

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**

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41 No person shall erect, contrive, cause, continue, maintain, or permit to exist any public nuisance within
42 the Town of Lincoln.

SECTION VI - NUISANCES AFFECTING PUBLIC HEALTH

The following acts, omissions, places, conditions, and things are hereby declared to be public nuisances affecting health and / or safety and are banned and not allowed:

ABANDONED VEHICLES: No person shall leave unattended or stored any vehicle, regardless of the vehicle's physical condition, registration, or license held, any appliance, equipment, or machinery, or parts thereof, on any public street, public road, public highway, or other public property in the town, including the road right-of-way, for such time and under such circumstances as to cause the vehicle, appliance, equipment, or machinery to reasonably appear to have been abandoned. When any vehicle, machinery, appliances, or equipment has been left unattended, parked, or stored on any public street, road, highway, or other public property, including a road right-of-way, within the town for a period of more than 72 hours, the vehicle, structure, machinery, appliances, or equipment is presumed by the town to be abandoned and a public nuisance and may be removed in accordance with s. 342.40, Wis. Stats.

ABANDONED WELLS: All abandoned wells on private or public property must be reported to the WDNR and properly filled and sealed by a licensed well driller or plumber.

ACCUMULATION OF REFUSE: All accumulations of putrescible and non-putrescible solid or liquid wastes such as animal or vegetable matter, trash, rubbish, lumber, bedding, packing material, scrap metal or other trash in which disease-carrying insects, rodents, or other vermin are present or may reasonably be expected to be present.

ADULTERATED FOOD: All decaying, harmfully adulterated or unwholesome food or drink sold or offered for sale to the public.

BREEDING PLACES FOR RATS AND VERMIN: Any place in the town where rats or other vermin are located or frequent on public or private land, and those conditions are not removed or destroyed within 30 after receipt of written notice to remove from the town board.

BURN BARRELS and OPEN BURNING that are used to burn garbage, rubbish, household, trash, debris, asphalt, garbage, metal, petroleum products, plastics, tires, rubber, painted or treated wood, wire, electronics, recyclables, or anything other than what is specifically allowed by the Wisconsin Department of Natural Resources are illegal and banned. Open burning does not include the occasional bon fire or camp fire, or brush and tree limbs, or for grass or weed control. Notification of intent to burn a large bon fire requires the notification and written permission of the town board or board chairperson.

DUMPSTERS, GARBAGE CANS, AND PRIVY VAULTS which are not rodent proof.

EXPLOSIVE AND INFLAMMABLE LIQUIDS: Any explosive or inflammable liquid, combustible material, or other hazardous substance stored or used in any manner which endangers the health and safety of the public.

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, stench, 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

injury to the public peace and order. The following acts, uses, activities, things, occupations, places, or physical conditions, not properly and timely removed after written notice to remove from the town board to the owner or occupant of the land where the public nuisance occurred or is maintained in the town, or to any persons responsible for the creation, maintenance, or permitting of such nuisance in the town, are specifically declared to be a public nuisance:

DISORDERLY CONDUCT AREA: Any place in the town where unpermitted, abusive, indecent, profane, or boisterous sounds, unpermitted human or animal fighting, brawling, or rioting, or other unpermitted disorderly conduct conditions, are located or occur on private or public lands and these disorderly conditions are not timely removed or discontinued within 24 hours of receipt of written notice to remove from the town board.

ENGINE BRAKING, compression braking, or jake-braking, except in case of an emergency.

FLASHING SIGNS AND LIGHTS: Also see SIGN ORDINANCE

GLARING LIGHTS: Any place in the town where inappropriate or excessive use of artificial light which includes glare, sky-glow, or light trespass beyond one's own property lines.

LOUD NOISE AREAS: Any place or source in the town where any unreasonably loud, discordant, frequent, and unnecessary sound or vibrations conditions, including sounds or vibrations from vehicles, equipment, machinery, guns, fireworks, or enclosed domestic or other animals (either attended or unattended), or from any human-created or -aided sounds, including alleged music, is located on private or public land without written approval of the town board and is not timely removed or discontinued within 24 hours of the written receipt of notice to remove from the town board.

LOUD VEHICLES OR MACHINERY OF ANY TYPE: Including cars, trucks, semis, tractors, or other machinery on all roads or private or public land unless associated with a specific event (show, race, competition, festival, etc.) previously approved by the Town Board of Supervisors for a specific date and times.

NOISY ANIMALS OR FOWL: The keeping or harboring of any animal or fowl which, by frequent or habitual howling, yelping, barking, crowing or making of other noises shall greatly annoy or disturb a neighborhood or any considerable number of persons within the Town.

SECTION IX – ABATEMENT OF PUBLIC NUISANCES

A. Inspection of Premises: Whenever a complaint is made to the town board, town clerk, town chair, or any appropriate town committee or agent that a public nuisance under this Ordinance or a violation of a permit issued under this Ordinance exists within the town, the town chair, town committee, other agents of the town board, or law enforcement agency shall promptly inspect or cause to be inspected the premises complained of and shall make a written report of its findings to the town board, which report shall thereafter be filed with the town clerk and kept of record in the office of the town clerk. Whenever practicable, the town chair, town committee, other agents of the town board, or law enforcement agency shall cause photographs to be made of the premises for inclusion in the written report to the town board.

277
278 B. Owner of Premises Responsibility. Any owner or occupant of land in the town is responsible for
279 compliance with this Ordinance on the owner's or occupant's land regardless of ownership of and
280 responsibility for the uses, activities, or things located on the land that are subject to this Ordinance.
281

282 C. Summary Abatement.

283 1. Notice to Owner. If the town chair, town committee, or other agents of the town board
284 determine, by written notice to the town board, that a public nuisance exists under this Ordinance
285 within the town on private or public land and that there is great, immediate, and substantial
286 danger, a threat to the public health or safety, or any other public nuisance, the town board, town
287 chair, town committee, or other agents of the town board shall serve a written order upon the
288 person who is causing, permitting, or maintaining the public nuisance, and the owner or occupant
289 of the premises where the public nuisance is caused, permitted, or maintained. If immediate
290 personal service cannot be made, one copy of the written notice shall be posted on the premises
291 in a location likely to attract the attention of the owner or occupant of the premises or the person
292 who is causing, permitting, or maintaining the public nuisance, and one copy of the notice shall
293 be served by mailing by U.S. mail of a First Class letter to the last known address for the owner
294 or occupant of the premises. The order notice shall direct the owner or occupant to remove the
295 public nuisance within 24 hours and shall state that unless the public nuisance is so timely
296 abated, the town may cause, due to the emergency conditions, the public nuisance to be abated
297 and shall charge the costs of abatement to the owner, occupant, or person causing, permitting, or
298 maintaining the public nuisance.
299

300 2. Abatement by town. If the public nuisance is not abated within the time provided in the
301 notice under paragraph 1 above or if the owner, occupant, or person causing the public nuisance,
302 if known, cannot be found, the town chair, the town committee, or other agents of the town
303 board, with approval of the town board, shall cause the abatement or removal of the public
304 nuisance by immediately seeking for the town a court order that allows for the immediate
305 enjoinder and abatement of the public nuisance.
306

307 D. Abatement By Court Action. If the town board determines that a public nuisance exists on public or
308 private premises but that the nature of the nuisance does not threaten great, immediate, and substantial
309 danger to the public health or safety, the town board shall file a written report or its resolution of its
310 findings with the town clerk who shall, after approval and filing of the report or resolution by the town
311 board, take one or more of the following actions, as directed by the town board:
312

313 1. Issue and serve a written order to cease and desist the public nuisance upon the person
314 causing, permitting, or maintaining the public nuisance and the owner or occupant of the
315 premises where the public nuisance is located.
316

317 2. Issue and serve a citation for violation of this Ordinance upon the person causing, permitting,
318 or maintaining the public nuisance and the owner or occupant of the premises where the public
319 nuisance is located.
320

321 3. Cause the town attorney to draft a formal civil complaint to be filed and served upon the
322 alleged violators based upon an alleged violation of this Ordinance or the conditions of any

permit as issued or have drafted by the town attorney to be filed and served a formal complaint for abatement of the public nuisance under chapter 823, Wis. stats.

E. Other Methods Not Excluded. Nothing in this Ordinance may be construed as prohibiting the injunction and abatement of public nuisances against any person, including against a permit holder that holds a current and valid permit issued by the town under this Ordinance, by the town or its officials in accordance with the laws of the State of Wisconsin or this Ordinance.

SECTION XI – COSTS OF ABATEMENT OR DISPOSAL

In addition to any other penalty imposed by this Ordinance for the erection, contrivance, creation, continuance, or maintenance of a public nuisance and violation of this Ordinance, the cost of abatement of any public nuisance by the town may be collected under this Ordinance or s. 823.06, Wis. Stats., as a debt or expense from the owner or occupant of the real property for causing, permitting, or maintaining the public nuisance. If notice to abate the nuisance has been given to the owner or occupant previously, the cost of abatement may be assessed against the real property for services rendered and incurred by the town to enjoin or abate the public nuisance as a special charge under s. 66.0627, Wis. Stats., unless paid earlier. If any vehicle, structure, equipment, implement, or appliance is abandoned or remains unclaimed in violation of this Ordinance, the town board may proceed to declare this personal property abandoned and proceed to dispose of this personal property under s. 66.0139, Wis. Stats., by public auction or other means as determined in writing by the town board.

SECTION XII – ENFORCEMENT PROVISIONS

A. Penalties.

1. 1st Offense. Any person who violates this Ordinance shall, upon conviction, forfeit not less than \$100 nor more than \$500 together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs are paid, but not exceeding 90 days.

2. Second and Subsequent Offenses; Penalty. Any person guilty of violating this Ordinance or any person who has previously been convicted of a violation of this Ordinance shall, upon conviction, forfeit not less than \$500 nor more than \$1,000 for each offense, together with the costs of prosecution, and in default of payment of such forfeiture and costs of prosecution shall be imprisoned in the county jail until the forfeiture and costs of prosecution are paid, but not exceeding 6 months.

B. Separate Violations. Each day of violation of this Ordinance constitutes a separate offense.

SECTION XII – SEVERABILITY

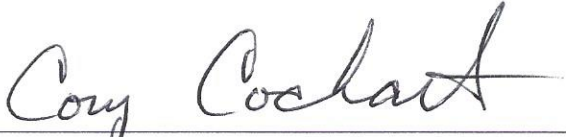
If any provision of this Ordinance or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance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

SECTION XIV – EFFECTIVE DATE

This Ordinance is effective on publication or posting.

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

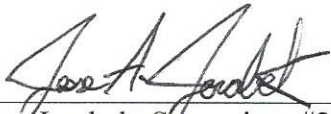
Adopted this 3 day of December, 2018.



Cory Cochart, Chairman



Nick Cochart, Supervisor #1



Jesse Jerabek, Supervisor #2

Attest:



Mary Ann Salmon, Town Clerk

Date: 12/3/18