

## Ordinance No .0302201501

### 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.

**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 (signed)

Nick Cochart, Supervisor #1 (signed)

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 March, 2015

Dale Massey, Town Clerk (signed)