

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

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3 **ORDINANCE # \_\_\_\_\_**

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6 **PUBLIC NUISANCE ORDINANCE**

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8 The Town Board of the Town of Lincoln, Kewaunee County, Wisconsin, does ordain the following:

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10 **SECTION I – TITLE AND PURPOSE**

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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.

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16 **SECTION II – AUTHORITY**

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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.

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21 **SECTION III - ADOPTION OF ORDINANCE**

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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.

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27 **SECTION IV – PUBLIC NUISANCE DEFINED**

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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.

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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.

47 SECTION VI - NUISANCES AFFECTING PUBLIC HEALTH

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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.

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

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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.

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92 FERAL CATS

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**FOUL ODORS:** Any use of property, substances or things within the Town emitting or causing any foul, offensive, nauseous, unwholesome or disagreeable odors, gases, stenches, liquids or substances offensive to the physical senses to an ordinary person possessed of ordinary tastes and susceptibilities or which otherwise annoy, discomfort, injure or inconvenience the health of persons within the Town.

**GROUNDWATER OR SURFACE WATERWATER CONTAMINATION:**

1. No person or activity shall locate, store, discharge, or permit the discharge of any treated, untreated, or inadequately treated solid, liquid, or gaseous materials of such nature, quantity, obnoxiousness, toxicity, or temperature that would be likely to run off, seep, percolate, or wash into surface or subsurface waters so as to contaminate, pollute, or harm groundwater or surface waters, or cause nuisances such as objectionable shore deposits, floating or submerged debris, oil or scum, color, odor, taste, or unsightliness, or be harmful to human, animal, plant, or aquatic life.
  
2. In addition, no person or activity shall discharge any solid, liquid, or gaseous materials so as to exceed or contribute toward the exceeding of the minimum standards and those other standards and the application of those standards set forth in Chapter NR 102 of the Wisconsin Administrative Code for all navigable waters.

**HAZARDOUS, TOXIC, OR SOLID WASTE FACILITY OR SITE AREAS:** Any place or solid waste facility in the town where the discharge, disposal, storage, or treatment of hazardous, toxic, or solid waste occurs on private or public lands without approval and licensing or permitting of the discharge, disposal, storage, or treatment by all proper federal, state, county, and town governing authorities and full compliance with all applicable laws, rules, regulations, or ordinance of the federal, state, county, or town, and the activity or condition is not timely removed or discontinued within 10 business days after receipt of written notice to remove from the town board. To constitute a public nuisance under this paragraph, an area, facility, or site must threaten or cause serious discomfort or serious injury to the health or cause serious inconvenience to the health or safety of a significant number of persons within the town, as determined by the town board.

**INDUSTRIAL WASTE:** The land application of industrial waste, such as sludge, animal renderings, or slaughterhouse waste, whether combined with agricultural waste or not, is not allowed in the township.

**JUNK, JUNK VEHICLE, APPLIANCE, MACHINERY, JUNKYARD, AND JUNK PART AREAS:** Any place where junked vehicles or junked vehicle parts, appliances, machinery, junkyard and junk parts are accumulated or stored outside of a building for a period exceeding 72 hours if on public property or 30 days if on private property.

From the Town of Lincoln Zoning Ordinance:  
*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*

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 UNREGISTEDED 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:  
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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:

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196 DANGEROUS DOGS: Refer to ANIMALS SUSPECTED OF BITING PEOPLE and  
197 DANGEROUS DOG ORDINANCE.

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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.

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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

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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.

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

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245 **FLASHING SIGNS AND LIGHTS:** Also see SIGN ORDINANCE

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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**

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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 enjoinder 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

### 331 SECTION XI – COSTS OF ABATEMENT OR DISPOSAL 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

### 345 SECTION XII – ENFORCEMENT PROVISIONS 346

#### 347 A. Penalties.

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

### 362 SECTION XII – SEVERABILITY 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.  
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369 SECTION XIV – EFFECTIVE DATE

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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.

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375 Adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2018.

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Cory Cochart, Chairman

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Nick Cochart, Supervisor #1

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Jesse Jerabek, Supervisor #2

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393 Attest:

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Mary Ann Salmon, Town Clerk

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404 Date: \_\_\_\_\_

Draft for 11-28-2018 Public Hearing