

**TOWN OF LINCOLN, KEWAUNEE COUNTY, WISCONSIN**

**INTERIM CONTROL ORDINANCE NO. \_\_\_\_\_**

**Interim Control Ordinance for a Moratorium on the Construction of New Livestock Facilities or the Expansion of Existing Livestock Facilities**

The Town Board of the Town of Lincoln, Kewaunee County, Wisconsin, does hereby adopt, effective immediately, the following Interim Control Ordinance:

**Section 1 - Authority**

This Interim Control Ordinance is adopted pursuant to the general grant of authority to the Town Board of the Town of Lincoln to promote public health, safety and welfare pursuant to Wis. Stats. Sections 60.61, 60.62, 61.35 and 62.23.

**Findings**

The Town of Lincoln zoning landscape is in a state of flux given that:

- The Wisconsin Department of Natural Resources (DNR) is revisiting the NR 151 rules for Karst regions of the Northeast regions of the state;
- The Wisconsin Department of Agriculture is revising the statewide livestock siting rules, and these draft rules have not yet gone out for public comment;
- The DNR by its own admission is understaffed and unable to properly monitor and enforce existing regulations;
- The DNR has not lived up to its promise to assign additional human resources to Kewaunee County;
- The recommendations of the DNR Kewaunee County Collaborative Workgroup On Best Management Practices in Sensitive Areas convened in 2016 are voluntary only;
- The DNR continues to issue WPDES permits, not only for the operation of large livestock facilities and confined animal feeding operations (CAFOs) but for their expansion as well, ignoring the dangers to groundwater aquifers and well water supplies;
- The Wisconsin Dairy Business Association's recently filed a lawsuit against the DNR challenging the legality of the WPDES permit system;

All of this leaves a lot of unanswered questions for the township relative to regulating large

livestock facilities and CAFO expansions.

As a result, the Lincoln Township Zoning Ordinance and Livestock Siting Ordinance may not adequately address the protection of groundwater and surface water and other natural resources and the health, safety and welfare of Lincoln Township Residents as a result of siting of new large livestock facilities and CAFOs or the expansion of existing large livestock facilities and CAFOs. Of particular concern are:

- The implementation of conservation compliance practices to ensure agricultural land use is always sensitive to the protection of ground water, surface water, other natural resources, and all areas considered “Sensitive Areas” in the Town’s 2017 Comprehensive Plan Supplement;
- Maintaining groundwater recharge areas; and
- The implementation of state performance standards to address gaps in the livestock siting ordinance including standards relating to processing wastewater, tillage setbacks, phosphorus index, and multi-facility bio / methane digesters.

## **Section 2 - Purpose**

The Town of Lincoln, pursuant to its authority to provide for the health, safety, welfare and convenience of the public deems it necessary to adopt an **Interim Control Ordinance** to create a more stable environment during a moratorium period so that revisions to the present zoning ordinance can be formulated, considered and adopted in an orderly and thorough manner. In the moratorium period it is necessary to preserve the character of the community to prevent development inconsistent with the changes expected in major zoning ordinance revisions for the Town of Lincoln.

The purpose of the moratorium is to give Lincoln Township time to review current ordinances and study, review, consider, and determine whether amendments of existing ordinances and / or adoption of additional ordinances applicable to the creation of new large livestock facilities or CAFOs expansion of existing livestock facilities or CAFOs to protect the public health, safety, and welfare of the residents of Lincoln Township is warranted.

## **Section 3 - Moratorium Established**

1. **Moratorium.** There is hereby established a moratorium on the issuance of any zoning permits under the Town of Lincoln Zoning Code, any conditional use permits under the Town of Lincoln Zoning Code, any livestock siting approvals and any variances from the Town of Lincoln Zoning Code.
2. **Approval.** During the period of this moratorium, the Town Zoning Administrator, Plan Commission and Town Board shall approve no applications for zoning permits, conditional use permits, site plan approvals or livestock siting or feeding operations.

3. Applicability. This section shall apply to and govern all properties located in the Town of Lincoln and shall be effective upon the date of adoption.
4. Exceptions. Notwithstanding the foregoing provisions of this section, this moratorium shall not apply to:
- (a) Applications for construction, remodeling, or improvements upon residential structures located in the Town of Lincoln;
  - (b) Applications for construction, remodeling or improvements upon commercial buildings or structures unrelated to livestock facilities or livestock feeding facilities located in the Town of Lincoln;
  - (c) Applications for construction, remodeling or improvements upon agricultural structures or buildings unrelated to livestock facilities or livestock feeding operations of less than 500 animal units;
  - (d) Applications for projects submitted to the Zoning Administrator and approved by the Town Board under a development agreement between the Town of Lincoln and the developer.
5. Considerations. The Town of Lincoln may consider Development Agreements recommended by the Plan Commission with Livestock Facilities of 500 animal units or more for on-site facility improvements and / or on-site waste reduction improvements that benefit the township as well as the facility.

#### **Section 4 - Severability**

If any section, paragraph, clause or provision of this **Interim Control Ordinance** shall be held invalid by a court of competent jurisdiction, the invalidity thereof shall not affect any other provision or section of this ordinance.

#### **Section 6 - Effective Date**

This **Interim Control Ordinance** shall be effective upon its adoption and shall remain effective for one (1) year from that date unless further extended by the Town Board of the Town of Lincoln.

Approved by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against at a duly noticed meeting

of the Town of Lincoln Board of Supervisors on this \_\_\_\_\_ day of \_\_\_\_\_, 2017.

**Town of Lincoln Board of Supervisors**

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Cory Cochart, Chairman

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Nick Cochart, Supervisor #1

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Jesse Jerabek, Supervisor #2

*DRAFT for 11-2-2017 Public Hearing*