section for violations, or for failure to comply with the provisions of this Ordinance, whether civil, criminal, or for sign removal, shall be cumulative and shall be in addition to any other remedy provided by law.

1. Remedies. Violation or failure to comply with the provisions of this section is unlawful.
 - a. Any sign erected without a permit shall be removed at the owner's expense, or brought into compliance within thirty (30) days of written notification of the Zoning Administrator. In the event that the owner does not remove, or bring into compliance, the Zoning Administrator may order removal or compliance within this section.
 - b. Any person who shall violate any provision of this section shall, upon conviction, forfeit no less than ten (10) dollars, nor more than two hundred (200) dollars, together with the costs of prosecution. Each violation and each day a violation continues or occurs shall constitute a separate offense.
 - c. This section shall not preclude the town from maintaining any appropriate action to prevent or remove a violation of this section.

Enacted this 3rd day of August, 2020 by the Town Board of Supervisors of the Town of Lincoln.

TOWN BOARD

Cory Cochart

Cory Cochart, Chairman

(opposed)

Jordan Nowak, Supervisor #1

Jesse Jerabek

Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

3rd day of August, 2020

Mary Ann Salmon

Mary Ann Salmon, Town Clerk

Ordinance Prohibiting Applications of Liquid Animal Manures and Agricultural Wastewater Using Center Pivot Irrigation Systems, Traveling Spray Guns, or Sprinkler Systems

The Town Board of Supervisors of the Town of Lincoln ("Town Board"), Kewaunee County, Wisconsin, does ordain as follows:

1. Authority

This ordinance is adopted pursuant to the authority granted under Wis. Stats. §60.22 (3) and 61.34 to enact ordinances and regulations promoting and protecting the health, safety, welfare, and convenience of the public, and defining and prohibiting public nuisances.

2. Purpose

The Town Board has researched the subject of spray irrigation of manure and agricultural wastewater and, in doing so, has reviewed the following materials which raise concerns over the use of spray irrigation of manure and agricultural wastewater through center pivot irrigation, traveling guns, and sprinkler systems:

- A. University of Nebraska – Lincoln Extension publication entitled "Application of Liquid Animal Manures Using Center Pivot Irrigation System", which suggests that the application of manure by center pivot manure distribution systems offers a large potential for significant odor release.
- B. Report of Ben Brancel, Secretary of Wisconsin Department of Agriculture, Trade and Consumer Protection to of the Department of Agriculture, Trade and Consumer Protection Board dated August 17, 2011 relating to use of center pivots for spreading manure on farm fields. The report recognized that "livestock manure odors are recognized as a contributing factor to reduced quality of life in rural communities"; that "spray irrigations systems and surface applied liquid manure have high odors and emissions as compared to injection applications"; and further raises the potential for increased odors and offsite delivery of airborne pathogens resulting from the land application of liquid manure or process wastewater using center pivot sprinkler technology.
- C. Report of Robert Thiboldeaux, Wisconsin Division of Public Health, to Ken Johnson, Regional Water Leader, Wisconsin Department of Natural Resources, dated February 17, 2011, regarding public health setbacks for manure spray irrigation, which recognized that the Division of Health Services recommends that land application of manure liquids be managed to minimize impacts, particularly nuisance odor, that might inhibit the full use and enjoyment of neighboring private residences.

The Town Board of the Town of Lincoln has determined, based upon its review and research of materials as described above, that spray irrigation systems for irrigating liquid manure, other agricultural wastewater, industrial wastes, or septage through center pivot manure irrigation systems, traveling guns, and sprinkler systems are a detriment to the health, safety, welfare, and convenience of the public, as they distribute manure odors recognized as a contributing factor to reduced quality of life, and that prohibition of spray irrigation systems for liquid manure, other agricultural wastes, industrial wastes, or septage is in the best interests of the Town of Lincoln residents' public health, safety, general welfare and convenience.

3. Spraying Liquid Manure, Agricultural Wastewater, Industrial Wastes, and Septage Prohibited

No person shall spray liquid manure, other agricultural wastewater, industrial waste, or septage by use of a center pivot irrigation, traveling gun, or sprinkler system in the Town of Lincoln.

4. Creation of Public Nuisance Prohibited

No person shall create a substantial threat to public health or safety by the spraying of liquid manure, other agricultural wastewater, industrial wastes, or septage by use of a center pivot manure irrigation, traveling gun, or sprinkler system in the Town of Lincoln.

5. Penalties

~~Any person violating Section 3 of this ordinance shall be subject to a forfeiture of not less than \$500 nor more than \$10,000 for each violation. Each day that a violation exists shall be considered a separate violation. Any person violating Section 4 of this ordinance shall be subject to a forfeiture of not less than \$2,000 nor more than \$10,000 for each violation. Each day that a violation exists shall be considered a separate violation. The minimum and maximum forfeitures specified in this section may be doubled each time that a person is convicted for the same violation occurring within any 24-month period. In addition, upon conviction, the person in violation shall be subject to the imposition of court costs, actual expenses incurred by the Town, engineering expenses if incurred, and actual and reasonable attorney fees incurred.~~

Any person violating Section 3 of this ordinance shall be subject to a forfeiture of not less than \$5000 nor more than \$10,000 for each violation. Each day that a violation exists shall be considered a separate violation. Any person violating Section 4 of this ordinance shall be subject to a forfeiture of not less than \$10,000 nor more than \$20,000 for each violation. Each day that a violation exists shall be considered a separate violation. The minimum and maximum forfeitures specified in this section shall be doubled each time that a person is convicted for the same violation occurring within any 12-month period. In addition, upon conviction, the person in violation shall be subject to the imposition of court costs, actual expenses incurred by the Town, engineering expenses if incurred, and actual and reasonable attorney fees incurred. **(Adopted by the Town Board of Supervisors on April 3, 2017)**

6. Abatement of Violation

The Town Board may, in its discretion, require that a person in violation of this ordinance be enjoined from and prohibited from further violation of this ordinance upon order of a court of competent jurisdiction. In such event, the Town shall be entitled to recovery of all costs and expenses incurred in such action, including engineering fees and actual and reasonable attorney fees.

7. Private Action

Any person damaged or inconvenienced by a violation of this ordinance may commence an action in his/her/its own name seeking to enjoin or abate violations of this ordinance, without acquiring authority or permission of the Town Board to do so.

9. Effective Date

This ordinance shall be effective on the day following its passage and publication.

Enacted this 2nd day of March, 2015 by the Town Board of Supervisors of the Town of Lincoln.

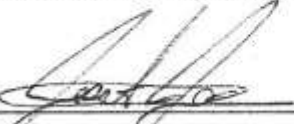
Town Board



Cory Cochart, Chairman



Nick Cochart, Supervisor #1

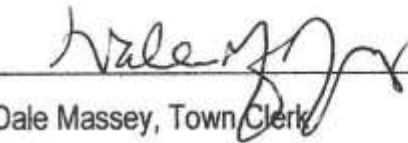


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

2nd day of March, 2015



Dale Massey, Town Clerk

INTERIM CONTROL ORDINANCE #06022014-1

AN INTERIM CONTROL ORDINANCE OF THE TOWNSHIP OF LINCOLN ENABLING REGULATION OF ANIMALS SUPECTED OF BITING PEOPLE AND DANGEROUS DOGS

WHEREAS, the Township of Lincoln has experienced two recent incidences of dogs attacking and biting people off of the property of the dog's owners; and

WHEREAS, the Township of Lincoln Board of Supervisors determines that an Interim Control Ordinance is a necessary use of the Town's police powers as authorized by Wis. Stats. 60.61, 60.62, 61.35, and 62.23 and other relevant provisions of the Wisconsin Statutes in order to protect the health, safety, and general welfare of the citizens of the Township of Lincoln;

THEREFORE, the Township of Lincoln Board of Supervisors hereby adopts effective immediately the following Interim Control Ordinance:

ANIMALS SUSPECTED OF BITING PEOPLE.

- (1) All incidents occurring in the township where any animal attacks a person, bites a person , or is suspected of biting a person shall be immediately reported to the Township of Lincoln Chairman, the Kewaunee County Health Department , and to the Kewaunee County Sherriff's Department by any person having knowledge of such incident.
- (2) Any animal which bites a person in the township, if it can be found, shall be quarantined for 14 days from the date of the bite for the purpose of observation for the possibility of infection with the virus of rabies.
- (3) Such quarantine shall be effected as directed by the Town Chairman or representative and may, at the discretion of the Town Chairman, be:
 - (a) Confinement of the animal to a structure or enclosure which is adequate to restrain the animal on the premises of the owner or his agent, or
 - (c) Confinement of the animal with a licensed veterinarian, or
 - (d) Confinement of the animal at an animal hospital or boarding facility approved by the Township of Lincoln Chairman.
- (4) The owner or caretaker of the animal shall be liable for all costs and expenses related to the impoundment and disposition of the animal.
- (5) No animal which is known or suspected to have bitten a person in the township may be destroyed until after the 14 day quarantine period required in sub. (2) has elapsed. If the animal cannot be apprehended safely, destruction shall be accomplished without damage to the head of the animal if at all possible. The Town Chairman, Kewaunee County Health Commissioner, and the Kewaunee County Sherriff shall be immediately notified of such destruction of an animal. The dead animal shall not be disposed of until such specimens as

the Town Chairman, Kewaunee County Health Commissioner, or Kewaunee County Sherriff shall direct have been obtained and permission is given to dispose of the dead animal.

- (6) If an animal which has been quarantined in accordance with this section dies during the quarantine period, the person having custody of the animal shall immediately notify the Town Chairman and shall not destroy or dispose of the dead animal until after such specimens as the Town Chairman shall direct have been obtained and permission is given to dispose of the dead animal.
- (7) The disposition of any animal that is suspected of causing bodily harm to a human or a domestic animal shall be determined by the Town Board of Supervisors. If the decision by the Board is to destroy the animal, the Town shall petition an appropriate court as specified under Section 174.02(3) of the Wisconsin Statutes to obtain a court order to destroy the animal.

DANGEROUS DOGS.

(1) DEFINITIONS.

(a) Dangerous Dog. Any dog which:

1. Without provocation, while not under the control of its owner, chases, confronts, or approaches a person in a menacing fashion while off its owner's property and it is clear that the dog is not merely being protective in a particular set of circumstances.
2. When unprovoked and while off its owner's property, approaches a domestic animal in a menacing fashion.
3. When unprovoked and while off its owner's property, causes a non-severe, non-bite injury in a menacing fashion to any person or domestic animal.
4. Has been declared dangerous by at least one other municipality.

(b) Domestic Animal. Livestock, domesticated dogs and domesticated cats.

(c) Menacing Fashion. Demonstrating an intent or desire to cause injury by one or more of the following actions:

1. An attempt to bite a person or another animal in such a fashion to show plainly to a reasonable person an unfriendly intent and put them in fear of attack.
2. Growling or barking in an unfriendly manner while approaching or chasing a person or another animal.
3. Growling or barking in an unfriendly manner while making physical contact with a person or another animal.

(d) Officer. Any supervisor or the Township of Lincoln, or the Town of Lincoln Constable.

(e) Owner. Any person, firm, corporation, or other organization owning, keeping, possessing, harboring, controlling, or having the care or custody, whether temporarily or permanently, of a dog or dogs.

(f) Provoked. Any attack by an animal or physical injury caused by an animal shall be considered provoked if at the time the attack occurs or the injury is inflicted:

1. The person who was attacked or injured was teasing, tormenting, abusing, or assaulting the animal; or

2. The animal was protecting a person, itself, its young or another domestic animal from an attack by a human being or another animal; or
3. The person who was attacked or injured was committing a crime on the property of the animal's owner.

(2) DANGEROUS DOGS PROHIBITED.

(a) Possession of a Dangerous Dog Prohibited. No person shall own, keep, possess, return to, or harbor a dangerous dog within the Township.

(b) Penalty. Any person who owns, keeps, possesses, harbors, or returns any dangerous dog to the Township, after it has been declared to be dangerous by owner's omission, quasi-judicial hearing, or appeal, shall be subject to a forfeiture of not less than \$500 nor more than \$1,000.

(3) PROCEDURE FOR DECLARING A DOG "DANGEROUS".

(a) A Town supervisor, Constable, or police officer may determine a dog to be "dangerous" whenever, upon investigation, that officer finds that the dog meets the definition of dangerous as delineated in subsection (1).

(b) The Town supervisor, Constable, or police officer, upon making the determination that a dog is dangerous, shall issue a written order declaring the dog to be dangerous and demanding that the owner of the dangerous dog remove it from the Township within five days.

(c) If the owner objects to the declaration of dangerousness, they may file a written objection contesting the declaration with the Town Chairman within five days of receiving the written declaration.

(d) Upon receipt of the owner's written objection within the prescribed five days, the matter shall be placed on the soonest Town Board of Supervisors meeting agenda for review.

(e) The Town Board of Supervisors shall act as a quasi-judicial body allowing the animal's owner an opportunity to present evidence as to why the animal should not be declared a prohibited dangerous dog.

(f) Pending the outcome of the hearing or any subsequent appeal, the animal may be confined subject to Sec. 173.21, Wis. Stats., or held at a location outside the Township at the owner's expense.

(g) After the hearing, once the Town Board of Supervisors has made a decision, the owner shall be immediately notified of the decision in writing by personal delivery or by certified mail. If a decision is made that the animal is a prohibited dangerous dog, the owner shall comply with order to remove the dog from the Township within five days after receiving the written decision, if not already removed.

(h) If the owner further contests the decision, he or she may, within five days of receiving the written decision, seek review of the decision by the Circuit Court.

(i) If the declared dangerous dog is not removed from the Township within 10 days of it being declared dangerous by owner's omission, quasi-judicial hearing, or appeal, it may be seized

and ordered destroyed pursuant to Sec. 174.02(3), Wis. Stats., and in the manner prescribed in subsection (4) of this ordinance.

- (4) **MANNER AND PROCEDURE FOR DESTRUCTION OF DANGEROUS DOGS.** Whenever an officer or veterinarian is required to destroy a dangerous dog, the animal shall be destroyed in a humane manner which avoids damage to the animal's head.
- (5) **EXEMPTION FOR POLICE DOGS.** The provisions of this ordinance regarding dangerous dogs shall not apply to dogs owned by law enforcement agencies and used for law enforcement purposes.

Approved by a vote of 3 for and 0 against on this 2nd day of June, 2014

Cory Cochart, Chairman (signed)

Nick Cochart, Supervisor #1 (signed)

Jesse Jerabek, Supervisor #2 (signed)

**TOWN OF LINCOLN
KEWAUNEE COUNTY, WISCONSIN**

LIVESTOCK FACILITY SITING and LICENSING ORDINANCE

1. Authority

This ordinance is adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15 and 93.90. Further this ordinance is adopted pursuant to the powers granted to the town board under the grant of village powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health and safety.

2. Purpose and Findings

Purpose: The purpose of this ordinance is to comply with requirements of Sec. 93.90 of Wis. Statutes and ch. ATCP 51, Wis. Adm. Code (ATCP 51), and to establish standards and authority to protect the public health and safety of the people of the Town of Lincoln. This ordinance sets forth the procedures for obtaining a license for the siting of new and expanded livestock facilities in the Town of Lincoln.

3. Applicability

This Ordinance applies to all lands within the boundaries of Lincoln Township.

4. General Regulations

Livestock Facilities Restricted to Agricultural Zones: Livestock facilities shall only be located on land parcels that are zoned to allow for livestock.

A. A new or expanded livestock facility with 500 or more animal units shall be required to comply with the License Requirements in this ordinance.

B. All facilities, regardless of size, shall secure a building permit for any construction.

5. Permit Requirement

In order to secure a building permit, the owner or operator of an animal facility must comply with applicable building permit ordinances for the construction of any buildings to be used in connection with the animal facility.

6. License Required

A. General

A license issued by the Town of Lincoln is required for new or expanded livestock facilities that will have 500 or more animal units.

B. Licenses for Existing Livestock Facilities

1. A license is required for the expansion of a pre-existing or previously approved livestock facility if the number of animal units kept at the expanded livestock facility will exceed all of the following:
 - a) The applicable size threshold for a license (500 animal units).
 - b) The maximum number previously approved or, if no maximum number was previously approved, a number that is 20% higher than the number kept on the effective date of the license requirement.
2. A license is not required for livestock facility that existed before the effective date of the license requirement in this ordinance, unless the facility exceeds 500 animal units and the expansion seeks an increase of more animal units than previously approved or 20% higher than the number existing on the effective date of this ordinance.
3. A prior approval for the construction of a livestock facility implies approval for the maximum number of animal units that the approved livestock facility was reasonably designed to house, except as otherwise clearly provided in the approval. Prior approval of a single livestock structure, such as a waste storage structure, does not constitute prior approval of an entire livestock facility.

7. Licensing Administration

The Town (meaning the Town Board, the Zoning Administrator, Town Constable, Plan Commission, or any other Town of Lincoln official(s) that are authorized by the Town Board to act on behalf of the Town of Lincoln) shall administer this ordinance and related matters thereto with review, oversight and recommendations provided by the Town Plan Commission. The Town Board shall authorize final approval.

8. Licensing Standards

The standards for issuing a license are as follows:

- A. The state livestock facility siting standards adopted under ATCP 51, Wis. Adm. Code, inclusive of all appendixes and worksheets and any future amendments to this chapter, except as may be noted in this section of the ordinance, are incorporated by reference in this ordinance, without reproducing them in full.
- B. Setbacks: The following setbacks shall apply to livestock structures:

1. Property lines

Except as provided for waste storage structures, livestock structures must be located the minimums as follows from property lines:

- a) 100 feet if the livestock facility will have fewer than 1,000 animal units; or
- b) 200 feet if the livestock facility will have 1,000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the property line.

2. Road Right of Ways

Except as provided for waste storage structures, livestock structures must be located the minimums as follows from the nearest point of any road right of ways:

- a) 100 feet if the livestock facility will have fewer than 1,000 animal units; or
- b) 150 feet if the livestock facility will have 1000 or more animal units.

The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of the setback requirement, except that a structure may not be expanded closer to the road right of way.

3. Waste Storage Structure-New Structures

a) A new waste storage structure may not be located:

- i. Within 350 feet of a property line, or
- ii. Within 350 feet of the nearest point of any public road right-of-way, or,

b) Waste storage structures shall comply with all requirements of other Town of Lincoln ordinances.

c) A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- i. Located on the same tax parcel as a waste storage structure in existence before May 1, 2006 and,
- ii. No larger than the existing structure and,
- iii. No further than 50 ft. from the existing structure and,
- iv. No closer to the road or property line than the existing structure.

d) Existing Structures. This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line or road may not expand toward that property line or road.

C. All water quality setbacks specified in ATCP 51.12 (3), (4), and (5) shall be complied with.

D. License Application: A livestock operator must complete the application form and worksheets prescribed by ATCP 51, including any authorized local modifications. The application form and worksheets demonstrate compliance with standards in ATCP 51 and this ordinance.

E. The operator must file four (4) duplicate copies of the application form , including worksheets, maps and documents (other than engineering design specifications) included in the license application.

9. License Application Fee

A non-refundable application fee of \$1,000 payable to the Town of Lincoln shall accompany an application for the purpose of offsetting the town costs to review and process the application.

10. License Application Procedure

A. Pursuant to ATCP 51.30 (5), within 45 days after the Town receives an application, it shall notify the applicant whether the application is complete. If the application is not complete, the notice shall describe the additional information needed. Within 14 days after the applicant provides all of the required information, the town shall notify the applicant that the application is complete. This notice does not constitute an approval of the proposed livestock facility.

B. Pursuant to ATCP 51.30 (6), within 14 days after the Town notifies the applicant that the application is complete, the Town shall notify adjacent landowners of the application. The Town shall use the approved notice form in ATCP 51, and mail by first class mail a written notice to each adjacent landowner.

C. Upon determination of completeness the town clerk shall give notice of a public hearing to receive information from the applicant and receive public input on the application. Public notice shall be a class 2 notice the last of which shall be at least a week before the date of the public hearing. The public hearing may be continued, but final decision shall be made within the time limits described in the next paragraph.

D. Pursuant to ATCP 51.32, the Town of Lincoln shall grant or deny an application within 90 days after the Town gives notice that the application is complete under paragraph B above. The Town of Lincoln may extend this time limit for good cause, including any of the following:

1. The Town needs additional information to act on the application.
2. The applicant materially modifies the application or agrees to an extension.
3. The Town shall give written notice of any extension. The notice shall specify the reason for the extension, and the extended deadline date by which the Town will act on the application.

11. Criteria for Issuance of a License

- A. A license shall be issued if the application for the proposed livestock facility:
 - 1. Complies with this ordinance, and
 - 2. Is complete, and
 - 3. Contains sufficient credible information to show, in the absence of clear and convincing information to the contrary, that the proposed livestock facility meets or is exempt from the standards specified in this ordinance.

- B. A license shall be denied if any of the following apply:
 - 1. The application, on its face, fails to meet the standard for approval in the previous paragraph,
 - 2. The Town finds, based on other clear and convincing information in the record that the proposed livestock facility does not comply with applicable standards in Section 8 of this ordinance.
 - 3. Other grounds authorized by s.93.90 that warrant disapproving the proposed livestock facility.

12. Record of Decision on the License

The Town will issue its decision in writing. The decision will be based on written findings of fact supported by evidence in the record. Findings may be based in part on the presumptions created by ATCP 51.

If the Town approves the application, it will give the applicant a duplicate copy of the approved application, marked “approved.” The duplicate copy will include worksheets, maps and other documents (other than engineering specifications) included in the application.

The town clerk as required by ATCP 51.34(5) within 30 days of the town decision on the application shall do all of the following:

- A. Provide the Department of Agriculture, Trade and Consumer Protection (DATCP) written notice of the town’s decision.
- B. File with DATCP the final application granted or denied, if the town has granted or denied an application under this ordinance. (The copy shall include all of the worksheets, maps and other attachments included in the application, except that it is not required to include the engineering design specifications.)
- C. If the Town has withdrawn a local approval under this ordinance, file with DATCP a copy of the Town’s final notice or order withdrawing the local approval.

13. Transferability of License

- A. A license and the privileges granted by this license run with the land approved under the license and remain in effect, despite a change in ownership of the livestock facility, as long as the new operator does not violate the terms of the local

approval. An applicant may record with the register of deeds, at the applicant's expense, the duplicate copy of the approved application.

B. A license is transferable to a new owner or operator. The new owner or operator must provide the Town of Lincoln with the new owner or operator's name and address within 30 days of the date of any change in the owner or operator.

14. Expiration of License

A. A license remains in effect regardless of the amount of time that elapses before the livestock operator exercises the authority granted under license, and regardless of whether the livestock operator exercises the full authority granted by the approval.

B. The town board may treat a license as lapsed and withdraw the license if the license holder fails to do all of the following within 2 years after issuance of license:

1. Begin populating the new or expanded livestock facility.
2. Begin constructing the new or expanded livestock housing or waste storage structures proposed in the application for local approval.
3. The town board has the authority to grant extensions due to extenuating circumstances.

C. Once issued the license remains in effect for subsequent expansions of the farm operation provided that the farm operation continues to meet all applicable requirements and established standards of Sec. 93.90 of Wis. Statutes and ch. ATCP 51, Wis. Adm. Code (ATCP 51)), NR 151, or the standards set forth in this ordinance.

15. License Terms and Modifications

A license and the privileges granted by a license issued under this ordinance is conditioned on the livestock operator's compliance with the standards in this ordinance, and with commitments made in the application for a license. The operator may make reasonable changes that maintain compliance with the standards in this ordinance, and the Town shall not withhold authorization for those changes provided that he applicant notifies the Town of any and all changes that impact the license. A violation of the license or a failure to comply with the commitments made in the application may result in suspension and/or termination of the license as provided in this ordinance.

16. Compliance Monitoring

For this section only, "Town" shall mean the Town Board or any other official authorized by the Town Board to act on behalf of the Town of Lincoln.

The Town may monitor compliance with the ordinance as follows:

- A. Upon notice to the livestock facility owner or operator, the Town, pursuant to Sec. 66.0119 of Wis. Statutes, may personally view the licensed premises, including all records deemed necessary by the Town to determine compliance, at a reasonable time and date to insure that all commitments of the application as approved are being complied with.
- B. If the livestock facility owner or operator refuses the Town the right to view the licensed premises or all records deemed necessary by the Town to determine compliance, the Town may request the assistance of the Sheriff or a deputy Sheriff to obtain an inspection warrant from the circuit court to inspect the licensed premises and all records deemed necessary by the Town to determine compliance for the purpose of protection of the public health and safety under Sec. 66.0119 of Wis. Statutes.
- C. Refusal to grant permission to enter the facility for compliance monitoring is grounds for denial or revocation of a license.
- D. If a licensed premises is found not to be in compliance with any of the commitments made in the approved application or any provision of this ordinance, the Town shall issue a written notice to the livestock facility owner stating the conditions of non-compliance and directing that compliance of the commitments of the approved application, provisions of the ordinance, and license be complied with in a reasonable amount of time, as agreed upon by the Town and owner or operator, as stated in this written notice. The notice of non-compliance shall inform the owner or operator of the facility that they have five business days to request a hearing. The notice of noncompliance may include a stop work order.
- E. If non-compliance of the license conditions as described in the written notice given by the Town continue past the stated reasonable time to comply, the Town may take further action as provided in this ordinance, including but not limited to issuance of a citation or seeking of injunctive relief.
- F. If the livestock facility owner disputes that the conditions of the license have not been complied with, the livestock facility owner may request a hearing in writing within five days of receipt of the notice of non-compliance. The Town Board shall schedule a hearing within five days to determine if the conditions of the license have been complied with or whether non-compliance of the commitments of the approved application and local approval exists.
- G. Monitoring wells. The owner or operator shall provide the Town on a timely basis with all test results from any monitoring wells placed pursuant to DNR requirements.

17. License Revocation Authority

- A. Upon referral from the Town Board, the Plan Commission shall hold a hearing to review noncompliance.
- B. The Plan Commission may recommend to the Town Board that it revoke a license for substantial noncompliance with any provision of this ordinance, substantial noncompliance with any commitments made in the application, violation of a condition contained in a

license, refusal to permit inspection of a premises for which a license has been applied for and granted, or failure to comply with the action requirement contained in a notice of noncompliance.

C. The Town Board may revoke a license if, after due notice to the livestock facility owner, a public hearing, and consideration of any extenuating circumstances that may affect an operator's ability to comply, it determines that revocation is appropriate.

18. Penalties

(A) It is unlawful for any person to own or operate a livestock facility without a license that is required by this ordinance, to violate any provision of this ordinance, to violate any condition contained in a license issued pursuant to this ordinance, or to fail to fulfill any commitment made in an approved license application.

(B) It is unlawful for any license facility applicant or person representing the license facility applicant to knowingly provide false information, make a false statement, or fail to provide or misrepresent any material fact to the Town Board, Plan Commission, Zoning Administrator, Town Clerk, or any official acting in an official capacity under this ordinance.

(C) It is unlawful for any license facility applicant or person representing the license facility applicant to disobey; fail, neglect, or refuse to comply with; or otherwise resist an order issued pursuant to this ordinance.

(D) Notwithstanding the provisions of Section 11.8.2 of the Town of Lincoln Zoning Ordinance, any person who violates any of the provisions of this ordinance, or who fails, neglects or refuses to comply with the provisions of this ordinance, or who knowingly makes any material false statement or knowing omission in any document required to be submitted under the provisions hereof, shall be subject to the following penalties:

1. Upon conviction by a court of law, pay a forfeiture of not less than \$250.00 nor more than \$10,000.00, plus the applicable surcharges, assessments and costs for each violation.
2. Each day a violation exists or continues shall be considered a separate offense under this ordinance.
3. The minimum and maximum forfeitures specified in this section may be doubled each time that a person is convicted for the same violation occurring within any 24-month period.
4. In addition, the town board may seek injunctive relief from a court of record to enjoin further violations.
5. In addition, the Town Board may suspend or revoke the local approval of a license under this ordinance after due notice to the livestock facility owner and a public hearing to determine whether the license should be suspended or revoked.

6. The town shall exercise sound judgment in deciding whether to suspend or revoke a license. The town shall consider extenuating circumstances, such as adverse weather conditions, that may affect an operator's ability to comply.
7. In addition to any other penalty imposed by this ordinance, the Town may recover its actual costs incurred in enforcement, including actual consultant fees and actual expenses and actual attorney fees, and the cost of abatement or clean up of any public nuisance on the licensed premises by the town may be collected under this ordinance or Sec. 823.06 of Wis. Statutes against the owner of the real estate upon which the public nuisance exists. Such costs of abatement may be recovered against the real estate as a special charge under Sec. 66.0627 of Wis. Statutes unless paid earlier.

19. Appeals

In addition to other appeal rights provided by law, for animal facilities and expansions requiring a license under Section 6 hereof, Sec. 93.90 (5), Stats, provides that any "aggrieved person" may request review by the Livestock Facility Siting Review Board of any decision by the town in connection with a permit application. An "aggrieved person" may challenge the decision on the grounds that the town incorrectly applied the standards under this ordinance or violated sec. 93.30, Stats.

A. An "aggrieved person" under this section as defined in Sec. 93.90 (5) of Wis. Statutes means a person who applied to the town for approval of a livestock siting or expansion, a person who lives within 2 miles of the livestock facility that is proposed to be sited or expanded, or a person who owns land within 2 miles of a livestock facility that is proposed to be sited or expanded.

B. An "aggrieved person" may request review of any decision of the town or action by the Town Board.

C. Any appeal brought under this section must be requested with 30 days of the Town's approval or disapproval or within 30 days after the decision on appeal before the town board.

D. Any appeal to the State Livestock Facility Siting Review Board shall comply with Sec. 93.90 of Wis. Statutes and administrative rules of said board.

20. Severability

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

21. General Definitions

For the purpose of this Ordinance, words used in the present tense shall include the

future; words used in the singular shall include the plural number, and the plural the singular.

- A. The word "shall" is mandatory and not discretionary.
- B. The word "may" is permissive.
- C. All "measured distances" shall be to the nearest "integral foot". If a fraction is one-half foot or less, the next "integral foot" below shall be taken.
- D. Any words not herein defined shall be construed as defined in other respective state, county, and town codes.

22. Definitions

The definitions in ATCP 51 are hereby incorporated by reference without reproducing them in full in this ordinance.

23. Effective Date

This ordinance is effective upon enactment and publication.

Enacted this 13th day of January, 2014 by the Town Board of Supervisors of the Town of Lincoln, Kewaunee County, Wisconsin.

TOWN BOARD

Cory Cochart, Chairman (signed)

Nick Cochart, Supervisor #1 (signed)

Arlin Monfils, Supervisor #2 (signed)

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this 13th day of January, 2014.

Dale Massey, Town Clerk (signed)

**AMENDMENT TO THE TOWN OF LINCOLN
LIVESTOCK FACILITY SITING AND LICENSING ORDINANCE
REQUIRING ANNUAL REPORTING OF ANIMAL UNITS**

1. Authority

This ordinance is an amendment adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15 and 93.90. Further this ordinance is adopted pursuant to the powers granted to the town board under the grant of village powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health and safety.

2. Purpose and Findings

Purpose: The purpose of this ordinance is to comply with requirements of Sec. 93.90 of Wis. Statutes and ch. ATCP 51, Wis. Adm. Code (ATCP 51), and to establish standards and authority to protect the public health and safety of the people of the Town of Lincoln. This ordinance provides the Town with baseline information and the means to acquire continuing information for the siting of new and expanded livestock facilities in the Town Lincoln.

3. Applicability

This Ordinance applies to all lands within the boundaries of Lincoln Township.

4. General Regulations: The following amendment to the Town of Lincoln Livestock Facility Siting and Licensing Ordinance is hereby adopted:

24. DOCUMENTATION OF ANIMALS: Existing, Expanded or Proposed Livestock Operations

A. Definitions

"Animal unit" means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. [NR 243.11](#).

"Animal unit equivalents" are based on NR 243.03(3) as it existed on April 27, 2004.

"Large farm" means agricultural operations with 500 or more animal units as calculated pursuant to Wis. Admin Code s.NR243.05(2)

"Mid-sized farm" means agricultural operations with 300 or more animal units as calculated pursuant to Wis. Admin Code s.NR243.05(2)

B. Purpose

In order to implement the Livestock Facility Siting and Licensing Ordinance, the Town of Lincoln requires that the of number of animals housed by animal facilities with WPDES permits as well as mid-sized facilities are properly reported to the Town Board of Supervisors.

C. Applicability

This ordinance is applicable to any farm or operation that houses animals, exclusive of household pets, for any length of time over the course of a year within the Township of Lincoln.

The determination as to whether an existing, proposed or expanded operation meets the criteria of a large farm shall be based on the total number of animal units at the animal feeding operation calculated pursuant to s. [NR 243.05](#).

The initial number of animal units that a facility houses shall be based on the number of animals housed at the time of the adoption of the Livestock Facility Siting and Licensing Ordinance, January 13, 2014.

Based on the provisions of this subchapter, the Plan Commission shall determine whether a Livestock Facility Siting and Licensing Ordinance application is required for an operation.

D. Reporting of Animal Units

1. All large and mid-sized farms shall submit both forms in DNR 3400-25A reporting their animal units to the Town Board as of January 13, 2014 within 60 days of the date of adoption of this ordinance. This initial report of animal units shall be based on the number of animal units reported to the DNR and KCLWCD in the 590 plan for 2013.
2. Subsequently, all large and mid-sized farms shall submit both forms in DNR 3400-25A reporting their animal units to the Town Board by March 31st of each calendar year.
3. The Town of Lincoln may, from time to time, request that all other farms and owners of animals submit form LT 3401 (Lincoln Town Animal Census Form) in order to complete a census of animals kept in the township.

E. Calculation of Animal Units (based on NR 243.05)

1. General: The total number of animal units at an operation shall be calculated using the methods in both subs. [\(2\)](#) and [\(3\)](#) of NR 243.05. The Plan Commission shall compare the totals under both of these methods and shall use the highest calculated total to determine the size of an animal operation. An owner or operator of an animal feeding operation shall use DNR form 3400-25A for calculating the number of animal units present at the operation. Note: In accordance with the definition in s. [NR 243.03\(4\)](#), animals included in the total count may be housed at more than one site or location. Note: Form 3400-25A can be obtained from the Town of Lincoln Zoning Administrator.
2. Mixed (combined) Animal Units: The number of animal units present at an operation shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor in Table 2A. The total number of animal units at the operation is the sum of the calculated animal unit numbers of all animal types present at the operation.
3. Non-Mixed (individual) Animal Units: The number of animal units present at an operation shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor in Table 2B. The total number of animal units at an operation is the highest calculated number of animal units for any individual animal type.

F. Penalties

Any person violating this ordinance shall be subject to the penalties applicable under Section 18 of the Livestock Facility Siting and Licensing Ordinance of the Town of Lincoln.

G. Effective Date

This amendment is effective upon enactment and publication.

Enacted this 2nd day of September, 2014, by the Town Board of Supervisors of the Town of Lincoln, Kewaunee County, Wisconsin.

TOWN BOARD

Cory Cochart, Chairman (signed)

Nick Cochart, Supervisor #1 (absent from meeting)

Jesse Jerabek, Supervisor #2 (signed)

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this 2nd day of September, 2014.

Dale Massey, Town Clerk (signed)

Town of Lincoln, Kewaunee County, Wisconsin

RESOLUTION AMENDING THE TOWN OF LINCOLN
LIVESTOCK FACILITY SITING AND LICENSING ORDINANCE
and the
AMENDMENT TO THE LIVESTOCK FACILITY SITING AND LICENSING
ORDINANCE

Resolution # 2019-2

WHEREAS, with the adoption of Chapter 10, Town of Lincoln Zoning Ordinance, the Livestock Facility Siting and Licensing Ordinance and the Amendment to the Livestock Facility Siting and Licensing Ordinance are in need of updating;

BE IT THEREFORE RESOLVED that the Town of Lincoln Board of Supervisors hereby adopts by this Resolution the following Amendment to the Town of Lincoln Livestock Facility Siting and Licensing Ordinance and Amendment to the Amendment to the Livestock Facility Siting and Licensing Ordinance until such time as the Plan Commission may hold a public hearing on the ordinance and the Town Board of Supervisors can adopt said ordinances.

Ordinance # 2019-

AMENDMENT TO THE TOWN OF LINCOLN
LIVESTOCK FACILITY SITING AND LICENSING ORDINANCE

1. Authority

This ordinance is an amendment adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15 and 93.90. Further this ordinance is adopted pursuant to the powers granted to the town board under the grant of village powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health and safety.

2. Purpose and Findings

Purpose: The purpose of this amendment is to comply with requirements of Sec. 93.90 of Wis. Statutes and ch. ATCP 51, Wis. Adm. Code (ATCP 51), and to establish standards and authority to protect the public health and safety of the people of the Town of Lincoln. This amendment updates the **Town of Lincoln's Livestock Facility Siting Ordinance** to the **Chapter 11: Town of Lincoln's Livestock Facility Siting and Conditional Use Permitting Ordinance**.

3. Applicability

This Ordinance applies to all lands within the boundaries of Lincoln Township.

4. General Regulations: The following amendments to the Town of Lincoln Livestock Facility Siting and Licensing Ordinance is hereby adopted:

- A. The terms "license, licensee, licenses, licensed, and licensing" shall be replaced with the term "conditional use permit" permittee, permits, permits, permitted, and permitting throughout the ordinance.

- B. **Section 4 General Regulations** shall be rewritten to read: Livestock Facilities Restricted to A-1 Exclusive Agricultural Zones: Livestock facilities shall only be located on land parcels that are zoned to allow for livestock facilities.
- C. **Section 8 B 1, 2, and 3 a) and c): Setbacks** shall be deleted and rewritten as follows: All setbacks for livestock facilities and manure structures shall comply with sections 10.0404(6), (9), (10), (11), (12), and (13) of Town of Lincoln Chapter 10 Zoning Code.
Section 8 B 3 b): shall remain as written: Waste storage structures shall comply with all requirements of other Town of Lincoln ordinances.
- D. **Section 8 C:** shall be rewritten to read: All water quality setbacks specified in ATCP 51.12 (3), (4), and (5) and Kewaunee County Chapter 39 shall be complied with."
- E. **Section 11 A 3:** shall be rewritten to read: "Contains sufficient credible information to show, in the absence of clear and convincing evidence to the contrary, that the proposed livestock facility meets or is exempt from the standards specified in this ordinance or the Town of Lincoln Chapter 10 Zoning Ordinance."
- F. **Section 18 D:** shall be rewritten to read: "Notwithstanding the provisions of Section 10.1008 (2) of the Town of Lincoln Zoning Ordinance..."

5. Penalties

Any person violating this ordinance shall be subject to the penalties applicable under Section 18 of the Livestock Facility Siting and Licensing Ordinance of the Town of Lincoln.


6. Effective Date

This amendment is effective upon enactment and publication.

Enacted this 6th day of May, 2019, by the Town Board of Supervisors of the Town of Lincoln, Kewaunee County, Wisconsin.

TOWN BOARD


Cory Cochart, Chairman


Jordan Nowak, Supervisor #1


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

6th day of May, 2019.

Mary Ann Salmon
Mary Ann Salmon, Town Clerk

Ordinance # 2019-

**AMENDMENT TO THE AMENDMENT TO THE TOWN OF LINCOLN
LIVESTOCK FACILITY SITING AND LICENSING ORDINANCE**

1. Authority

This ordinance is an amendment adopted pursuant to the powers granted under Wisconsin Constitution, and Wisconsin Statutes including but not limited to Section 92.15 and 93.90. Further this ordinance is adopted pursuant to the powers granted to the town board under the grant of village powers pursuant to Sec. 60.22 of Wis. Statutes for the protection of public health and safety.

2. Purpose and Findings

Purpose: The purpose of this amendment is to comply with requirements of Sec. 93.90 of Wis. Statutes and ch. ATCP 51, Wis. Adm. Code (ATCP 51), and to establish standards and authority to protect the public health and safety of the people of the Town of Lincoln. This amendment updates the **Town of Lincoln's Amendment to the Livestock Facility Siting and LICENSING Ordinance.**

3. Applicability

This Ordinance applies to all lands within the boundaries of Lincoln Township.

4. General Regulations: The following amendments to the Town of Lincoln Livestock Facility Siting and Licensing Ordinance is hereby adopted:

- A. All references to the Town of Lincoln Livestock Facility Siting and Licensing Ordinance are hereby changed to the Town of Lincoln Livestock Facility Siting and Conditional Use Permit Ordinance.**

5. Penalties

Any person violating this ordinance shall be subject to the penalties applicable under Section 18 of the Livestock Facility Siting and Conditional Use Permit Ordinance of the Town of Lincoln.

6. Effective Date

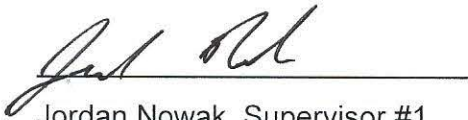
This amendment is effective upon enactment and publication.

Enacted this 6th day of May, 2019, by the Town Board of Supervisors of the Town of Lincoln, Kewaunee County, Wisconsin.

TOWN BOARD



Cory Cochart, Chairman



Jordan Nowak, Supervisor #1

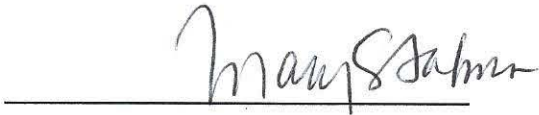


Jesse Jerabek, Supervisor #2

CERTIFICATION OF ENACTMENT

I hereby certify that the foregoing ordinance was duly enacted by the Town Board of the Town of Lincoln on this

6th day of May, 2019.



Mary Ann Salmon, Town Clerk

Chapter **ATCP 51**
APPENDIX A
APPLICATION FORM AND WORKSHEETS

Application for Local Approval
New or Expanded Livestock Facility



Wisconsin Department of Agriculture, Trade and Consumer Protection
2811 Agriculture Drive
P.O. Box 8911
Madison, WI 53708-8911
(608) 224-4622
(608) 224-4500

Introduction

Use this application form to obtain local approval for a *new* or *expanded* livestock facility (cattle, swine, poultry, sheep or goats) that will exceed 500 “animal units” (or a lower threshold established by local zoning ordinance prior to July 19, 2003).

Some local governments require local approval, but others do not. Check with your local government (county and town or municipality) to see if local approval is required in your area.

In some cases, you may need local approval from more than one local government (for example, the county and the town, or 2 towns if your livestock facility straddles the town line). But the application and approval process should be the same.

The construction of a new or altered *livestock structure* does not, by itself, constitute an “expansion” (unless there will also be an increase in *animal units*). If you already have a permit or local approval, you may not need another approval unless your planned expansion exceeds the number of animals previously authorized by your local government.

Local approval, if required, is governed by statewide uniform standards in Wisconsin Statutes s. 93.90 and Wisconsin Administrative Code chapter *ATCP 51*. This application documents compliance with those standards.

The Livestock Facility

A livestock facility includes livestock, livestock structures, the land on which they are located (it does not include pastures or winter grazing areas). *Related livestock facilities* (see definition below) are treated as a single livestock facility, for purposes of local approval. However:

- A separate species facility (see definition below) may be treated as a separate livestock facility, even if it is owned by the same person and located on the same land parcel as another livestock facility.
- A mere acquisition of a neighboring livestock facility does not constitute an *expansion* unless more *animal units* are added to the combined facilities.

Completing the Application

If local approval is required, complete this entire application form (including the worksheets). Follow the instructions in the application form. Attach all of the supplementary documentation required. Your application must be complete, credible and internally consistent.

The application form and worksheets ask for information to show compliance with Wisconsin livestock facility siting standards. A local government has *very limited* authority to modify the standards by local ordinance (modifications, if any, must be reflected in the local version of this application form).

As part of your application, you must specify the number of *animal units* that you will keep at a new or expanded livestock facility. If the local government approves your requested number, this will be the maximum number that you may keep for 90 days or more in any 12-month period.

A local government may require you to submit up to 4 duplicate copies of the complete application, worksheets, maps and other attachments. But you are not required to submit duplicate copies of engineering design specifications.

Worksheets

This application includes the following worksheets:

- *Animal units* (worksheet 1)
- Odor management (worksheet 2)
- Waste and nutrient management (worksheet 3)
- Waste storage facilities (worksheet 4)
- Runoff management (worksheet 5)

Complete the worksheets following all instructions (including those on each worksheet). You may use a convenient automated spreadsheet in place of Tables A and B of worksheet 2 if you prefer (results are identical). The spreadsheet is available at <http://www.datcp.state.wi.us>.

If the Wisconsin Department of Natural Resources (*DNR*) has issued a Wisconsin Pollutant Discharge Elimination System (*WPDES*) permit for your proposed livestock facility, you can check a box on worksheets 3, 4 and 5, and submit a copy of that permit with the worksheets. A *WPDES* permit does not affect the requirements for completing worksheets 1 and 2.

Fees

A local government may require a fee to offset its reasonable costs to review and process this application. The fee, if any, must be established by local ordinance and may not exceed \$1,000. A local government may NOT charge any other fee, or require you to post any bond or security.

Local Approval Process

If you complete the application properly, the local government **MUST APPROVE** the proposed livestock facility unless it finds, based on clear and convincing evidence in the local record, that the facility fails to meet the state standards.

Within 45 days after you submit your application, the local government must notify you whether your application is complete. If you failed to complete part of the application, you must submit the missing information. The local government must grant or deny the application within 90 days after it declares the application complete, and issue its decision in writing. The approval must include a duplicate copy of the approved application, marked "approved." The duplicate copy shall include all the worksheets, maps, and other attachments included in the application, with the exception of the engineering design specifications. The local government must make a record of its decision making process, and the evidence supporting its decision. The record must include your application.

Appeal of Local Decision

If you disagree with the local government's decision on your application, you may appeal that decision to the Wisconsin Livestock Facility Siting Review Board ("Board"). Other "aggrieved persons" may also appeal to the Board. An "aggrieved person" includes any person who resides or owns land within 2 miles of your proposed livestock facility.

You must file your appeal within 30 days after the local government issues its decision (or, if you pursue a local administrative appeal process first, within 30 days after that appeal process is complete). The Board will review the local decision based on the evidence in the local record (it will not hold a new hearing or accept new testimony or evidence). You must file your appeal in writing at the following address:

Wisconsin Livestock Facility Siting Review Board
c/o Secretary, Department of Agriculture, Trade and Consumer Protection
P.O. Box 8911
Madison, WI 53708-8911

Terms Used in this Application Form

In this application form, you will see a number of **italicized** terms. Those terms are defined below (for more specific definitions, see ATCP 51):

"Adjacent" – Located on land parcels that touch each other, or on land parcels that are separated only by a river, stream, or transportation or utility right-of-way.

"Affected Neighbors" – Residences or *high-use buildings* within 2500 feet of any livestock structure at the proposed facility, other than those owned by the applicant or by persons who have agreed to exclude them from the applicant's odor score calculation. The total odor score for a *livestock facility* depends, in part, on the proximity and density of "affected neighbors."

"Animal housing area" – That portion of an animal housing structure to which animals have access, and in which manure may accumulate. "Animal housing area" includes free-stalls and travel lanes. It does NOT include holding areas, feed alleys, storage areas or milking parlors.

"Animal lot" – A feedlot, barnyard or other outdoor facility where livestock are concentrated for feeding or other purposes. Pastures and winter grazing areas are NOT "animal lots." Treat multiple "animal lots" as a single "animal lot" if runoff from the "animal lots" drains to the same treatment area or if runoff from the "animal lot" treatment areas converges or reaches the same surface water within 200 feet of any of those treatment areas.

"Animal units" – Equivalent units of *livestock*. The number of animals constituting an "animal unit" varies by species. For example, one milking dairy cow equals 1.4 "animal units." A beef animal over 600 lbs. equals 1.0 "animal units." A pig over 55 lbs. equals 0.4 "animal units." A laying chicken equals 0.01 "animal unit." The number of "animal units" kept at a *livestock facility* means the largest number of "animal units" that will be at the *livestock facility* on at least 90 days in any 12-month period. Calculate "animal units" according to worksheet 1.

"BARNY runoff model" – The Wisconsin version of a model that is commonly used to predict nutrient runoff from *animal lots*. An Excel computer spreadsheet version is available on the DATCP website (engineering directory).

"Certified agricultural engineering practitioner" – A practitioner who is properly qualified under ATCP 50.46.

"Cluster" – Any group of one or more *livestock structures* within a *livestock facility*. If you wish to do so, you may calculate separate odor scores for "clusters" that are separated by more than 750 feet.

“Complete application for local approval” – An application that contains everything required under ss. [ATCP 51.30\(1\)](#) to [\(4\)](#).

“DATCP” – Wisconsin Department of Agriculture, Trade and Consumer Protection. The application form cites DATCP rules including Wis. Adm. Code chs. [ATCP 51](#) (livestock facility siting), [ATCP 50](#) (soil and water resource management) and [ATCP 17](#) (livestock premises registration).

“DNR” – Wisconsin Department of Natural Resources. The application form cites DNR rules including Wis. Adm. Code chs. [NR 243](#) (*WPDES* permits), [NR 811](#) (community wells) and [NR 812](#) (private wells).

“Expanded livestock facility” – The entire *livestock facility* created by an *expansion*, including new, existing and altered *livestock structures* (existing structures are subject to less rigorous standards). Your application must indicate the maximum number of *animal units* that you will keep at the “expanded livestock facility.”

“Expansion” – An increase in the largest number of *animal units* kept at a *livestock facility* on at least 90 days in any 12-month period. The acquisition of an existing livestock facility, by the operator of an *adjacent* facility, is not an “expansion” unless the operator increases the largest number of *animal units* kept at the combined livestock facilities on at least 90 days in any 12-month period.

“High-use building” – A residential building that has at least 6 distinct dwelling units; a restaurant, hotel, motel, or tourist rooming house; a school building; a hospital or licensed care facility; or a non-farm business or workplace that is open at least 40 hours a week. The odor score for your *livestock facility* depends, in part, on the proximity and density of neighboring “high-use buildings.”

“Karst features” – Sinkholes, fractured bedrock or like features that may result in direct pollution runoff to groundwater.

“Livestock” – Cattle, swine, poultry, sheep or goats.

“Livestock facility” – A feedlot, dairy farm, or other operation where *livestock* are or will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period. A “livestock facility” includes all of the tax parcels on which the facility is located, but it does NOT include a parcel used only for *pasture* or as a *winter grazing area*. **Related livestock facilities are considered a single “livestock facility,”** except a livestock operator may elect to treat a *separate species facilities* as a separate livestock facility.

“Livestock structure” – A building or structure such as a barn, milking parlor, feed storage facility, feeding facility, *animal lot* or *waste storage structure*. *Pastures*, *winter grazing areas* and machine sheds are NOT “livestock structures.”

“Local approval” – A license, permit, special zoning exception, conditional use permit, or other local authorization for a *new or expanded livestock facility*. This application form applies, regardless of the form of local approval. However, this application form does NOT cover any of the following permits (for which separate requirements may apply):

- Building, electrical or plumbing permits (if local standards are consistent with state code).
- **Manure storage system permits (see [ATCP 50.56](#)), UNLESS construction is part of a *new or expanded livestock facility*.**
- Permits required by certain local ordinances related to shoreland zoning, floodplain zoning, construction site erosion control or stormwater management.

“New livestock facility” – A *livestock facility* used for the first time, or for the first time in at least 5 years.

“NRCS” – The Natural Resource Conservation Service of the United States Department of Agriculture. Wisconsin livestock siting standards refer to NRCS Technical Guide standards.

“Pasture” – Land on which livestock graze or otherwise seek feed in a manner that maintains the vegetative cover over all of the grazing or feeding area.

“Premises ID” – The unique ID number assigned to your *livestock facility* under the Wisconsin Livestock Premises Registration Program ([ATCP 17](#)). Go to <http://www.datcp.state.wi.us> for more information. To register your *livestock facility*, go to <http://www.wiid.org/>.

“Qualified nutrient management planner” – A person, other than the applicant, who is qualified under [ATCP 50.48](#).

“Related livestock facilities” – Two or more *livestock facilities* that are owned or managed by the same person and meet any of the following criteria:

- **They are located on the same tax parcel or *adjacent* tax parcels.**
- **They use any of the same *livestock structures* to collect or store manure.**
- **They generate manure that is applied to the same parcel of land.**

“Separate Species Facility” – A distinct part of a *livestock facility* that meets all of the following criteria:

- It has only one of the following types of livestock, and that type is not found in any other part of the *livestock facility*:
 - Cattle
 - Swine
 - Poultry
 - Sheep
 - Goats
- It has no more than 500 *animal units*.
- Its animal housing and manure storage structures, if any, are located at least 750 feet from *livestock structures* that are used by other parts of the *livestock facility*.

“Substantially altered” livestock structure – A *livestock structure* that undergoes a material change in construction or use such as:

- An increase in the capacity of a *waste storage facility*.
- The addition of a liner to a *waste storage facility*.
- An increase of more than 20% in the area or capacity of a *livestock structure* used to house, feed, or confine *livestock* or to store livestock feed.
- An increase of more than 20% in the number of *animal units* that will be kept in a *livestock structure* on at least 90 days in any 12- month period.

“Waste storage structure” – An embankment structure, excavated pit, dugout or fabricated structure that is used to store manure, milking center waste or other organic waste generated by a *livestock facility*. For the purposes of waste storage structure setback (application form, A-2) and worksheet 2, a “waste storage structure” does not include a structure used to collect and store waste under an animal housing facility, or a manure digester consisting of a sealed structure in which manure is subjected to managed biological decomposition.

“Waste storage facility” — A *waste storage structure* and any attached piping or equipment used to load or unload the structure.

“Winter grazing area” – Cropland or *pasture* where *livestock* feed on dormant vegetation or crop residue, with or without supplementary feed, during the period October 1 to April 30. “Winter grazing area” does *not* include any of the following:

- An area, other than a *pasture*, where *livestock* are kept during the period from May 1 to September 30.
- An area which at any time has an average of more than 4 *animal units* per acre.
- An area from which *livestock* have unrestricted access to navigable waters of the state.
- An area in which manure deposited by *livestock* causes nutrient levels to exceed standards in ATCP 51.16.

“WPDES permit” – Wisconsin Pollutant Discharge Elimination System permit issued by DNR for a concentrated animal feeding operation over 1000 *animal units*, or for operations of any size that discharge pollutants directly to waters of the state.

arm-lwr-11/04 January, 2006



Wisconsin Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive, PO Box 8911, Madison WI 53708-8911
 Phone: (608) 224-4622 or (608) 224-4500

Application for Local Approval
New or Expanded Livestock Facility

Wis. Statutes s. 93.90
 Wis. Adm. Code ch. ATCP 51

1. Legal Name of Applicant (Business Entity):

2. Type of Business Entity: check one

<input type="checkbox"/> Individual	<input type="checkbox"/> Corporation	<input type="checkbox"/> Partnership	<input type="checkbox"/> Cooperative	<input type="checkbox"/> LLC
<input type="checkbox"/> Trust	<input type="checkbox"/> Other	Describe:		

3. Other names, if any, under which applicant does business (list all):

4. Contact Individual: Name:

Phone: E-mail:

5. Business Address: Street Address:

City/Village/Town: County: State: Zip:

6. Principal Owners or Officers (list if applicant is an entity other than an individual):

Name:	Title:	Phone:
Address:	City:	State: Zip:
Name:	Title:	Phone:
Address:	City:	State: Zip:
Name:	Title:	Phone:
Address:	City:	State: Zip:

7. Description of Proposed Livestock Facility

Check one: New Livestock Facility Expanded Livestock Facility Premises ID:

Address of Proposed Livestock Facility:

City/Village/Town: County: State: Zip:

Town # Range # (E or W) Section # ¼ Section #

Application (continued)
<p>8. Total Animal Units</p> <p>Enter total <i>animal units</i> from worksheet 1:</p> <p>Total Animal Units: _____. This is the maximum <i>livestock facility</i> size for which the applicant requests approval at this time.</p>
<p>9. Area Map of Livestock Facility</p> <p>Attach a scale map or aerial photo of the proposed <i>livestock facility</i> and surrounding area. The map or photo must be appropriately sized and marked, so that it clearly and legibly shows all of the following:</p> <ul style="list-style-type: none"> • All existing and proposed <i>livestock structures</i>. Label each <i>livestock structure</i> to show structure type, and whether existing or proposed. • The area lying within 2 miles of any of the <i>livestock structures</i>. Show all existing buildings, property lines, roadways, and navigable waters lying within that area. • All residences and <i>high use buildings</i> within 2500 ft. of any <i>livestock structure</i>. Show which (if any) of those buildings are owned by the applicant, or by persons who have agreed to exclude the buildings from the applicant's odor worksheet calculations. • Topographic lines at 10 ft. elevation intervals. • Map scale and north direction indicator.
<p>10. Site Map of Livestock Facility</p> <p>Attach a scale map or aerial photo of the proposed <i>livestock facility</i> site. The map or photo shall be appropriately sized and marked, so that it clearly and legibly shows all of the following:</p> <ul style="list-style-type: none"> • All existing and proposed <i>livestock structures</i>. Label each <i>livestock structure</i> to show structure type, and whether existing or proposed. • The area lying within 1,000 ft. of any of the <i>livestock structures</i>. Show all existing buildings, property lines, roadways, navigable waters, and known <i>karst features</i> within that area. • Topographic lines, at 2 ft. elevation intervals, for the area within 300 feet of the <i>livestock structures</i>. • Map scale and north direction indicator.
<p>11. Location of Livestock Structures</p> <p>The applicant certifies that:</p> <ul style="list-style-type: none"> • All <i>livestock structures</i> comply with applicable local property line and road setbacks (see <i>ATCP 51.12</i>). • All <i>waste storage structures</i> comply with setbacks in <i>ATCP 51.12(2)</i>. • All <i>livestock structures</i> comply with applicable local shoreland, wetland, and floodplain zoning ordinances (copies available from local government). • Wells comply with the Wisconsin well code (<i>NR 811</i> and <i>812</i>). <i>New or substantially altered livestock structures</i> are separated from existing wells (including neighbors' wells) by setback distances required in <i>NR 811</i> and <i>812</i>.

Application (continued)

12. Employee Training Plan

Attach an Employee Training Plan for employees who will work at the *livestock facility*. Applicant determines plan contents, as long as the plan identifies all of the following:

- Training topics including, at a minimum, nutrient management, odor management, runoff management, manure and waste handling, employee safety, and environmental incident response.
- The number and job categories of employees to be trained.
- The form and frequency of training, which at a minimum must include a plan for at least one training per year.
- Training presenters (these may include *livestock facility* managers, consultants or professional educators).
- A system for taking and recording attendance.

13. Environmental Incident Response Plan

Attach an Environmental Incident Response Plan for the *livestock facility*. Applicant determines plans contents, as long as the plan identifies all of the following:

- Types of environmental incidents covered. These must include, at a minimum, overflows and spills from waste storage facilities, catastrophic system failures, manure spills during transport and application, movement of manure during or after application, catastrophic mortality disposal emergency, and odor complaints.
- The name and business telephone number of at least one individual who will handle public questions and concerns related to environmental incidents.
- The names and telephone numbers of first responders (e.g. DNR, fire departments, excavation contractors).
- Incident response procedures, including emergency response, recordkeeping and reporting procedures.

14. Odor Management Plan (Optional)

An applicant required to complete the odor management worksheet may attach an *optional* odor management plan. The applicant determines plan contents, as long as the plan addresses all of the following: activities to reduce community conflict; practices used to reduce dust; practices used to reduce odor from feed storage leachate; practices used to conserve water; and practices used to reduce odor from dead animals.

Application (continued)

15. Other Laws

The following laws, among others, may apply to the operation of a *livestock facility*. Local approval of a *livestock facility* siting application is NOT based on these laws, except as specifically provided in *ATCP 51*. However, violations may have other legal consequences:

- Soil conservation and nonpoint pollution laws (contact your county land conservation department). Livestock facilities that have 1,000 or more animal units, or that discharge pollutants directly to waters of the state, must also obtain a *WPDES permit* from *DNR*.
- Pesticide and agricultural chemical laws administered by *DATCP*.
- Animal disease control laws administered by *DATCP*.
- Animal mortality laws administered by *DATCP*.
- Vehicle weight limits and state prohibitions against spilling waste on roads.
- Food safety and animal health licenses administered by *DATCP*. All livestock operations must register, and some (such as dairy farms) must hold a state license.
- Air pollution control regulations administered by *DNR*.
- Building, electrical, plumbing and sanitation codes administered by the Wisconsin Department of Safety and Professional Services. A local authority may disapprove a proposed *livestock facility* that violates a conforming local code.
- Construction site erosion control laws administered by *DNR*.
- Local erosion control and stormwater management ordinances.
- Petroleum storage laws administered by the Wisconsin Department of Safety and Professional Services.
- High capacity well regulations administered by *DNR*.

16. Worksheets

Complete worksheets as required (follow instructions on each worksheet) and attach to application.

Worksheet 1 – Animal Units.**Worksheet 2 – Odor Management.**

Worksheet 3 – Waste and Nutrient Management. If you hold a *WPDES permit* from *DNR* for the same proposed *livestock facility* (for an equal or greater number of *animal units*), check the appropriate box on this worksheet, and submit a copy of the permit with this application.

Worksheet 4 – Waste Storage Facilities. If you hold a *WPDES permit* from *DNR* for the same proposed *livestock facility* (for an equal or greater number of *animal units*), check the appropriate box on this worksheet, and submit a copy of the permit with this application.

Worksheet 5 – Runoff Management. If you hold a *WPDES permit* from *DNR* for the same proposed *livestock facility* (for an equal or greater number of *animal units*), check the appropriate box on this worksheet, and submit a copy of the permit with this application.

Application (continued)	
Authorized Signature:	
<i>I certify that the information contained in this application (including worksheets and all attachments) is complete and accurate to the best of my knowledge.</i>	
Signature of Applicant or Authorized Representative	Date
Print Name	Title
For Office Use Only:	
Application #:	
Date Application Received:	
Date Completeness Determined:	Date Notice Sent to Applicant:
Date Notice Sent to Adjacent Landowners:	
Decision Date:	
Approved or Disapproved:	
Date Appeal Filed (if any):	

arm-lwr-11/04 January 2006



Wisconsin Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive, PO Box 8911, Madison WI 53708-8911
 Phone: (608) 224-4622 or (608) 224-4500

Worksheet 1 – Animal Units

Instructions: Use this worksheet to determine the number of *animal units* for which you request approval. You may request approval for a number that is large enough to accommodate current and potential future expansions. If the local government approves the requested number of *animal units*, that is the maximum number that you may keep for 90 days or more in any 12-month period. You may not exceed that number without additional approval.

To complete this worksheet:

1. Identify each type of *livestock* that you might keep at the proposed facility. Enter the maximum number of animals of each type that you might keep for at least 90 days in any 12-month period.
2. Multiply the number of animals of each type by the relevant Animal Unit Factor to obtain *animal units* of each type.
3. Sum the *animal units* for all *livestock* types to obtain the Total *Animal Units* for which you request approval.

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

Signature of Applicant or Authorized Representative _____

Date _____

Arm-lwr- 11/04 January 2006



Wisconsin Department of Agriculture, Trade and Consumer Protection
 2811 Agriculture Drive, PO Box 8911, Madison WI 53708-8911
 Phone: (608) 224-4622 or (608) 224-4500

Worksheet 2 – Odor Management

Instructions: This worksheet addresses odor from *livestock structures*. You are NOT required to complete this worksheet if any of the following apply (check box if applicable):

- I am requesting approval for a *new livestock facility* with fewer than 500 *animal units*.
- I am requesting approval for an *expanded livestock facility* with fewer than 1,000 *animal units*.
- All *livestock structures* will be at least 2500 ft. from the nearest affected neighbor.

If you checked any of the above boxes, just sign below and submit this page with your application. If you did NOT check any of the above boxes, you must complete this worksheet to calculate the odor score (Box 4) for your proposed *livestock facility*. To meet the odor management standard, you must have a total odor score of 500 or more.

If *livestock structures* are located in *clusters* that are separated by more than 750 feet, you may elect to complete a separate worksheet for each *cluster*. If you choose that option, each *cluster* must meet the odor management standard.

A complete worksheet must include Tables A and B. You may use a convenient automated spreadsheet in place of Tables A and B if you prefer (submit spreadsheet output instead of tables, results will be identical). However, you must still sign and submit this signature page. The spreadsheet is available at the *DATCP* website, <http://www.datcp.state.wi.us>.

TO COMPLETE THIS WORKSHEET, FOLLOW THESE STEPS:

Step 1: Complete Table A to determine the Predicted Odor from your *livestock structures*. Enter the Predicted Odor in Box 3 below (NOT Box 1).

Step 2: Complete Table B to determine your Separation Score. Enter your Separation Score in Box 1 below. (NOT Box 2).

Step 3: Enter your management credits in Box 2 (maximum 100 points). All applicants may enter 80 points for completing required incident response and employee training plans (described on page A-3). Applicants completing an optional odor management plan (described on page A-3), may add an additional 20 points. Applicants determine plan contents, as long as the plan addresses the required topics.

Step 4: Add Box 1 and Box 2. Subtract Box 3 and enter the total in Box 4. This is your Odor Score.

<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div>	+	<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div>	-	<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div>	=	<div style="border: 1px solid black; width: 100px; height: 20px; margin: 0 auto;"></div>
Box 1 Separation Score (from Step 2)		Box 2 Management Score (from Step 3)		Box 3 Predicted Odor (from Step 1)		Box 4 Odor Score

A local government must approve a *livestock facility* with an odor score of 500 or more (Box 4). You may add odor control practices to increase your odor score to 500 or more. A local government may approve, but is not required to approve, a *livestock facility* with an odor score less than 500 but not less than 470.

Signature of Applicant or Authorized Representative

Date

Worksheet 2 (continued)

TABLE A: Predicted Odor from Livestock Structures

Instructions: Complete Table A. You must measure all structures to the same affected neighbor. If the nearest neighbor is not the same for all livestock structures, you will need to complete the table once for each close neighbor. Compare the "H" Total of the table for each neighbor. The neighbor that has the lowest weighted distance is considered your nearest affected neighbor, and you should use that table to complete the odor worksheet. Enter the Column F total on page A-6 in **Box 3**. Enter the Column G result on page A-8 in **Table B, Step 1**. Add lines or use additional sheet, if needed, to list all structures.

1. Animal Housing Areas – List each

Column A Manure Management Type Enter your housing buildings and the related 4-letter code from Chart 2. You may exclude up to 1000 calf hutches and 4 structures less than the sq. footage listed in Chart 2.	Column B Odor Generation Number From Chart 2	Column C Housing Area (F ²) Use occupied animal area only. Exclude feed alleys, holding areas and milking parlors. Express in 10,000s. (Ex: 15,523 ft ² = 1.55)	Column D Odor Control Practice Codes List all that apply to each housing area, from Chart 3	Column E Multiplier for Odor Control Practice List all that apply to Each from Chart 3. Enter "1" if none.	Column F Predicted Odor Multiply columns B, C, and E	Column G Distance to Nearest Affected Neighbor(ft) Measure from corner of the bldg to corner of the neighbor's bldg. Measure all to the same neighbor.	Column H Weighted Distance (ft.) Multiply columns F & G
1A.							
1B.							
1C.							
1D.							
1E.							

2. Waste Storage Facilities – List each

Column A Waste Storage Type Enter 4-letter type code from Chart 2	Column B Odor Generation Number From Chart 2	Column C Exposed Surface Area Measure surface area (ft ²) when pit is filled to capacity, excluding freeboard. Enter in 10,000's. (Ex: 75,575 = 7.56)	Column D Odor Control Practice Codes List all that apply to each facility from Chart 3	Column E Multiplier for Odor Control Practice List all that apply to each from Chart 3. Enter "1" if none.	Column F Predicted Odor Multiply columns B, C, and E	Column G Distance to Nearest Affected Neighbor (ft) Measure from top inside edge to neighbor's bldg corner. Measure to the same neighbor.	Column H Weighted Distance (ft.) Multiply columns F & G
2A.							
2B.							
2C.							
2D.							

3. Animal Lots – List each

Column A Animal Lot Type Enter 4-letter type code from Chart 2	Column B Odor Generation Number From Chart 2	Column C Animal Lot Area (ft ²) Enter in 10,000's (Ex: 7438 = .74)	Column D Odor Control Practice Codes List all that apply to each facility from Chart 3	Column E Multiplier for Odor Control Practice List all that apply to each from Chart 3. Enter "1" if none.	Column F Predicted Odor Multiply columns B, C, and E	Column G Distance to Nearest Affected Neighbor(ft) Measure from corner to corner. Measure all structures to the same neighbor.	Column H Weighted Distance (ft.) Multiply columns F & G
3A.							
3B.							
3C.							
					F Total	G = (H Total) ÷ (F Total)	H Total

Enter on page A-6, Box 3

Enter on page A-8, Table B, Step 1

Worksheet 2 (continued)

Table B: Separation Score

INSTRUCTIONS		RESULTS
Step 1: Enter, at right, the result from Table A, Column G (page A-7).		Distance (ft.) to Nearest Affected Neighbor: _____
Step 2: Select multiplier based on the compass direction looking from the <i>livestock facility</i> to the nearest <i>affected neighbor</i> . Enter at right.		Multiplier: _____
Compass Direction	Multiplier	
North	1.0	
Northeast	1.0	
East	1.1	
Southeast	1.2	
South	1.2	
Southwest	1.2	
West	1.3	
Northwest	1.1	
Step 3: Calculate wind-adjusted separation distance (Distance to nearest <i>affected neighbor</i> x multiplier). Enter at right.		Wind-Adjusted Separation Distance (ft.) _____
Step 4: Determine <i>affected neighbor</i> density and enter at right: <i>Low density</i> = No more than 5 residences and no <i>high-use buildings</i> within 1300 ft of each structure. <i>High density</i> = 6 or more residences or at least one <i>high-use building</i> within 1300 ft of each structure.		Low or High Density? _____
Step 5: Use results above and Chart 1 to find your Separation Score. Enter at right and on Page A-6 in Box 1 .		Separation Score

Chart 1: Separation Score

Wind-Adjusted Separation Distance (ft.)	Low Density	High Density
0-99	505	503
100-149	506	504
150-199	511	507
200-249	516	510
250-299	521	514
300-349	527	518
350-399	534	523
400-449	541	528
450-499	548	533
500-599	560	542
600-699	577	555
700-799	595	569
800-899	615	585
900-999	636	601
1000-1099	658	619
1100-1199	681	637
1200-1299	705	657
1300-1399	730	
1400-1499	756	
1500-1599	783	
1600-1699	810	
1700-1799	839	
1800-1899	868	
1900-1999	899	
2000-2099	930	
2100-2199	962	
2200-2299	994	
2300-2399	1027	
2400-2499	1061	
2500-2749	1123	
2750-2999	1214	
3000-3249	1309	

Worksheet 2 (continued)

Chart 2: Odor Generation Numbers

Animal Housing Area Type	Housing/ Management Type Code	Manure Management Method	Odor Generation Number	Exempt Buildings Maximum Size (ft²) (May exclude up to 4)
Dairy Stanchion	DSDC	Daily to weekly cleaning	2	7500
Dairy Free Stall and Beef & Dairy Heifers (Forage Ration)	DBSS	Slatted floor (includes floor and pit below)	6	2500
	DBSC	Scrape	4	3500
	DBAF	Alley flush to storage	10	1500
	DBBP	Bedded pack	2	7500
Beef Finishing (High Energy Ration)	BFSF	Slatted floor (includes floor and pit below)	12	1000
	BFSC	Scrape	8	2000
	BFBP	Bedded pack	4	3500
Pork Gestation/ Farrow/Nursery	PGSF	Slatted floor (includes floor and pit below)	46	N/A
	PGPP	Pull plug to storage	22	N/A
Pork Finishing	PFSF	Slatted floor (includes floor and pit below)	34	N/A
	PFPP	Pull plug to storage	20	N/A
	PFSS	Scrape systems to storage	11	1500
	PFDB	Deep bedded	4	3500
Poultry	PBLT	Broiler (litter)	1	15000
	PDLQ	Ducks (liquid)	20	N/A
	PLAY	Layers	20	N/A
	PTDL	Turkey and Ducks (litter)	2	7500

Type Codes	Waste Storage Facility Types <i>Note: Storage under slatted floor is addressed under animal housing.</i>	Odor Generation Number
WSSS	Solid (stack)	2
WSLT	Long term (6 months or longer as determined in Column E of worksheet 3)	13
WSST	Short term (less than 6 months as determined in Column E of worksheet 3)	28

Animal Lot Codes	Animal Lot Types		Odor Generation Number
ALPV	Paved		4
UPDB	Unpaved	Dairy/Beef/Sheep/Goats	6
UPSW		Swine/Poultry	11

Worksheet 2 (continued)

Chart 3: Odor Control Practices

Category	Practice Code	Practice Name (Practices must meet specifications on pages A-11 to A-13)	Multiplier*
Animal Housing Area			
A	A1	Diet manipulation	0.8
B (Choose only 1)	B1	Bio-filter	0.1
	B2	Vegetable oil sprinkling (for swine only)	0.4
	B3	Fresh water flush	0.4
	B4	Treated water flush	0.7
	B5	Air Dam (for swine only)	0.9
C	C1	Windbreak (includes man-made berms)	0.9
D	D1	Frequent cleaning of animal housing area	0.9
Waste Storage Facilities			
E (Choose only 1)	E1	Anaerobic digestion	0.2
	E2	Chemical or biological additives	0.8
	E3	Compost	0.2
	E4	Solids Separation and Reduction	0.6
	E5	Water Treatment	0.1
F (Choose only 1)	F1	Aeration	0.3
	F2	Bio-cover	0.4
	F3	Geotextile cover	0.5
	F4	Impermeable cover	0.1
	F5	Natural crust	0.3
	F6	Bottom fill	0.9
G	G1	Windbreak (includes man-made berms)	0.9
Animal Lots			
H (Choose only 1)	H1	Frequent cleaning of <i>animal lot</i>	0.4
	H2	Drag <i>animal lot</i>	0.5
I	I1	<i>Animal lot</i> moisture control	0.8
J	J1	Windbreak (includes man-made berms)	0.9

*Smaller multiplier = more odor controlled (e.g. a multiplier of 0.4 represents a 60% control).

Innovative Odor Control Practices (all odor sources):

You may take credit for odor control practices not listed in Chart 3 if *DATCP* pre-approves a multiplier for each of those practices. Follow the procedure in *ATCP 51.14(5)(c)* to obtain *DATCP* approval. If you obtain *DATCP* approval, you may include the approved practice and multiplier in odor worksheet calculations in the same manner as for odor control practices listed in Chart 3 (attach *DATCP* approval to your application).

Odor Control Practice Specifications

Odor control practices identified in Chart 3 must meet the following specifications:

Animal Housing

Diet manipulation (A1) – Limit protein in animal diet by one of the following means:

- Match nutrient supply with animal requirements.
- Formulate low-protein amino acid supplemented diets.
- Add phytase enzyme ingredients.
- Process ingredients in ways that limit protein content of processed feed.
- Use phase feeding.
- Use split sex feeding.
- Minimize feed wastage.

Bio-filter (B1) – Vent air from *animal housing areas* through a bio-filter consisting of compost and wood chips, mixed at a rate of 30:70 to 50:50 (ratio by weight of compost to wood chips). The mixture must be at least 40% moisture by weight. The bio-filter must be 10" to 18" thick, and must have an area of at least 50 to 85 sq. ft. per 1000 cu. ft. per minute (cfm) of airflow.

Vegetable oil sprinkling (B2) – Sprinkle vegetable oil on floors in *animal housing areas* (swine) each day. Apply oil at start-up rate of approximately 40 milliliters per square meter per day (mL/m²-day) in the first 1–2 days of each production cycle. During the remainder of each production cycle, apply oil at maintenance rate of 5 mL/m²-day. Avoid oil applications to pens near fans, to areas near heaters, and to areas surrounding feeders.

Fresh water flush (B3) – Use fresh water to flush manure from floors of *animal housing areas* into collection or *waste storage structures*. Flush at least 3 times a day, and more often if necessary, to prevent manure from drying and sticking to floors. Flush must be adequate to remove manure solids effectively.

Treated water flush (B4) – Use treated manure effluent to flush manure from floors of *animal housing areas* into collection or *waste storage structures*. Flush at least 3 times a day, and more often if necessary, to prevent manure from drying and sticking to floors. Flush with waste storage effluent treated by one of the following means:

- *Solids Separation and Reduction (see E4 below).*
- *Aeration (see F1 below).*
- *Anaerobic digestion (see E1 below).*

Air Dam (B5) – Erect and maintain a wall (typically a 10-foot x 10-foot pipe frame and tarpaulin) placed at the end of a swine-finishing building, immediately downwind of the exhaust to deflect air and odor plume. Replace material used for the barriers (tarpaulins on a frame of solid wood, for example) as needed, which may be from a few years to decades, depending on the material.

Windbreak (C1) – Maintain a solid or porous windbreak, 10 to 50 feet from the odor source, which reduces forward momentum of airflow and vertically disperses the odor plume. The length of a windbreak shall be at least half of the perimeter of the animal housing. A windbreak may be constructed of vegetation or other materials. Vegetation windbreaks must contain at least 3 rows of trees and shrubs, of both fast and slow-growing species, that are well suited for the site. Windbreaks must be designed and constructed according to NRCS Technical Guide Standard 380 (June, 2002).

Frequent cleaning of animal housing area (D1) – Scrape and remove manure from *animal housing areas* at least 3 times a day.

Worksheet 2 (continued)

Waste Storage Facilities

Anaerobic digestion (E1) – Subject manure to managed biological decomposition within a sealed oxygen-free container (“digester”). Anaerobic digestion must meet design and operational standards necessary to achieve adequate odor control, including requirements for solids concentration, flow rates, retention time, and minimum temperatures. Systems must meet the following:

- *Plug flow digester.* Treats manure with a total solids concentration of 8 to 14%. Must be kept in the digester for at least 20 days at a temperature of 95° to 104° F. (35° to 40° C). The digester's ratio of flow path width to fluid depth must be between 3.5:1 and 5:1.
- *Complete mix digester.* Treats manure with a total solids concentration of 2.5 to 10%. Must be kept in the digester for at least 17 days at a temperature of 95° to 104° F. (35° to 40° C.). The digester must have appropriate mixing devices to ensure complete mixing.
- *Fixed film digester.* Treats manure with a total solids concentration of not more than 5%. Must be kept in the digester for 1 to 6 days at a temperature of 59° to 99° F. (15° to 39° C). Microbial support material must have at least 3-inch openings.
- *Other systems.* Use proprietary design and performance specifications that are commonly accepted and provide adequate odor mitigation.

Chemical or biological additives (E2) – Apply, to stored manure, chemical or biological additives that are scientifically proven to be effective in reducing odor from that manure when applied under applicable conditions and in applicable amounts.

Compost (E3) – Aerobically treat solid or semi-solid manure to create compost. Compost must have a carbon: nitrogen ratio of 25:1 to 40:1, and must consist of at least 40 to 60% moisture by weight. Composted material must be held at a temperature of more than 130° F. (54° C.) for more than 5 days.

Solids Separation and Reduction (E4) – Reduce the solid content of stored manure to an average of less than 2% solids through separation, multi-tiered pits or other means.

Water Treatment (E5) – Install and use a physical, chemical or biological process that removes the majority of contaminants from the waste stream, resulting in a liquid effluent meeting surface water discharge standards. The remaining solid fraction or sludge must be accounted for based on its form, and the management it is subject to.

Aeration (F1) – Use aeration equipment to maintain aerobic activity in stored manure. Aeration must maintain an average of 2 milligrams of dissolved oxygen per liter of manure stored in the upper foot of manure stored in the aerated structure between April and October.

Bio-cover (F2) – Cover the surface of waste storage structure with an 8" to 12" thick blanket of dry wheat, barley or good quality straw. The blanket must cover nearly all of the waste surface between the months of April and October. Add to the blanket as necessary (typically every 6 weeks to 4 months) to maintain the required cover.

Geotextile cover (F3) – Cover the surface of waste storage structure with a geotextile membrane that is at least 2.4 mm thick. The membrane must cover nearly all of waste surface between the months of April and October.

Impermeable cover (F4) – Cover the surface of waste storage structure with an impermeable barrier that prevents gas from escaping. Gas must be drawn off, and either treated or burned.

Natural crust (F5) – Maintain a natural crust of dry manure on the surface of stored manure. The natural crust must cover a substantial amount of the surface area of the stored manure, for most of the time between the months of April and October.

Bottom fill (F6) – Add manure to a liquid *manure storage structure* from the bottom so as to limit disturbance to the surface of the stored manure.

Windbreak (G1) – Maintain a solid or porous windbreak, 10 to 50 feet from the odor source, which reduces forward momentum of airflow and vertically disperses the odor plume. The length of a windbreak shall be at least half of the perimeter of the *waste storage facility*. A windbreak may be constructed of vegetation or other materials. Vegetation windbreaks must contain at least 3 rows of trees and shrubs, of both fast and slow-growing species, that are well suited for the site. Windbreaks must be designed and constructed according to *NRCS Technical Guide Standard 380* (June, 2002).

Worksheet 2 (continued)

Animal Lots

Frequent cleaning of animal lot (H1) – Scrape and remove manure from *animal lot* surfaces at least once every 3 days. You may leave an undisturbed, compacted manure layer (1 to 2 inches thick) on the surface of unpaved *animal lots* to provide good surface sealing.

Drag animal lot (H2) – Drag manure in *animal lots* with harrow or disk at least once every 7 days during the months of April through October, to aerate and dry the manure.

Animal lot moisture control (I1) – Prevent runoff water from flowing onto *animal lots* from roofs and other surfaces. Use diversions or roof runoff systems identified in s. [ATCP 50.70](#) or [50.85](#). *Animal lots* must have a grade of at least one percent to promote drainage and drying.

Windbreak (J1) – Maintain a solid or porous windbreak, 10 to 50 feet from the odor source, which reduces forward momentum of airflow and vertically disperses the odor plume. The length of a windbreak shall be at least half of the perimeter of the *animal lot*. A windbreak may be constructed of vegetation or other materials. Vegetation windbreaks must contain at least 3 rows of trees and shrubs, of both fast- and slow-growing species, that are well suited for the site. Windbreaks must be designed and constructed according to NRCS Technical Guide Standard 380 (June, 2002).

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Wisconsin Department of Agriculture, Trade and Consumer Protection

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 Phone: (608) 224-4622 or (608) 224-4500

Worksheet 3 – Waste and Nutrient Management

Part A. Waste Generation and Storage Summary

Instructions: You must complete Parts A and B of this worksheet. If your *livestock facility* will have fewer than 500 *animal units* you may be exempt from Part C, depending on results of Part B. If Part C applies, it must be signed by a *qualified nutrient management planner* (you must also sign).

You are NOT required to complete this worksheet if you already hold a *WPDES permit* for the proposed *livestock facility* (for the same or greater number of *animal units*). Simply check the following box, sign at the bottom of this page, and include a copy of the *WPDES permit* with your application.

I enclose a copy of my *WPDES permit* in place of Worksheet 3.

Specify a single livestock type (dairy, beef, swine, etc.). *Use a separate worksheet for each livestock type.*

Livestock Type: _____

Description of Storage	Column A Waste Storage Capacity (Gallons or Tons)	Column B Source of Waste (Animal Waste, Wastewater, Leachate, etc.)	Column C Average Annual Volume of Waste Produced from Each Source (Gallons or Tons)	Column D Total Average Annual Volume Waste Produced (Gallons or Tons)	Column E Storage Duration in Days (Column A divided by Column D times 365 days)
<i>Example:</i> Unit 1 – lagoon	5,000,000 gallons	<i>Animal waste</i>	4,000,000 gallons	7,000,000 gallons	260 days
		<i>Wastewater</i>	1,000,000 gallons		
		<i>Leachate</i>	2,000,000 gallons		
Unit 1					
Unit 2					
Unit 3					

Applicant affirms that the information provided in Part A is accurate.

Signature of Applicant or Authorized Representative

Date

Arm-lwr- 11/04 January 2006	Worksheet 3 (continued)
Part B – Land Base for Applying Nutrients	
1. Enter total <i>animal units</i> in proposed <i>livestock facility</i> (from worksheet 1): _____.	
2. What percentage of the waste from the <i>livestock facility</i> will be: <ul style="list-style-type: none"> a. Applied to land: _____%. Attach map showing where waste will be applied to land. b. Processed and sold as commercial fertilizer, under a fertilizer license: _____%. c. Disposed of in other ways: _____%. Describe ways: _____ 	
3. Multiply the percent in line 2a by the number of <i>animal units</i> in line 1. Result (# of <i>animal units</i>): _____	
4. Total acres of cropland currently available for land application (owned, rented, or landspreading agreement): _____	
5. Divide # of acres in line 4 by # of <i>animal units</i> in line 3 to obtain ratio of acres to <i>animal units</i> : _____	
6. Is the ratio in line 5 equal to or greater than the applicable ratio in Table 1? _____ If YES, and if the # of <i>animal units</i> in line 1 is less than 500, you need NOT complete Part C. Otherwise, complete Part C.	

Table 1: Acreage per Animal Unit

Animal Type	Acres per Animal Unit*
Dairy	1.5
Beef	1.5
Swine	1.0
Chickens/Ducks	2.5
Turkeys	5.5
Sheep/Goats	2.0

* NOTE: A *livestock facility* is NOT required to attain or exceed this ratio of acres to *animal units*. But IF your *livestock facility* will attain or exceed this ratio and will have fewer than 500 *animal units*, you need NOT complete Part C of this worksheet.

Applicant affirms that the information provided in Part B is accurate.

Signature of Applicant or Authorized Representative

Date

Worksheet 3 (continued)	
arm-lwr- 11/04 January 2006	
Part C – Nutrient Management Checklist	
Instructions: All applicants must submit this checklist unless exempted under Part A or B. The checklist is based on the NRCS Technical Guide Nutrient Management Standard 590 (September, 2005).	
County Name:	Date Submitted:
Township (T. _____ N., S.) – (R. _____ E., W.)	
Cropland Acres: (owned, rented, or with manure spreading agreement)	Name of livestock operator submitting checklist:
	Yes NA
1. Are the following field features identified on maps or aerial photos?	
a) Field location, soil survey map unit(s), field boundary, and field identification number.	
b) Areas prohibited from receiving nutrient applications: Surface water, established concentrated flow channels with perennial cover, permanent non-harvested vegetative buffer, non-farmed wetlands, sinkholes, lands where established vegetation is not removed, nonmetallic mines, and fields eroding at a rate exceeding tolerable soil loss (T).	
c) Areas within 50 ft of a potable drinking water well where mechanically-applied manure is prohibited.	
d) Areas prohibited from receiving winter nutrient applications: Slopes > 9% (12% if contour-cropped); Surface Water Quality Management Area (SWQMA) defined as land within 1,000 ft of lakes and ponds or within 300 ft of perennial streams draining to these waters, unless manure is deposited through winter gleaning/pasturing of plant residue and not exceeding the N and P requirements of this standard.	
e) Areas where winter applications are restricted unless effectively incorporated within 72 hours: Land contributing runoff within 200 ft upslope of direct conduits to groundwater such as a well, sinkhole, fractured bedrock at the surface, tile inlet, or nonmetallic mine.	
f) Sites vulnerable to N leaching: Areas within 1,000 ft of a municipal well, and soils listed in Appendix 1 of the Conservation Planning Technical Note WI-1.	
2. Are erosion controls implemented so the crop rotation will not exceed T on fields that receive nutrients according to the conservation plan or WI P Index model?	
3. Check the methods below used to determine field soil nutrient levels:	
a) Soil samples were collected and analyzed within the last 4 years according to UW Publication A2100 recommendations.	
b) For fields not meeting (a.) above, soil test phosphorus levels are assumed to be greater than 100 ppm soil test P. *	
c) For fields not meeting (a.) above, preliminary estimates of soil nutrients were determined using limited soil sampling (> 5 acre per sample) but analyzed by a DATCP certified laboratory. *	
*For fields with soil nutrient levels determined under (b) or (c), the applicant must collect and analyze soil samples meeting the requirements of A2100 within 12 months of siting approval, and revise the nutrient management plan accordingly.	
4. Using the field's predominant soil series and realistic yield goals, are planned nutrient application rates, timing, and methods of all forms of N, P, and K listed in the plan and consistent with UW Publication A2809, Soil Test Recommendations for Field, Vegetable and Fruit Crops, and the 590 standard?	
5. Do manure production and collection estimates correspond to the acreage needed in the plan? Are manure application rates realistic for the calibrated equipment used?	
6. Is a single phosphorus (P) assessment of either the P Index or soil test P management strategy uniformly applied to all fields within a tract?	
7. Are areas of concentrated flow, resulting in reoccurring gullies, planned to be protected with perennial vegetative cover?	
8. Will nutrient applications on non-frozen soil within the SWQMA comply with the following?	
a) Unincorporated liquid manure on unsaturated soils will be applied according to Table 1 of the 590 standard to minimize runoff.	
b) One or more of the following practices will be used: 1) Install/maintain permanent vegetative buffers, or 2) Maintain greater than 30% crop residue or vegetative coverage on the surface after nutrient application, or 3) Incorporate nutrients leaving adequate residue to meet tolerable soil loss, or 4) Establish fall cover crops promptly following application.	
9. Is a narrative included which describes proposed manure collection, transportation, and application methods?	

I certify that the documentation supporting this checklist is complete and accurate:

Signature of *Qualified Nutrient Management Planner*, other than applicant: _____
 (qualified by 1. NAICC-CPC, 2. ASA-CCA, 3. ASA-Professional Agronomist, 4. SSSA-Soil Scientist)

Signature of Applicant or Authorized Representative: _____

Arm-lwr- 11/04 January 2006



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Worksheet 4 – Waste Storage Facilities

Instructions: This worksheet must be signed by a registered professional engineer or *certified agricultural engineering practitioner*. This worksheet must identify every *waste storage facility* in the proposed *livestock facility* (including storage structures and transfer systems).

You are NOT required to complete this worksheet if you already hold a *WPDES permit* for the proposed *livestock facility* (for the same or greater number of *animal units*). Simply check the following box, sign at the bottom of this page, and include a copy of the *WPDES permit* with your application.

I enclose a copy of my *WPDES permit* in place of Worksheet 4.

New or Substantially Altered Facilities: Design specifications for the following *new* or *substantially altered waste storage facilities* comply with *NRCS Technical Guide Standards 313* (November, 2004) and *634* (November, 2004). [Identify each facility and attach design specifications for each facility.]

Existing Facilities Retained: The following *waste storage facilities* will continue in use without being *substantially altered*. Each facility meets one of the following:

- The facility (list each facility _____) was constructed of concrete or steel or both, was constructed within the last 10 years according to then-existing *NRCS* technical standards, and shows no apparent signs of structural failure or significant leakage.
- The facility (list each facility _____) was constructed within the last 3 years according to then-existing *NRCS* technical standards, and shows no apparent signs of structural failure or significant leakage.
- The facility (list each facility _____) was constructed to *NRCS* technical standards that existed at the time of construction, is in good condition and repair and shows no apparent signs of structural failure or significant leakage.
- The facility (list each facility _____) is in good condition and repair, shows no apparent signs of structural failure or significant leakage, and is located on a site at which the soils and separation distances to groundwater comply with *NRCS Technical Guide Manure Storage Facility Standard 313*, Table 1 (November, 2004).
- The facility (list each facility _____) is in good condition and repair, shows no apparent signs of structural failure or significant leakage, is located entirely above ground, and is located on a site at which the soils comply with *NRCS Technical Guide Manure Storage Facility Standard 313*, Table 5 (November, 2004).

Facilities To Be Abandoned: The following *waste storage facilities* will be closed according to a closure plan that complies with *NRCS Technical Guide Standard 360* (June, 2001). [Attach closure plan for each facility.]

Total Storage Capacity: The *waste storage facilities* in the proposed *livestock facility* have a combined useable storage capacity of _____ gallons or tons (cannot include required “freeboard” in useable capacity).

Professional Engineer’s
 Embossed Seal

 Print Name of Engineer (include WI License No.) or *Certified Agricultural Engineering Practitioner*

 Signature of Engineer or Practitioner

 Date

 Name of Firm and Address

Arm-lwr- 11/04 January 2006


Wisconsin Department of Agriculture, Trade and Consumer Protection

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Phone: (608) 224-4622 or (608) 224-4500

Worksheet 5 – Runoff Management

Instructions: This worksheet must be signed by a registered professional engineer or *certified agricultural engineering practitioner* (you must also sign). Signers attest to statements in this worksheet. You are responsible for compliance.

You are NOT required to complete this worksheet if you already hold a *WPDES permit* for the proposed *livestock facility* (for the same or greater number of *animal units*). Simply check the following box, sign at the bottom of this page, and include a copy of the *WPDES permit* with your application.

I enclose a copy of my *WPDES permit* in place of Worksheet 5.

Animal Lots¹

1. New or Substantially Altered Animal Lots: All *new* or *substantially altered animal lots* will be constructed according to the attached design specifications that comply with *NRCS Technical Guide Standard 635* (January, 2002). [Identify *animal lots* and attach design specifications for each *animal lot*.]

2. Existing Animal Lots Near Surface Waters: The following *animal lots* are located within 300 feet of a stream² or 1,000 feet of a lake. According to the *BARNY runoff model*, each of these *animal lots* has (or with minor alterations³ will have) predicted average annual phosphorus runoff of less than 5 lbs. per year (measured at the end of the treatment area). Runoff does not discharge to any direct conduit to groundwater. [Identify *animal lots* and minor alterations if any.]

3. Other Existing Animal Lots: The following *animal lots* are NOT located within 300 feet of a stream² or 1,000 feet of a lake. According to the *BARNY runoff model*, each *animal lot* has (or with minor alterations³ will have), a treatment area that reduces phosphorus runoff to an average of less than 15 lbs. per year (measured at the end of the treatment area). Runoff does not discharge to any direct conduit to groundwater. [Identify *animal lots* and minor alterations if any.]

Feed Storage

1. General. The operator agrees to manage feed storage to prevent significant discharge of leachate or polluted runoff to waters of the state.

2. Existing Feed Storage (High Moisture Feed). Existing paved areas and bunkers that may be used to store or handle high moisture feed (70% or higher moisture content) will meet the following standards:

- a) Surface water runoff will be diverted from entering the paved area or bunker.⁴
- b) Surface discharge of leachate will be collected before it leaves any paved area or bunker, if the paved area covers more than one acre. Collected leachate will be stored and disposed of in a manner that prevents discharge to waters of the state.⁵

¹ Treat multiple lots as one *animal lot* if runoff from the *animals lots* drains to the same treatment area or if runoff from the *animal lot* treatment areas converges or reaches the same surface water within 200 feet of any of those treatment areas.

² Indicated by a solid or dashed blue line on a 1:24,000 scale USGS topographic map.

³ "Minor alterations" are repairs or improvements that do not result in a *substantially altered animal lot*. "Minor alterations" may include conservation practices such as runoff diversions, contouring, and planting vegetation.

⁴ Runoff may be diverted by means of earthen diversions, curbs, walls, gutters, waterways or other practices, as appropriate.

⁵ Use safe methods to dispose of collected leachate. For example, leachate may be transferred to *waste storage structures* and then applied to land at agronomic rates.

Worksheet 5 (continued)

3. New or Substantially Altered Feed Storage Structures (High Moisture Feed): *New or substantially altered* feed storage structures (buildings, silos, bunkers or paved areas) used to store or handle high moisture feed (70% or higher moisture content) will be designed, constructed and maintained to the following standards [attach design specifications]:

- a) Surface water runoff will be diverted from entering the feed storage structure.¹
- b) Surface discharge of leachate will be collected before it leaves the feed storage structure.²
- c) The top of the feed storage structure floor will be at least 3 vertical feet from groundwater and bedrock.³
- d) Any feed storage structure with an area greater than 10,000 sq. ft. will have a subsurface drainage system to collect leachate that may leak through the structure floor. The subsurface drainage system must consist of drainfill material below the surface material, a tile drainage network designed to collect the leachate and deliver it to storage, and a subliner. The tile drainage network must, at a minimum, be installed at the perimeter of the structure only on the downgradient side(s). The sub-liner must, at a minimum, consist of one of the following:
 - Two feet of soil, either in place or installed, having a minimum of 50% fine soil particles (that pass a #200 soil sieve).
 - Two feet of soil, either in place or installed, having a minimum of 30% fine soil particles (that pass a #200 soil sieve) and a minimum PI (plasticity index) of 7.
 - A 40 mil liner of HDPE, EPDM or PVC.
 - A geosynthetic clay liner.
- e) Collected leachate will be stored and disposed of in a manner that prevents discharge to waters of the state.²

Nonpoint Pollution Standards

The livestock facility will be designed, constructed and maintained to do all of the following:

- 1. Divert runoff from contact with *animal lots, waste storage facilities, paved feed storage areas or manure piles* within 300 ft. of a stream or 1,000 ft. of a lake.
- 2. Avoid having any unconfined manure pile within 300 ft. of a stream or 1,000 ft. of a lake.
- 3. Prevent any overflow of *waste storage facilities*.
- 4. Restrict livestock access to waters of the state, as necessary to maintain adequate vegetative cover on banks adjoining the water (this does not apply to properly designed, installed and maintained livestock or farm equipment crossings).

	Date
Signature of Applicant or Authorized Representative	
	Date
Print Name of Engineer (include WI License No.) or Certified Practitioner	
Signature of Engineer or Practitioner	Date
Name of Firm and Address	

Professional Engineer's
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¹ Runoff may be diverted by means of earthen diversions, curbs, walls, gutters, waterways or other practices, as appropriate.
² Use safe methods to dispose of collected leachate. For example, leachate may be transferred to waste storage and then applied to land at agronomic rates.
³ A tile system or curtain drain may be used to intercept lateral groundwater seepage, as necessary, to achieve the required distance to groundwater.