

Town of Lincoln, Kewaunee County, Wisconsin

Ordinance # _____

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.

153
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.

171
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 _____ day of _____, 2018.

204
205
206
207
208 _____
209 Cory Cochart, Chairman

210
211
212
213
214 _____
215 Nick Cochart, Supervisor #1

216
217
218
219
220 _____
221 Jesse Jerabek, Supervisor #2

222
223
224
225
226
227
228
229
230
231
232
233
234
235
236
237
238
239
240

Attest:

Mary Ann Salmon, Town Clerk

Date: _____

Draft for 11-28-2018 Public Hearing