

**CODE OF ORDINANCES
OF THE
TOWN OF LINCOLN
KEWAUNEE COUNTY, WISCONSIN**

**CHAPTER 10:
ZONING ORDINANCE**

*DATCP Certification
November 30, 2018*

*Town Board Adoption
XXXXXXXXXXXXXXXXXX*

Official zoning map is on file with the Town of Lincoln Zoning Administrator

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APPENDIX

Farmland Preservation Zoning DATCP Certification Materials

10.0100 INTRODUCTION

10.0101 Title

This Ordinance shall be known, cited and referred to as: THE TOWN OF LINCOLN ZONING ORDINANCE, KEWAUNEE COUNTY, WISCONSIN.

10.0102 Authority

This ordinance is adopted pursuant to authority granted by Wis. Stat. § 60.62, 61.35, and 62.23(7), and other applicable provisions of the Wisconsin Statutes.

10.0103 Purpose

The purpose of this Ordinance is to promote the health, safety, morals, prosperity, aesthetics and general welfare of this community.

10.0104 Intent

It is the general intent of this Ordinance to regulate and restrict the use of all structures, lands and water; regulate and restrict lot coverage, population distribution and density, and the size and location of all structures so as: to lessen congestion in the streets- to secure safety from fire, panic and other dangers; to promote and to protect the public health, safety, comfort, convenience and general welfare, to provide adequate light, air, including access to sunlight for solar collectors and to wind for wind energy systems, and open space; to maintain the aesthetic appearances and scenic values of the town; to prevent the overcrowding of land; to avoid undue concentration of population; to facilitate the adequate provision of transportation, water, waste disposal, schools, parks and other public requirements; and to foster a more rational pattern of relationship between residential, business, commercial, agricultural, and recreational uses for the mutual benefit of all.

10.0105 Abrogation and Greater Restrictions

It is not intended by this Ordinance to repeal, abrogate, annul, impair, or interfere with any existing easements, covenants, deed restrictions, agreements, ordinances, rules, regulations, or permits previously adopted or issued pursuant to laws. However, wherever this Ordinance imposes greater restrictions, the provisions of this Ordinance shall govern.

10.0106 Severability

If any section, clause, provision or portion of this Ordinance is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

If any application of this Ordinance to a particular structure, land or water is adjudged unconstitutional or invalid by a court of competent jurisdiction, such judgment shall not be applicable to any other structure, land or water not specifically included in said judgment.

10.0107 Effective Date

This Ordinance shall be effective after a public hearing, adoption by the Town Board and posting as provided by law. Changes or amendments to the text of this Ordinance or the "Official Zoning Map" shall be effective after the provisions of 10.1500 have been complied with and the change or amendment has been posted by law.

10.0200 DEFINITIONS

10.0201 General

In interpreting the various contents of the Ordinance, the following rules of construction shall apply:

1. Unless the context clearly indicates the contrary, the following conjunctions shall be interpreted as follows:
 - (a) “And” indicates that all connected words or provisions shall apply.
 - (b) “And/or” indicates that the connected words or provisions may apply singly or in any combination.
 - (c) “Or” indicates that the connected words or provisions may apply singly or in any combination.
 - (d) “Either . . . or” indicates that the connected words or provisions shall apply singly but not in combination.
2. In case of conflict between the text and a diagram or graphic, the text controls.
3. The term “building” includes the word “structure.” A “building” or “structure” includes any part thereof.
4. The term “person” includes an individual, a corporation, a partnership, an incorporated association, or any other similar entity.
5. The term “dwelling” includes the word “residence”.
6. The word “lot” shall include the words “piece”, “parcel” and “plats”.
7. All references to “Chapter,” “Article,” or “Section” shall refer to this Zoning Ordinance unless another meaning is clear from the context of the reference.
8. The words “shall,” “will,” and “must” are always mandatory and not discretionary. The word “should” indicates that which is recommended but not required; and the word “may” is permissive.
9. The phrase “used for” shall include the phrases “arranged for”, “designed for”, “intended for”, “maintained for” and “occupied for”.
10. The present tense includes the past and future tenses, and the future tense includes the past.
11. The singular number includes the plural, and the plural number includes the singular.
12. Sections and section headings contained herein shall not be deemed to govern, limit, modify, or in any manner affect the scope, meaning, or intent of any section.
13. All “measured distances” shall be to the nearest “integral foot”. If a fraction is one-half foot or less, the next “integral foot” below shall be taken.
14. Terms not herein defined shall have the meaning customarily assigned to

them.

10.0202 Words Defined

Certain words and terms in this Ordinance are to be interpreted as defined herein (NOTE: other sections of this Ordinance may contain additional definitions specific to those sections):

ACCESSORY USE OR BUILDING - a use or detached structure subordinate to the principal use of a structure, land or water and located on the same lot or parcel serving a purpose customarily incidental to the main use of the principal structure.

AGRICULTURE - is the use of land for agricultural purposes, including soil tillage for the production of crops, dairying, pasturage, agriculture, horticulture, floriculture, viticulture, animal and poultry husbandry and the necessary accessory uses for parking, treating or storing the produce, provided, however, that the operation of any such accessory uses shall be secondary to that of the primary agricultural activities occurring thereon.

ADJACENT - means located on land parcels that touch each other, or on land parcels that are separated by a transportation or utility right-of-way.

AGRICULTURAL ACCESSORY USE - means any of the following land uses on a farm:

- (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 - (1) A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 - (2) A facility used to keep livestock on the farm.
 - (3) A facility used to store or process inputs primarily for agricultural uses on the farm.
 - (4) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 - (5) A wind turbine or solar energy facility that collects wind or solar energy on the farm, and uses or transforms it to provide energy primarily for use on the farm.
 - (6) A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 - (7) A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.

AGRICULTURAL USES - means any of the following activities conducted for the purpose of producing an income or livelihood:

- (a) Aquaculture.

- (b) Beekeeping.
- (c) Crop or forage production.
- (d) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (e) Floriculture.
- (f) Forest management.
- (g) Keeping livestock.
- (h) Nursery, sod, or Christmas tree production.
- (i) Fruit and nut orchards.

AGRICULTURE-RELATED USES - means a facility not located on a farm that has at least one of the following as a primary purpose:

- (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services (e.g., seed, fertilizer, and farm chemical sales) directly to farms.
- (b) Storing, processing or handling raw agricultural commodities obtained directly from farms. Examples include feed mills and grain elevators.
- (c) Marketing livestock to or from farms.
- (d) Processing agricultural by-products (but not manure or agricultural wastewater) received directly from other farms.

AGRICULTURAL OPERATION - Agricultural Operation - Including, but not limited to, general farming and animal husbandry, pasturage, outdoor plant nurseries, horticulture, viticulture, truck farming, forestry, sod farming, and wild crop harvesting, but not including commercial seed, fertilizer, grain mills, food processing, or canning operations.

ANIMAL UNIT - the value used to establish the maximum number of animals permitted on a tract of land. Animal units are calculated by multiplying the number of animals of a particular type by the appropriate Animal Unit Factor for that type of animal. The Animal Unit Factor for each type of livestock is set by the Wisconsin Department of Agriculture, Trade and Consumer Protection and published at Wis. Admin. Code ch. NR 243.05.

AIRPORT - any area of land or water which is used or intended for use for the landing and taking off of aircraft, and any appurtenant areas which are used or intended for use for airport buildings, or other airport facilities or rights-of-way, including all necessary taxiways, aircraft storage and tie-down areas, hangars and other necessary buildings and open spaces.

ALLEY - a public or private right-of-way primarily designed to serve as secondary access to abutting properties.

ARTIFICIAL LAKES OR PONDS – An artificial lake or pond is any body of water, conforming to the definition of a lake or pond; that is made, fabricated, or constructed, with human skill or skill and labor, by dredging or otherwise shall not be considered creation of an artificial lake or pond under this definition. However, the creation of an open body of water by dredging or excavation of a wetland or any other area shall be subject to the rules and regulations pertaining to artificial lakes and ponds.

AUTOMOBILE WRECKING YARD - Any premises on which more than three automotive vehicles, not in running or operating condition, are stored in the open.

BASEMENT - that portion of any structure located partly underground and having more than one-half (1/2) of its height below the finished lot grade.

BED AND BREAKFAST ESTABLISHMENTS RESIDENTIAL - means any place of lodging that: (a) Provides four or fewer rooms for rent to no more than a total of 10 tourists or transients; (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; (c) Is the owner's personal residence; (d) Is occupied by the owner at the time of rental; (e) Was originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a single-family residence and; (f) Has had completed as of May 1, 1990, any structural additions to the dimensions of the original structure, including renovation, except that a structural addition, including renovation to the structure may after May 1, 1990, be made within the dimensions of the original structure.

BED AND BREAKFAST ESTABLISHMENTS COMMERCIAL - means any place of lodging that: (a) Provides eight or fewer rooms for rent to no more than a total of 20 tourists or transients; (b) Provides no meals other than breakfast and provides the breakfast only to renters of the place; (c) Is the owner's personal residence; (d) Is occupied by the owner at the time of rental; (e) Was originally built and occupied as a single-family residence, or prior to use as a place of lodging, was converted to use and occupied as a place of lodging; and (f) Has had completed as of May 1, 1990, any structural additions to the dimensions of the original structure, including renovation, except that a structural addition, including renovation to the structure may after May 1, 1990, be made within the dimensions of the original structure.

BLOCK - a tract of land bounded by streets, or by a combination of streets and public parks, cemeteries, railroad right-of-way, shorelines or waterways or municipal boundary lines.

BOAT LIVERIES - establishments offering the rental of boats and sale of fishing equipment.

BUILDABLE AREA - the ground area of a lot which is defined by the minimum setback and spacing requirements within which construction of a permitted building and any attached accessory structures is permitted by this ordinance.

BUILDING - any structure built, used, designed or intended for the support, shelter, protection, or enclosure of persons, animals, or property of any kind, and which is permanently affixed to the land.

BUILDING HEIGHT - the vertical distance from the top of the building roof to the top of the basement or to the foundation, whichever is less.

CAMPING TRAILER- a vehicular, portable unit designed as a temporary living unit for travel, recreation and vacation, which may take one of the following forms, or a similar form: (a) a unit built on a chassis, having a body width not exceeding eight feet and body length not exceeding 35 feet; (b) a unit designed to be mounted on a truck chassis, (c) a unit constructed as an integral part of a self-propelled vehicle; or (d) a canvas, folding unit mounted on wheels.

CLINIC, MEDICAL OR DENTAL - an organization of specializing physicians or dentists, or both, who have their offices in a common building. A clinic shall not include in-patient care.

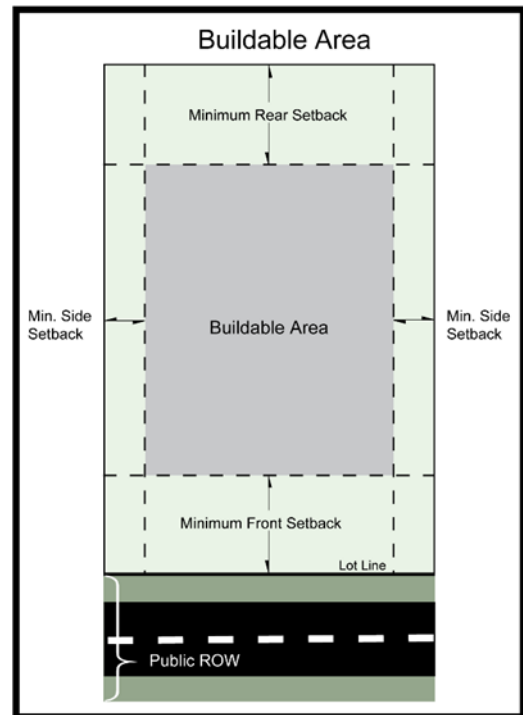
COMMERCIAL - the offering or purchase of goods and services with the intention of making a profit.

COMMERCIAL FEEDLOTS - an agricultural enterprise where livestock are purchased and raised and then sold to a buyer, feedlot or slaughterhouse.

COMMON OWNERSHIP - means ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. Common ownership includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple.

COMMUNITY LIVING ARRANGEMENT - a facility licensed and operated under the authority of the State of Wisconsin including group homes for children, foster homes, treatment foster homes, adult family homes, and community based residential facilities, but not including nursing homes or day care facilities or halfway houses or sex offender housing.

1. **ADULT FAMILY HOME** - a place where 3 or 4 adults who are not



related to the operator reside and receive care, treatment or services that are above the level of room and board and that may include up to 7 hours per week of nursing care per resident.

2. **COMMUNITY BASED RESIDENTIAL FACILITY** - a place where 5 or more unrelated people live together in a community setting. Services provided include room and board, supervision, support services, and may include up to 3 hours of nursing care per week.
3. **RESIDENTIAL CARE APARTMENT COMPLEX** - a place where 5 or more adults reside that consists of independent apartments, each of which has: an individual lockable entrance and exit, a kitchen, including a stove, individual bathroom, sleeping and living areas, and that provides, to a person who resides in the place, not more than 28 hours per week of services that are supportive, personal and nursing services. Residential care apartment complex does not include a nursing home or a community-based residential facility.

CONDITIONAL USE - means a use that is not permitted by right. Rather, its allowance is subject to the discretionary judgment of the Town Plan Commission, as described in Section 10.1300, Conditional Use Permits, and approved by the Town Board.

CONTIGUOUS - means adjacent to or sharing a common boundary. “Contiguous” land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of- way. Parcels are not “contiguous” if they meet only at a single point.

DAY CARE HOME, FAMILY - a dwelling licensed as a day care center by the State of Wisconsin pursuant to Wis. Stat. § 48.65, where care is provided for at least 4 and not more than 8 children. (Note: the number of children was determined by the Town – this is not a statutory definition or number of children)

DAY CARE CENTER, GROUP - an establishment providing care and supervision for 4 or more persons under the age of 7 and licensed by the State of Wisconsin pursuant to Wis. Stat. § 48.65.

DEVELOPMENT AGREEMENT - A development agreement is a contract between the Town and a person who has ownership or control of property within the Town. The purpose of the agreement is to specify the standards and conditions that will govern development of the property. The development agreement provides assurance to the developer that he/she may proceed to develop the project subject to the rules and regulations in effect at the time of approval - the development will not be subject to subsequent changes in regulations. The agreement may clarify how the project will be phased, the required timing of public improvements, the developer’s contribution toward funding system-wide community improvements, required mitigation measures, setbacks and dimensional requirements, and other conditions. The agreement can also facilitate enforcement of requirements, since it is a contract that details the obligations of the developer and the Town. All development agreements shall be approved by the Town Board of Supervisors.

DRIVE-IN RESTAURANT - an establishment which provides no permanent interior seating, but allows window service and carryout counter service for food products to automobile customers.

DRIVEWAY - a minor private way used by vehicles and pedestrians for common access to a lot, small group of lots, or facilities.

DWELLING - a building, or portion thereof, designed or used primarily for residential occupancy or as living quarters, with or without a permanent foundation, and connected to required utilities including plumbing, septic, and electrical systems, including single-family dwellings, two-family dwellings and multiple-family dwellings, but not including hotels and motels.

DWELLING UNIT - one (1) or more rooms which are arranged, designed for use as living quarters.

DWELLING UNIT, SINGLE-FAMILY - a building designed to be occupied exclusively by one (1) family.

DWELLING UNIT, TWO-FAMILY - a building designed to be occupied exclusively by two (2) families.

DWELLING, MULTI-FAMILY - a building used and designed as a residence for three (3) or more families.

ESSENTIAL SERVICES - electric, telephone, gas, or water service, including the overhead, surface, or underground distribution or transmission systems necessary to supply the service. It includes the conduits, pipes, poles, towers, wires, and similar devices necessary to supply these services, but does not include any buildings necessary to supply these services. It does not include solar or wind energy systems, communications facilities, or any structure or use listed as a permitted, accessory, or conditional structure or use in any other district.

FARM - means all land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:

- (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
- (b) A majority of the land area is in agricultural use.

FARM CONSOLIDATION - means the joining together of all or part of 2 or more farm operations, which were in existence before the adoption or amendment of this ordinance, into a single farm operation.

FARM OPERATION - means an activity conducted primarily for the production of one or more agricultural products or commodities, for home use or for sale, in a quantity sufficient to contribute to the operator's support.

FARM RESIDENCE - meaning any of the following structures that is located on a farm:

A single-family residence that is occupied by any of the following:

- (a) An owner or operator of the farm.
- (b) A parent or child of an owner or operator of the farm.
- (c) An individual who earns more than 50 percent of his or her gross income from the farm.

FEEDLOT - An animal confinement facility or dairy farm used or designed for the feeding or holding animals.

FISH HATCHERIES - establishments devoted to hatching, raising or rearing fish.

FLOOR AREA - the area within the exterior walls of a building which is usable as living quarters.

GARAGE, PRIVATE - an accessory structure to the principal structure which provides for the storage of motor vehicles. These structures shall have a height limitation of 22 ft.

GARAGE, PUBLIC AND STORAGE - any building or premises, other than a private garage, where motor driven vehicles are equipped, repaired, serviced, hired, sold or stored.

GRADE - the average level of the finished surface of the ground adjacent to the exterior walls of a building or structure.

GROSS FARM REVENUE - means the gross receipts from all Agricultural Uses, less the cost or other basis of livestock and other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. Gross farm revenue includes receipts accruing to a renter, but does not include rent paid to the land owner.

GROUP HOME - any facility operated by a person required to be licensed by the State of Wisconsin under Wis. Stat. § 48.625, for the care and maintenance of 5 to 8 residents under 18 years of age.

HARD SURFACED - a driveway or parking lot surfaced with concrete, bituminous paving or crushed stone.

HOME OCCUPATION - a gainful occupation conducted by the member of the family within his or her place of residence, where the space used is incidental to residential use.

HOTEL - a building in which lodging, with or without meal, is offered transient guests for compensation and in which there are more than five (5) sleeping rooms with or without cooking facilities in any individual room or apartment.

HUNTING AND FISHING CABINS - means a buildings used temporarily as a base for hunting, fishing and outdoor recreation and not intended for permanent human habitation or for conversion to a permanent residence.

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 dilapidated or broken down structure or building or parts thereof; any abandoned, discarded or unused objects or equipment such as furniture, appliances, stoves, refrigerators, freezers, machinery, tires, barrels, cans, containers, trash or debris, or contaminated recyclable material.

JUNKED VEHICLE – As regards to outside storage, any inoperable, disassembled, dismantled, partially dismantled, junked, wrecked, or unlicensed motor vehicle; any truck bodies, tractors, trailers, boats, or campers in such a state of physical or mechanical ruin or condition as to be incapable of propulsion or of being in operating condition upon the public streets, highways, or waterways except as noted and permitted elsewhere in this ordinance.

JUNK (OR SALVAGE) YARD - An area where waste or scrap materials are bought, sold, exchanged, stored, baled, disassembled, or handled, including, but not limited to, scrap iron and other metals, paper, rags, rubber tires, bottles, used automobiles, used machinery, used building material and similar materials. A "junk" yard includes an auto wrecking yard. A lot with three or more unlicensed vehicles also constitutes a "junk" yard.

KENNEL - any premises on which household animals are boarded, bred, groomed, sold, or trained on a regular basis for commercial purposes.

LAKE – An inland body of water, either natural or artificially created, of five (5) acres or more.

LAKE (ARTIFICIAL) – A man-made (created) body of water, more than two (2) acres in water surface area and no more than five (5) acres in water surface area.

LIQUID WASTE - means process wastewater and waste liquid products, including silage leachate, whey, whey permeate, whey filtrate, contact cooling water or boiler water containing water treatment additives, and wash water generated in industrial, commercial, and agricultural operations which result in a point source discharge to a land treatment system. (NR 214.03(27))

LIVESTOCK - means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids (e.g., llamas, alpacas), ratites (e.g., ostrich, emu), and farm-raised fish.

LIVESTOCK FACILITY - a feedlot, dairy farm, or other operation where livestock are, or will be fed, confined, maintained or stabled for a total of 45 days or more in any 12-month period. A livestock facility includes all of the tax parcels of land on which the facility is located, but does not include a pasture or winter grazing area.

LIVING AREA - the total area bounded by the exterior walls of a building at the floor levels, but not including basements, utility rooms, garages, porches, breezeways, and unfinished attics.

LIVING QUARTERS - A building or a portion of a building which provides, as a minimum, an area equipped or furnished for sleeping purposes. Living quarters also include those finished portions of a building in which normal residential activities occur.

LOT - a parcel of land abutting on a public street having a width and depth sufficient to provide the space necessary for one (1) principal building and its accessory buildings together with the open spaces required by this Ordinance.

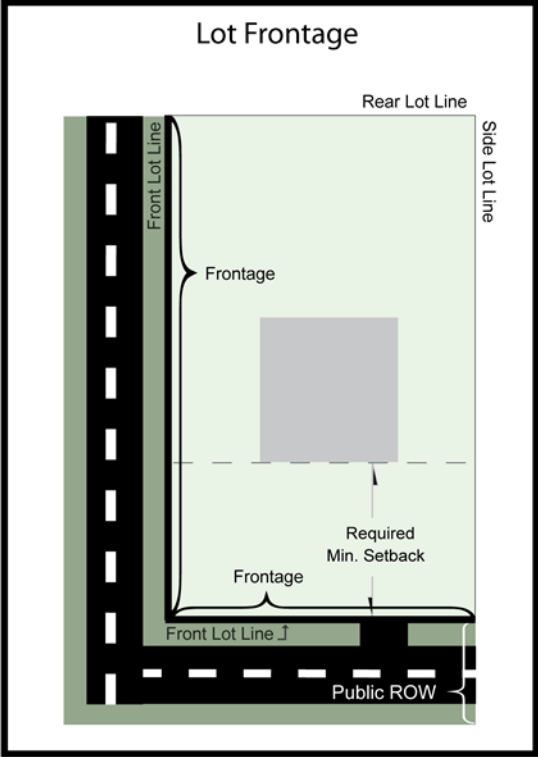
LOT OF RECORD - a lot which is part of a subdivision, the plat of which has been recorded in the office of the Register of Deeds of Kewaunee County; or a parcel of land, the deed to which was recorded in the office of said Register of Deeds prior to the adoption of this Ordinance, and certified survey maps approved and recorded in the Register of Deeds Office of Kewaunee County.

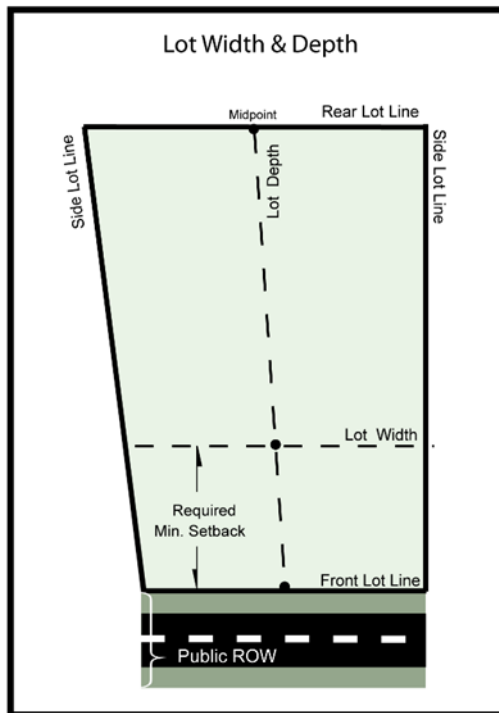
LOT, CORNER - a lot abutting on two or more streets at their intersection.

LOT, DEPTH OF - the mean horizontal distance between the front lot line and the rear lot line of a lot, measured within the lot boundaries.

LOT, FRONTAGE - the side of a lot abutting on a street or way and ordinarily regarded as the front of the lot, but it shall not be considered as the ordinary side of a corner lot.

LOT LINES AND AREA - the peripheral boundaries of a parcel of land including the street right-of-way lines and the total area lying within such boundaries.





LOT, WIDTH OF - the horizontal distance between the side lot lines of a lot at the rear line of the required front yard.

MANUFACTURED DWELLING - A factory built one or two family home regulated by the State of Wisconsin Uniform Dwelling Code. These homes are commonly referred to as modular.

MANUFACTURED HOME - Is that which is, or was, as originally constructed, a structure, transportable in one or more sections built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained in it, and is certified and labeled as a manufactured home under 42 U.S.C. §§ 5401-5426.

MANUFACTURED HOME DEFINED AS A SINGLE FAMILY DWELLING - A structure certified and labeled as a manufactured home under 42 U.S.C. sec. 5401 to 5426, which, when placed on the site:

- (a) Is set on an enclosed foundation in accordance with sec. 70.043(1), Stats., and subchapters III, IV and V of ch. ILHR 21, Wis. Admin. Code, or is set on a comparable enclosed foundation system approved by the Plan Commission. The Plan Commission may require a plan to be certified by a registered architect or engineer to ensure proper support for the home.
- (b) Is installed in accordance with the manufacturer's instructions.
- (c) Is properly connected to utilities.

MANURE AND/OR WASTE STORAGE FACILITY - means one or more manure storage structures. "Manure storage facility" includes stationary equipment and piping used to load or unload a manure storage structure if the equipment is specifically designed for that purpose and is an integral part of the facility. "Manure storage facility" does not mean equipment used to transfer or apply manure to land.

MANURE AND/OR WASTE STORAGE STRUCTURE - means a manure storage impoundment made by construction of embankments, excavating a pit or dugout, or fabricating a structure. "Manure storage structure" does not include equipment used to transfer and apply manure to land.

MANURE AND/OR WASTE STORAGE SYSTEM - means a storage facility and related practices needed for the environmentally safe storage of manure at that facility. A "manure storage system" does not include any of the following:

- (a) A milking center waste control system.
- (b) Nutrient management as defined in s.ATCP 50.78(1).
- (c) A barnyard runoff control system as defined in s.ATCP 50.64(1).
- (d) Equipment used to transfer or apply manure to land.
- (e) Headland stacking sites that comply with DNR regulations.

MOBILE HOME - Is that which is, or was, as originally constructed a structure, transportable in one or more sections built on a permanent chassis and designed to be used as a dwelling unit, with or without permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained in it, and built prior to the enactment of the Federal Manufactured Construction and Safety Standards Act of 1974, which became effective July 15, 1976.

MOTEL - establishment consisting of a group of attached or detached living or sleeping accommodations with bathroom and closet space, located on a single zoning lot and designed for use by transient guests; and where there is no permanent occupancy of any unit except by the owner, his agent or his employees.

MOTOR HOME - a motor vehicle designed to be operated upon a highway for use as a temporary or recreational dwelling and having the same internal characteristics and equipment as a mobile home (as defined in Section 5.2 of this Ordinance). This would include buses or vans equipped as living units.

MOTOR VEHICLE - any passenger vehicle, truck, truck trailer, trailer, or semi-trailer propelled or drawn by mechanical power.

NON-CONFORMING USE - any use of land, building, or structure, lawful at the time of the adoption of this Ordinance, which does not comply with all of the regulations and standards of this Ordinance or of any amendment thereto governing use for the zoning district in which such use is located.

OTHER WASTES - means liquid waste, septage, sewage sludge, or any other material as defined by the DNR that is processed and mixed with animal waste.

PARKING SPACE - a graded and surfaced area of not less than two hundred square feet either enclosed or open for the parking of a motor vehicle, having adequate ingress and egress to a public street or alley.

PERMITTED USE - uses listed under this heading are permitted as of right. This means that an applicant for a building permit must be given a permit if the applicant meets the other requirements of the Ordinance, e-g-, yards, setbacks, and so forth.

POND – An inland body of water, either natural or artificially created, of less than two (2) acres.

PRIME FARMLAND - means all of the following:

- (a) An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.

- (b) Land, other than land described in sub. (a), which is identified as prime farmland in Kewaunee County's certified farmland preservation plan.

PRINCIPAL BUILDING - the building of primary importance or permitted use on a parcel of land, in contrast to those which are accessory of secondary importance. On agricultural zoned property the principal building may include barns and structures essential to the operation of a farm.

PRINCIPAL USE - the main use of land or buildings as distinguished from a subordinate or accessory use. A Principal Use may be a "permitted", "conditional" or "non-conforming".

PRIOR NONCONFORMING USE - means a land use that does not comply with this zoning ordinance, but which lawfully existed prior to the application of this ordinance.

PRIVATE SEWAGE SYSTEM - in this Ordinance, "private sewage system" means a sewage treatment and disposal system serving a single structure with a septic tank and soil absorption field located in the same parcel as the structure. This term also means an alternative sewage system approved by the Wisconsin Department of Industry, Labor and Human Relations including a substitute for the septic tank or absorption field, a holding tank, a system serving more than one structure or a system located on a different parcel than the structure.

PROFESSIONAL OFFICE - the office of a doctor, practitioner, dentist, minister, architect, landscape architect, professional engineer, lawyer, author, musician, or other recognized profession. When established in a residential district, a professional office shall be incidental to the residential occupation the office shall not exceed one-half (1/2) the area of only one (1) floor of the residence and only one (1) resident person is employed.

PROTECTED FARMLAND - means land that is any of the following:

- (a) Located in the A-1 zoning district certified under ch. 91, Wis. Stats.
- (b) Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
- (c) Covered by an agricultural conservation easement under Wis. Stat. § 93.73.
- (d) Otherwise legally protected from non-agricultural development.

REASONABLE ACCOMMODATION - a deviation from the strict requirements of this ordinance which is necessary to provide equal housing opportunity for a disabled person or persons. An accommodation is reasonable if it does not cause an administrative burden, fiscal burden, or undue hardship on the town and does not undermine the basic purpose of this ordinance.

RECREATION CAMPS AND RESORTS - areas of land improved with buildings or tents and sanitary facilities used for occupancy during a part of the year only.

REGISTERED SEX OFFENDER - *Reserved*

RENTAL CABINS OR COTTAGES - buildings designed for seasonal uses and occupancy by persons other than the owner upon periodical payment.

ROADSIDE STAND - structure not permanently fixed to the ground that is readily removable in its entirety; covered or uncovered and not wholly enclosed, and used solely for the sale of farm products produced on the premises. No such roadside stand shall be more than 300 square feet in ground area and limited to a maximum height of 10 feet.

SAND AND/OR BEDDING SEPARATION SYSTEM - means facilities, structures, or systems, designed to separate sand and/or other bedding material from manure, liquid waste, septage, sewerage sludge, bio-solids, or other wastes. Sand and/or Bedding Separation Systems are considered part of a Manure and/or Waste Storage Facility, Structure, and/or System.

SEPTAGE - means the wastewater or contents of septic or holding tanks, dosing chambers, grease interceptors, seepage beds, seepage pits, seepage trenches, privies, or portable restrooms. (NR 113.03(55)).

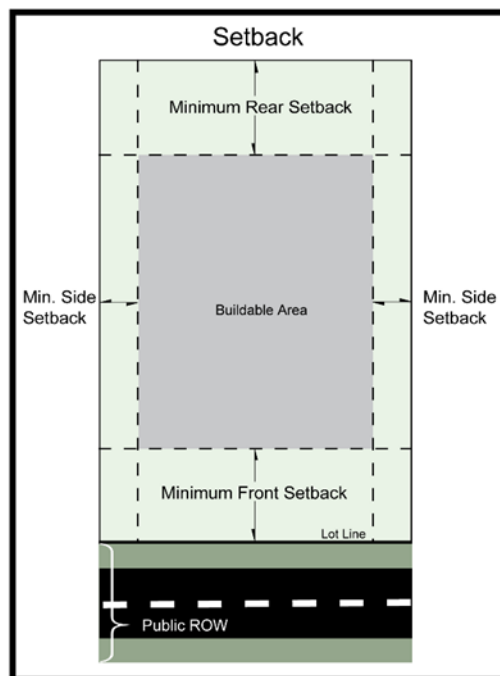
SETBACK - the distance from a lot line or other specified line to a structure or other specified point on a lot as measured perpendicularly to the lot line or other specified line.

SEWAGE SLUDER OR SLUDGE OR BIO-SOLIDS - means the solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes scum or solids removed in primary, secondary, or advanced wastewater treatment processes and material derived from sewage sludge.

SHORELAND ZONING - under an ordinance enacted by Kewaunee County under Wis. Stat. § 59.692, shoreland zoning limits or prohibits the construction or placement of buildings or structures.

SIGN - a structure or device on which advertising is displayed, or by which attention is directed to advertising on the same or any other structure, by any means visible to the eye.

SITE BUILT HOME - A single or two family home built on site to the State of Wisconsin Uniform Dwelling Code.



STANDARDS - the setbacks, using vision corner, sideline requirements, height limitations, square footage requirements and other specifications as required by this Ordinance.

STOCKFARM - an agricultural operation, usually non-dairying in nature where livestock are raised to the required age or weight for slaughterhouse purposes or for sale to commercial feedlots.

STORY - that part of a building between any floor and the floor next above, and if there is no floor above, then the ceiling above. A basement is a story if its ceiling is five (5) feet or more above the level from which the height of the building is measured.

STREET - a public or private right-of-way which affords a primary means of vehicular access to abutting property, whether designated as a street, avenue, highway, road, boulevard, land, throughway or otherwise designated, but does not include driveways or easements to buildings.

STRUCTURE - anything constructed or erected, the use of which requires a permanent location on the ground or attached to something having permanent location on the ground.

STRUCTURAL ALTERATION - any change, other than incidental repairs which would prolong the life of the supporting members of a building, such as the addition, removal, or alteration of bearing walls, columns, beams, girders, or foundations.

SUBSTANDARD LOT - means a lot which is recorded with the Register of Deeds prior to the adoption of this Ordinance, and is located in a zone requiring greater area, width, or other characteristics.

SUBSTANTIAL WORK - means a considerable amount of work has been done towards completing the project that received approval. The site work shall have progressed beyond grading and shall involve physically starting the building project. Site work shall involve the expenditure of at least 10% of the total project cost, with the burden of proof on the applicant. This may include obtaining necessary plot plans, surveys, engineering data, easements, deed restrictions, approvals, and permits. Completion of structural foundations and construction shall occur above grade within twelve (12) months of the effective date of the building permit or date of approval of an extension of the building permit. Construction must continue with reasonable progress and no interruption greater than one hundred eighty (180) consecutive days. Hardships shall be considered by the Board of Supervisors on a case by case basis.

SUBSTANTIALLY ALTERED - means a change initiated by an owner or operator that results in a relocation of a manure and/or waste structure, facility, or system, or significant changes to the size, depth, or configuration of a manure and/or waste structure, facility, or system including:

- (a) An increase in the volumetric capacity or area of a manure and/or waste storage structure or facility by any amount or size;

- (b) A change in a manure and/or waste storage structure or facility related to a change in livestock management from one species of livestock to another, such as cattle to poultry.

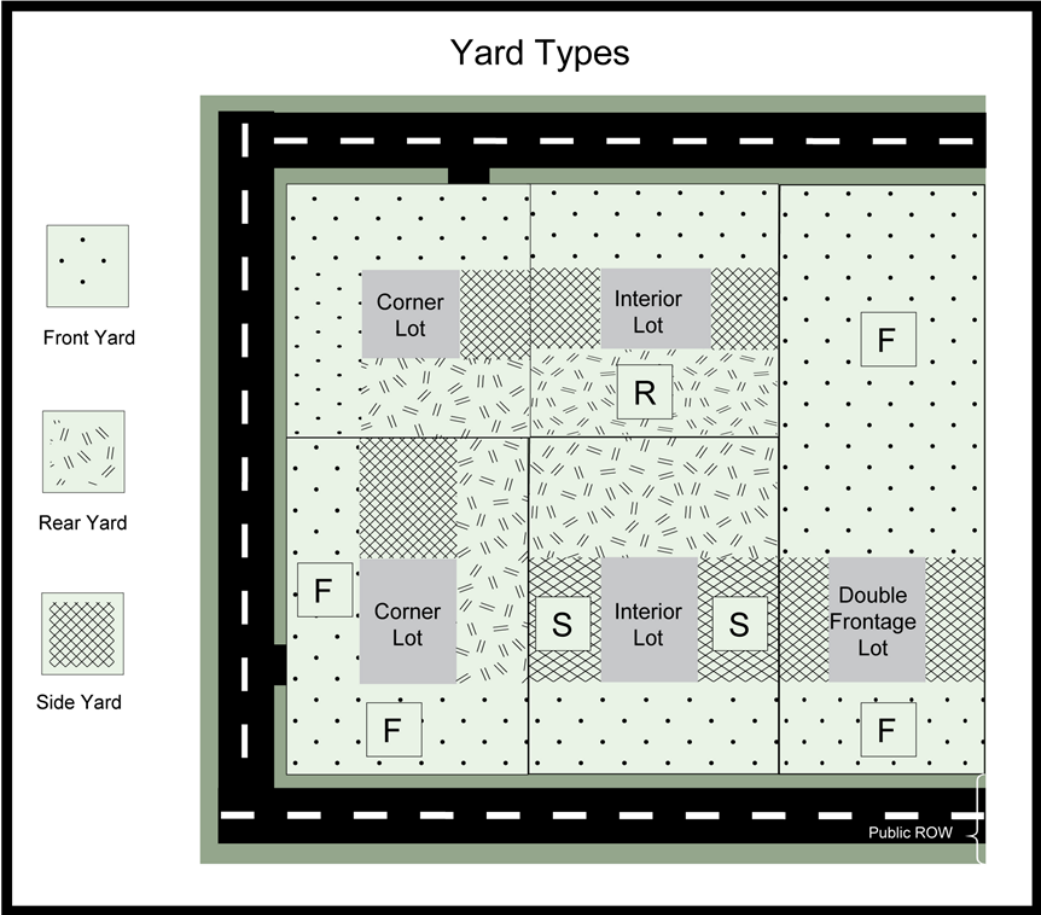
TEMPORARY USE - A use established for a limited duration with the intent to discontinue such use upon the expiration of the time period.

UNNECESSARY HARDSHIP - That circumstance where special conditions, which are not self-created, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, lot width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of the Ordinance. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property. The property owner bears the burden of proving the unnecessary hardship.

VARIANCE - An authorization granted by the Board of Appeals for the construction or maintenance of a building or structure in a manner which is inconsistent with or contrary to the dimensional standards contained in this Ordinance. **Use Variances shall not be granted under this Ordinance.**

YARD-related definitions:

- (a) YARD - an open space on the same lot with a structure, unoccupied and unobstructed from the ground upward except for vegetation.
- (b) YARD, FRONT - a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the existing or proposed road or highway right-of-way and a line parallel thereto through the nearest point of the principal structure. Corner lots shall have two such yards.
- (c) YARD, REAR - a yard extending across the full width of the lot, the depth of which shall be the minimum horizontal distance between the rear lot line and a line parallel thereto through the nearest point of the principal structure. This yard shall be opposite the front yard or one of the front yards on a corner lot.
- (d) YARD, SIDE - a yard extending from the front yard to the rear yard of the lot, the width of which shall be the minimum horizontal distance between the side lot line and a line parallel thereto through the nearest point of the principal structure.



10.0300 GENERAL PROVISIONS

10.0301 Jurisdiction

The jurisdiction of this Ordinance shall include all lands and waters within the town of Lincoln.

10.0302 Building and Use Restrictions

1. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall hereafter be erected, constructed, reconstructed, moved, or structurally altered except in conformity with this Ordinance.
2. All principal structures shall be located on a lot, and only one principal structure shall be located, erected or moved onto a lot.
3. Permitted Principal Uses, Permitted Accessory Uses, and Conditional Uses are limited to the uses indicated for the respective zoning districts. If a use is not listed, it is prohibited. Unclassified or unspecified uses may be permitted by the Town Board after review by, and recommendation from, the Plan Commission and after a public hearing provided that the uses are similar in character to the principal uses permitted in the district.
4. Accessory uses and structures are permitted in any district, except as provided for by 10.0314 of this Ordinance Residential accessory uses shall not involve the conduct of any business, trade, or industry as a principal use.
5. Conditional Uses and their accessory uses are considered as special uses requiring review, public hearing, and approval by the Town Board and issuance of a conditional use permit.
6. No lot area shall be reduced so that the yards and open spaces are smaller than is required by this Ordinance.
7. Where the Town Building/Zoning Administrator has issued a Building Permit pursuant to the provisions of this Ordinance, such permit shall become null and void unless work thereon is substantially underway within six (6) months of the date of the issuance of such permit.
8. Where a building permit for a building or structure has been issued in accordance with the law prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, the said building or structure may be completed in accordance with the approved plans.
9. Every building intended for human habitation or occupancy shall be provided with a properly functioning system for treatment of domestic waste to include a private sewage system as defined by Wis. Stat. § 145.01(12).

10.0303 Area Regulations

1. Lot sizes shall comply with the required regulations of the established zoning districts.

2. Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.
3. No Building Permit shall be issued for a lot that abuts on half a street. Said permit shall be issued only after the entire street right-of-way has been dedicated.

10.0304 Height Regulations

1. Except as otherwise provided in this Ordinance, the height of any building hereafter erected, converted, enlarged or structurally altered shall be in compliance with the regulations established herein for the district in which the building is located.
2. Except as otherwise provided in this Ordinance, belfries, cupolas, chimneys, cooling towers, elevator bulkheads, fire towers, monuments, silos, wind mills and wind energy systems, scenery lofts, tanks, water towers, ventilators, ornamental towers, spires, wireless television or broadcasting towers, masts or aerials, telephone, telegraph and power transmission poles and lines, microwave radio relay structures and necessary mechanical appurtenances are hereby exempted from the height regulations of this Ordinance.
3. All other non-residential structures and public and quasi-public buildings may be erected to a height not exceeding 60 feet, provided the front, side and rear yards required in the district are each increased at least one (1) foot for each foot of additional building height.
4. Residences may be increased in height by not more than 10 feet when all yards and other required open spaces are increased by one (1) foot for each foot by which such building exceeds the height limit of the district in which it is located.

10.0305 Front, Side and Rear Yard Regulations

1. No part of the required front yard shall be used for permanent open storage of boats, vehicles or any other equipment except for vehicular parking on driveways. All open storage areas shall be properly landscaped.
2. No part of a yard or other open space provide about any building for the purpose of complying with the provisions of this Ordinance shall be included as a part of the yard or any other open space required for another building.
3. A setback less than the setback required by this Ordinance may be permitted where there are at least five (5) existing principal structures existing at the date of enactment of this Ordinance within five hundred (500) feet of the proposed site that are built to less than the required setback. In such case, the setback shall be the average of the nearest principal structure on each side of the proposed site or if there is no building on one side, the average of the setback for the principal structure on one side and the required setback. In no case shall the required setback be less than 10 feet. Such setback shall be granted by a permit from the Plan Commission and shall not require a variance.

10.0306 Minimum Lot Frontage

All lots shall abut upon a street, and each lot shall have a minimum frontage of 30 feet.

10.0307 Parking Standards

1. Parking areas may be located in any yard space for commercial uses and in any yard but the front yard for other uses, but shall not be closer than ten (10) feet to any street line. No parking space or area shall be permitted within five (5) feet of a property line in a side yard.
2. Each parking space shall not be less than two hundred (200) square feet, exclusive of the space required for ingress and egress. Minimum width of the parking space shall be ten (10) feet.
3. Where parking facilities are permitted on land other than the zoning lot on which the building or use served is located, such facilities shall be in the same possession as the zoning lot occupied by the building or use to which the parking facilities are accessory.
4. All off-street parking areas for more than ten (10) vehicles shall be graded and surfaced so as to be dust free and properly drained and shall have the aisles and spaces clearly marked.
5. All parking areas and appurtenant passageways and driveways serving commercial uses shall be illuminated adequately from the hours of sunset to sunrise when the use is in operation. Adequate shielding shall be provided by commercial uses to protect adjacent residential zones from the glare of such illumination and from that of automobile headlights.
6. Where a building permit has been issued prior to the effective date of this Ordinance, and provided that construction is begun within six (6) months of such effective date and diligently prosecuted to completion, parking and loading facilities in the amounts required for the issuance of said building permit may be provided in lieu of any different amounts required by this Ordinance.
7. When the intensity of use of any building, structure, or premises shall be increased through the addition of dwelling units, floor units, floor areas, seating capacity or other units of measurement specified herein for the required parking or loading facilities as required herein shall be provided for such increase in intensity to use and for at least fifty (50) percent of any existing deficiency in parking or loading facilities.
8. None of the off-street facilities as required in this Ordinance shall be required for any building or use lawfully existing, prior to the effective date of this Ordinance, unless said building or use shall be enlarged, extended or increased in which case the provisions of this Ordinance shall apply only to the enlarged, extended or increased portion of the building or use. Such lawfully existing buildings or uses shall comply with the Parking Standards contained in the Town of Lincoln Zoning Ordinance.

9. Required Number of Parking Stalls:

Table 10.1: Land Use and Minimum Parking Stalls Required, Town of Lincoln.

Use	Minimum Parking Required
Single-family dwellings and manufactured homes	Two (2) spaces for each dwelling unit
Multiple-family dwellings	One and a half (1.5) spaces for each dwelling unit
Motels, hotels	One (1) space for each guest room plus one (1) space for each three (3) employees
Hospitals	One (1) space for each two (2) beds plus one (1) space for each three (3) employees
Long term care and assisted living centers	One (1) space for each five (5) beds plus one (1) space for each three (3) employees
Medical, dental, health care facilities	Five (5) spaces for each doctor
Churches, theaters, auditoriums, community center, vocational and night schools, and other places of public assembly	One (1) space for each five (5) seats
Colleges, secondary and elementary schools	One (1) space for each two (2) employees plus one (1) space for each 10 students of 16 years of age or more
Restaurants, bars, places of entertainment, repair shops, and retail and service stores	One (1) space for each 150 square feet of floor area and one (1) space for each two (2) employees
Manufacturing and processing plants, laboratories, and warehouses	One (1) space for each two (2) employees
Financial institutions, and business, government, and professional offices	One (1) space for each 300 square feet of floor area and one (1) space for each two (2) employees
Funeral Homes	One (1) space for each four (4) seats
Bowling alleys	Five (5) spaces for each alley
Lodges and clubs	One (1) space for each five (5) members
Automobile repair garages	One (1) space for each regular employee plus one (1) space for each 250 square feet of floor area used for repair work

Uses Not Listed - For uses not listed, the Plan Commission shall determine the number of parking spaces to be required after considering, but not limited to the following: the amount of floor space, number of employees, the traffic generation potential, and the number of spaces required for uses that are specified.

10.0308 Loading Requirements

In all districts, adequate loading areas shall be provided so that all vehicles loading, maneuvering, or unloading are completely off the public ways and so that all vehicles need not back onto any public way.

10.0309 Parking of Commercial Vehicles, Buses, and Commercial Trailers

in Residential Areas Restricted

No commercially licensed motor vehicle having a gross weight in excess of 10,000 pounds, bus or commercially licensed trailer shall be parked or stored in any residential district, other than by a conditional use permit, except when loading, unloading or rendering a service.

School buses as defined in Wis. Stat. § 340.01(56) and regulated by Wisconsin Administrative Code Trans 300 are exempt from 10.0309 provided that no more than two school buses shall be parked or stored on a parcel and such buses must be operated by the occupants of the parcel.

10.0310 Driveways

All driveways installed, altered, changed, replaced, or extended after the effective date of this Ordinance shall meet the following requirements:

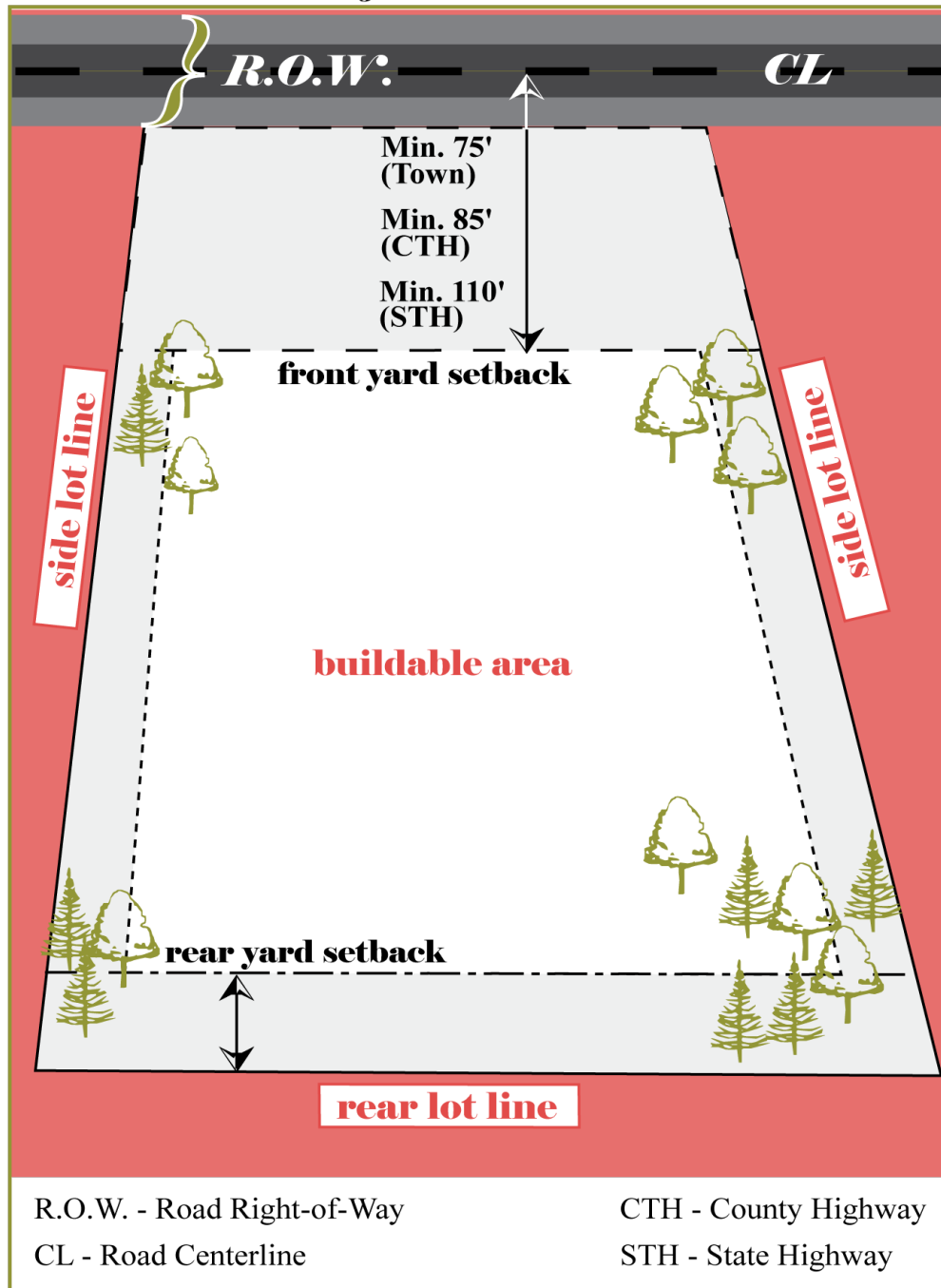
1. Islands between driveway openings shall be provided, with a minimum of 12 feet between all driveways and six (6) feet at all lot lines.
2. Openings for vehicular ingress and egress shall not be less than 35 feet for fields at the street line, and 28 feet for all other driveways at the street line unless a safety hazard identified by the Town Chair or Board of Supervisors designee requires construction of a wider driveway opening.
3. Vehicular entrances and exits to drive-in theaters; banks; restaurants; motels; funeral homes; vehicular sales, service, washing, and repair stations; garages; or public parking lots shall be not less than 200 feet from any pedestrian entrance or exit to a school, college, university, church, hospital, park, playground, library, public emergency shelter, or other place of public assembly.
4. Driveway approaches shall be so constructed so as not to restrict the natural flow of water. Property owners shall be financially responsible for providing the proper size culvert necessary for driveways if needed as determined by the Town Zoning Administrator.

10.0311 Setback Requirements from State and Federal Highways, County Highways and Town Roads

Figure 10.1: Yard Requirements Applying to All Zoning Districts in the Town of Lincoln.

Front Yard setback requirements for all zoning districts.

Diagram is not to scale



10.0312 Visual Clearance Triangle

In each quadrant of every public street intersection, there shall be a visual clearance triangle bounded by the street center lines and a line connecting points on them 300 feet from a state or federal highway intersection, 200 feet from a county highway intersection and 150 feet from a town road intersection. Uses permitted in a visual clearance triangle include:

1. Open wire or rail fences.
2. Telephone, telegraph and power transmission poles, lines and portable equipment.
3. Field crops, shrubbery and trees, except that no trees, shrubbery or crops may be planted within a visual clearance triangle so as to obstruct the view.

10.0313 Outdoor Lighting Regulations

It is the intent of this section to encourage outdoor lighting practices and systems which minimize light pollution of the night sky, glare, and light trespass while maintaining night time safety, utility, security, and productivity in the Town of Lincoln. This section shall apply to all districts.

1. All area lighting must be down lit and shielded in a manner that light rays emitted by the fixture either directly from the lamp or indirectly from the fixture are projected below a horizontal plane running through the lowest point on the fixture where the light is emitted. Examples include but are not limited to spotlights, floodlights, and other sources of illumination used to illuminate yards, buildings, signs, landscaping, street graphics, parking and loading areas.
2. All lighting must be directed away from adjacent properties and public rights-of-way to prevent light from trespassing or spilling onto those properties.
3. There shall be no flashing, revolving, or intermittent lighting which could be considered a nuisance or distraction to neighbors or vehicular traffic.
4. Searchlights, lasers, or any similar high-intensity light shall not be permitted except use in emergency by police or fire personnel or at their direction.
5. All outdoor flood light projection above the horizontal is prohibited.
6. Only street lights approved by the town are permitted. For the purpose of this section, "Streetlights or street lighting" means lighting specifically designed and constructed for the purpose of illuminating a public roadway.
7. Lighting the American flag and holiday lighting are exempt from all lighting requirements of this section.
8. Temporary lighting which does not conform to the provisions of this section may be allowed for a total of no longer than 30 days within a year.

10.0314 Accessory Uses and Structures

1. Any permanent, roofed structure serving as an accessory use if attached to the principal building by an enclosed structure shall be considered a part of the principal building. If an accessory structure is not attached to the principal building as specified above, it shall conform to the setback and other dimensional requirements for accessory buildings within the zoning district.
2. Living Quarters Prohibited - Accessory buildings shall not contain living quarters (as defined in 10.0200 of this Ordinance).
3. Accessory uses and detached accessory structures are permitted in the rear and side yards only.
4. An accessory building may be permitted and constructed prior to the principle structure provided that building permits for both structures are approved at the same time.
5. Such items as, but not limited to boats, truck and van bodies, mobile homes, buses, railroad cars, and campers, shall not be used as accessory structures.

10.0315 Physical Requirements Applying to Single and Two Family Residential Dwellings

Commentary: Manufactured homes that meet the definition of MANUFACTURED HOMES DEFINED AS SINGLE FAMILY DWELLING in 10.0200 of this Ordinance and that comply with the provisions of 10.0315 are considered to be Single Family Residential Dwelling

1. Foundation:
Dwellings shall have a properly engineered, permanently attached means of support that meets the manufacturer's installation requirements and all applicable building codes.
2. Applicability of Wisconsin Uniform Dwelling Code to-Site Built Additions to Manufactured Homes:
Site built additions to a manufactured home, such as a basement, crawl spaces or room additions must meet the requirements of the Wisconsin Uniform Dwelling Code.
3. Siding Material:
Dwellings shall have exterior siding material that is residential in appearance. The exterior siding material shall extend to ground level, except that when a solid concrete or masonry perimeter foundation is used, the siding material need not extend below the top of the foundation.
4. Roof:
The roof must be covered with material that is residential in appearance.
5. Mobility:

Once placed on site, no modular home or manufactured home shall contain any axles, wheels, hitch, or any other device facilitating its mobility.

6. Any manufactured home not meeting the requirements of 10.0315 shall only be permitted as provided in 10.0500 of this Ordinance.

10.0316 Setback Requirements from Animal Waste Storage Facilities and Structures

All new construction of dwellings and business structures in the following zoning districts shall be located a minimum of 1,320 feet from any existing manure storage facilities, structures, or systems that are required to have a Livestock Facility Conditional Use Permit or WPDES Permit. These districts include:

A-2 General Agricultural District

Rs-1 Single-Family Residential District One

B-1 Business District

10.0317 Reasonable Accommodations for a Disabled Persons.

1. The Zoning Administrator will, upon receipt of a written request, issue a permit that waives one or more specific zoning requirements if the Zoning Administrator determines that all of the following conditions have been met:
 - (a) The requested waiver is necessary to afford a handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (b) The requested waiver is the minimum deviation from the terms of this ordinance necessary to provide the handicapped or disabled person equal housing opportunity or equal access to public accommodations.
 - (c) The requested waiver will not unreasonably undermine the basic purposes this ordinance.
2. A permit issued pursuant to this section must state the provisions of this ordinance that are waived and describe with reasonable particularity the deviation from the terms of this ordinance that are authorized.
3. A permit issued pursuant to this section must state that the permit is issued pursuant to the requirements of the Americans with Disabilities Act, the Fair Housing Act, the Rehabilitation Act, the Wisconsin Open Housing Law, a local ordinance, or a combination of these acts, laws, and ordinances in order to provide the reasonable accommodation necessary to avoid discrimination on the basis of disability or handicap.
4. A permit issued pursuant to this section must include a provision stating that the permit is valid only for so long as the waiver is necessary for a disabled or handicapped person to occupy or use the premises and that the permit holder must notify the Zoning Administrator within 30 days of the date that the disabled or handicapped person no longer occupies or uses the premises.

5. A permit issued pursuant to this section must include a provision stating that any addition or external structural change allowed by the waiver must be constructed, insofar as is practicable, in such a way that it can be removed when the disabled or handicapped person no longer occupies or uses the premises, unless the department determines that removal will not be required and includes a written statement of the reason that removal is not required as part of the permit.
6. A permit issued pursuant to this section which requires the removal of any addition or external structural change will not become effective until the permit holder:
 - (a) Signs an affidavit that contains the legal description of the property, acknowledges that waiver granted by permit is authorized only for so long a disabled or handicapped person uses the premises, agrees to notify the Zoning Administrator within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person, and agrees to remove any addition or external structural change authorized by the permit within 30 days of the date that the premises are no longer occupied or used by a disabled or handicapped person; and
 - (b) Records the affidavit with the Town Clerk.

10.0318 Kewaunee County Shoreland Zoning Ordinance

The Town recognizes that Kewaunee County has adopted a Shoreland Zoning Ordinance in compliance with Wisconsin Statutes. Accordingly, the Zoning Administrator for the Town of Lincoln shall refer to Kewaunee County all applicants seeking building permits for structures or uses which are proposed to be located or conducted within the shoreland area subject to county regulations. If the Zoning Administrator determines that any Town building permit is required for such project, a permit will not be issued within Shoreland Zoning until approval from Kewaunee County has been granted.

10.0400 ESTABLISHMENT OF ZONING DISTRICTS

10.0401 Establishment of Districts

For the purpose of this Ordinance, the town of Lincoln, Kewaunee County, Wisconsin, is hereby divided into the following zoning districts:

- A-1 Exclusive Agricultural District
- A-2 General Agricultural District
- Rs-1 Single-Family Residential District One
- B-1 Business District

10.0402 Zoning Map

The location and boundaries of the districts established by this Ordinance are set forth on the zoning map entitled "Zoning Map for the Town of Lincoln, Kewaunee County, Wisconsin" dated July 7, 1986, which are incorporated herein and hereby made a part of this Ordinance. The said map, together with everything shown thereon and all amendments thereto, shall be as much a part of this Ordinance as though fully set forth and described herein. The Town Clerk shall keep a revised version of said map reflecting any and all changes of zoning boundaries.

10.0403 Interpretation of District Boundaries

The following rules shall apply with respect to the boundaries of the various districts as shown on the zoning map.

1. District boundary lines are the center lines of highways, streets, alleys, and pavements; or right-of-way lines of railroads and expressways; or section, division of section, tract and lot lines; or such lines extended, unless otherwise indicated.
2. No building, structure, or land shall hereafter be used or occupied, and no building or structure or part thereof shall be hereafter erected, constructed, reconstructed, moved, or structurally altered except in conformity with all of the regulations herein specified for the district in which it is located.
3. No building or other structure shall hereafter be erected or altered.
 - (a) To exceed the height or bulk;
 - (b) To accommodate or house a greater number of families;
 - (c) To occupy a greater percentage of lot area;
 - (d) To have narrower or smaller rear yards, front yards, side yards, or other open spaces; than herein required, or in any other manner contrary to the provisions of this Ordinance.

10.0404 A-1 Exclusive Agricultural District

1. Purpose and Intent of the A-1 Exclusive Agricultural District.

- (a) The purposes of the A-1 District are to:
 - (1) Preserve productive agricultural land;
 - (2) Maintain a viable agricultural base to support agricultural processing and service industries;
- (b) The A-1 District is generally intended to apply to lands in productive farm operations including:
 - (1) Lands historically exhibiting high crop yield or capable of such yields;
 - (2) Lands, which have been demonstrated to be productive for dairying, livestock raising, and grazing;
 - (3) Other lands which are integral parts of each farm operation; and
 - (4) Land used for the production of specialty crops.

As a matter of policy, agricultural uses in the A-1 District are encouraged to transition to more sustainable agricultural practices that focus on the health of the soil, the groundwater and the environment of the Town of Lincoln. Some A-1 parcels may be better suited for uses other than agriculture.

Note: Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.

** This district serves as a Farmland Preservation Zoning District for the Town of Lincoln.

2. Permitted Principal Uses

The following principal uses are permitted uses in the A-1 district:

- (a) Agricultural uses (see Section 10.0202) except:
 - (1) Livestock facilities with 500 or more animal units require a conditional use permit under Section 10.0404(4)(i).
- (b) Essential services consistent with Wis. Stat. § 91.44.
- (c) Livestock facility, less than 500 animal units.
- (d) Farm ponds.
- (e) Maple syrup processing.

- (f) Transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place, or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.
- (g) Undeveloped natural resource and open space areas.

3. Permitted Accessory Uses

The following accessory uses are permitted in the A-1 district only when there is a permitted principal use present:

- (a) Agricultural accessory uses (see Section 10.0202), except:
 - (1) Aircraft facilities, consistent with Wis. Stat. § 91.01(1), that are incidental to the farm operation and located on a farm, require a Conditional Use permit under Section 10.0404(4)(b).
 - (2) Livestock facilities with 500 or more animal units require a conditional use permit under Section 10.0404(4)(i).
 - (3) All manure and/or waste storage facilities, structures, and systems serving a livestock facility require a Conditional Use permit under Section 10.0404(4)(j).
 - (4) Manure digesters, bio-fuel facilities, or other facilities serving a livestock facility require a Conditional Use permit under Section 10.0404(4)(k).
 - (5) Agricultural tile lines (see Section 10.0404(5)).
- (b) Farm residence, one single family.
- (c) Solar energy systems that provide energy primarily for the residence and on-site structures.
- (d) Roadside stand, one per farm, provided that the structure does not cover more than 300 square feet in ground area and does not exceed 10 feet in height and is consistent with Wis. Stat. § 91.01(1).
- (e) Home occupations, consistent with Wis. Stat. § 91.01(1)(d), conducted on the primary farm premises, and that are incidental to the farm operation.
- (f) Uses related to the Ice Age Trail under Wisconsin Stats. 23.17 and 23.293.
- (g) Hunting cabins or warming shacks, consistent with Wis. Stat. § 91.01(1)(a), providing no water or sewerage facilities are included.

4. Conditional use

The following uses may be allowed in the A-1 district subject to the issuance of a conditional use permit:

- (a) Agriculture-related uses (see Section 10.0202).
- (b) Airfields, airports, and heliports, consistent with Wis. Stat. § 91.01(1), that are incidental to the farm operation and located on a farm, however are not open to the public.
- (c) Artificial lakes.
- (d) One additional farm residence, single family dwelling.
- (e) Transportation, communications, pipeline, electric transmission, utility, or drainage uses consistent with Wis. Stat. § 91.46(4).
- (f) Farm Consolidation

For the purposes of farm consolidation, farm dwellings and related farm structures existing prior to December 1, 1986, may be separated from the farm plot provided that the parcel created conforms with all regulations set forth in the General Agricultural District (A-2) and is no larger than reasonably necessary to accommodate the proposed use.

- (g) Fur farming.
- (h) Institutional, governmental uses, and religious uses consistent with Wis. Stat. § 91.46(5) such as: colleges, universities, schools (elementary, junior high and senior high), hospitals, churches and other religious institutions, cemeteries, public parks, public recreation sites, and public golf courses.
- (i) Livestock Facility/Animal Feedlot: A new or expanded Livestock Facility/Animal Feedlot, 500 or more animal units, may be permitted as a Conditional Use in A-1 Exclusive Agricultural District per the procedures under Wis. Stat. § 93.90 and Wis. Admin. Code ch. ATCP 51.

- (1) Pursuant to the provisions of Wis. Stats.93.90, the Town of Lincoln does hereby adopt and incorporate into its existing Zoning Ordinance the provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code, inclusive of all future amendments to any provisions of Wis. Stats. 93.90 and ATCP 51 of the Wisconsin Administrative Code. The Town of Lincoln's Zoning Ordinance hereby reflects the provisions of Wis. Stats. 93.90 and ATCP 61 of the Wisconsin Administrative code as if said statutory and administrative provisions were set forth in their entirety within the text of the Town's Zoning Ordinance.

- (2) Conditional Use Permit applications for Livestock Facilities/Animal Feedlots, 500 or more animal units must include state mandated application materials per Wis. Admin Code ch., ATCP 51.30.
- (3) The Town shall follow state standards (Wis. Admin. Code ch. ATCP 51) for approving Conditional Uses for new or expanding Livestock Facilities/Animal Feedlots of 500 or more animal units
- (4) All requirements and restrictions for A-1 Exclusive Agricultural District and 10.1200 Conditional Use Permits shall apply.
- (5) Chapter 11: Livestock Facility Siting and Conditional Use Permit Ordinance of the Town of Lincoln Code of Ordinances shall apply.
- (6) Additional Town Requirements. The Town Board hereby declares the following more stringent local standards are deemed necessary to protect the public health, safety, welfare or convenience and, to that end, adopts the following legislative findings of fact:
 - a. Concentrated farm operations of greater than 500 animal units will result in a higher level of traffic moving raw materials into and finished products out of such large farm operations. More traffic generated by a large farm operation increases the likelihood of accidents and the endangerment of local residents and operators of trucks or farm equipment traveling on the same roadways within the Town of Lincoln (public safety).
 - b. Bedrock within the Town of Lincoln consists of dolomite with frequent vertical and horizontal fractures (Muldoon). Animal waste rapidly infiltrates into the groundwater table due to the fractured limestone (karst) underlying the shallow top-soil in much of the township (Borchardt, Muldoon, Parsen, Bonness and Masarik). Due to the characteristics of such low attenuation areas, the Town of Lincoln will not allow agricultural siting operations or the spreading of liquid manure in these mapped sensitive areas. (public safety)
 - c. In large portions of the Town of Lincoln, the water table can be at a depth of 0 to 36 inches (Hanson), especially when adjacent to wetlands, streams, ponds and around closed depressions (Parson). Pollutants

that reach these waters or areas with rapid recharge rates have been known to contaminate the groundwater that is consumed by local residents who get their water from wells (Borchardt and Muldoon). (public health).

- d. The Town will review, on a case by case basis, the merits of siting agricultural operations or the spreading of liquid manure when such operations are within 75 feet of a shallow water table (0 to 36 inches) or when adjacent to wetlands, streams, and ponds, or closed depressions.
- (j) Manure and/or waste storage facilities, structures, and systems serving a livestock facility. The facilities must be located on the same parcel or an adjacent parcel as the livestock facility producing the manure and/or waste and must be owned by the same enterprise. A manure storage structure construction permit issued by the Kewaunee County Land and Water Conservation Department is required.
- (k) Manure digester, bio-fuel facility, or other facility serving a livestock facility and consisting of a sealed structure in which manure is subjected to managed biological composition. The facility must be located on the same parcel or on an adjacent parcel as the livestock facility producing the manure and/or waste.
- (l) Quarries, sand, and gravel pits and non-metallic mining consistent with Wis. Stat. § 91.46(6).
- (m) Riding academies and stables, if a farm family business.
- (n) Stockyards.
- (o) Wildlife sanctuaries and game preserves consistent with Wis. Stat. § 91.46(5).
- (p) Wind energy systems that provide energy primarily for the residence and on-site structures.
- (q) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - (1) It is conducted on a farm by an owner or operator of that farm.
 - (2) It requires no buildings, structures, or improvements other than a building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use; or a farm residence.
 - (3) It employs no more than 4 full-time employees annually.
 - (4) It does not impair or limit the current or future agricultural use of the farm or other protected farmland.

5. Prohibited uses.

Consistent with the Town’s comprehensive plan, installation or replacement of agricultural tiles lines is prohibited.

6. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-1 district, with the exception of manure storage facilities and manure storage structures and systems. See subsections (8), (9), (10) and (11) of this section) for manure storage facility, structure, and system requirements:

Exclusive Agriculture (A-1)	
Lot Size:	
Minimum lot area	35 acres
Minimum lot width at building line	200 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	50 ft.
Side Yard Minimum:	20 ft.
Principal	25 ft. (one side)
Accessory	10 ft. (one side)
Height:	
Maximum Farm Residence:	35 ft.
Maximum Farm Residence Accessory:	22 ft. or the height of the residence, whichever is greater
Maximum Agricultural Structures:	60 feet

7. Principal Dwelling Floor Area: Not applicable.
8. Maximum Lot Coverage: Not Applicable
9. Yard Requirements for Livestock facilities with 500 or more but less than 1,000 animal units within the A-1 district:

Property line setback	100 ft.
Road Right of Way	100 ft.

10. Yard Requirements for Livestock facilities with 1,000 or more animal units within the A-1 district:

Property line setback	200 ft.
Road Right of Way	150 ft.

11. Yard Requirements: Livestock facilities with less than 100 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	100 ft.
Road Right of Way	100 ft.
Existing Residential Dwellings	100 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	100 ft.

12. Yard Requirements: Livestock facilities with 100 but less than 500 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	350 ft.
Road Right of Way	350 ft.
Existing Residential Dwellings	650 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	650 ft.

13. Yard Requirements: Livestock facilities with 500 or more animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	350 ft.
Road Right of Way	350 ft.
Existing Residential Dwellings	1,320 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	1,320 ft.

14. Permitted Nonconforming Uses

- (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.)
- (b) Isolated commercial uses that existed prior to the effective date of this ordinance adopted are allowed by the Town Board as nonconforming uses.
- (c) Residences existing prior to the effective date of this ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

15. Rezoning of Exclusive Agricultural District Lands

In addition to the provisions of 10.1400 Changes and Amendments, the following provisions shall apply:

- (a) Town of Lincoln may not rezone land out of the A-1 zoning district unless the town does all of the following prior to the rezoning:
 - (1) Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
 - a. The rezoned land is better suited for a use not allowed in the A-1 zoning district.
 - b. The rezoning is consistent with Chapter 5 on Land Use of the Comprehensive Plan which is in effect at the time of the rezoning especially Chapter 5 on Land Use, the Agricultural Transition Map, and the Sensitive Areas Map.
 - c. The rezoning is substantially consistent with the Kewaunee County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
 - d. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (b) Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.
- (c) By March 1 of each year, the Zoning Administrator shall provide a report to the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) identifying the number of acres that the Town has rezoned out of the A-1 zoning district during the previous calendar year and a parcel map that clearly shows the location of those acres.
- (d) By March 1 of each year, the Zoning Administrator shall submit a copy of the information that it reports to DATCP under Section 10.0404(12)(b) to Kewaunee County.

16. Variances

In addition to the provisions of section 10.1400 Board of Appeals, any variance that is granted must be found to be “consistent with agricultural use”. Variance requests for any facility that may wish to expand its storage capacity, modify its storage facilities to meet additional days of storage, or add a sand and/or bedding separation system must specifically comply with Section 10.1404 and 10.1407.

10.0405 A-2 General Agricultural District

1. Purpose and intent of Agricultural District

The purpose of the A-2 District is to provide a mixture of low density residential and agricultural land uses. This district is designed to permit utilization of smaller land parcels in predominantly agricultural areas for small scale agriculture and rural residential uses. The intent of the A-2 District is that it is to be applied to those rural lands with less than 35 acres.

As a matter of policy, agricultural uses in A-2 districts are encouraged to transition to more sustainable practices that focus on the health of the soil, the groundwater, and the environment of the Town of Lincoln. Some A-2 parcels may be better suited for uses other than agriculture.

2. Permitted Uses

The following uses are permitted in this district:

- (a) Single family dwellings.
- (b) General farming including livestock and poultry raising, nurseries, and other similar enterprises or uses.
- (c) In-season roadside stands for the sale of farm products produced on the premises.
- (d) Gardening, including truck gardens, nurseries, greenhouses, and orchards.
- (e) Governmental buildings.
- (f) Public parks, playgrounds, recreational and community center buildings and grounds.
- (g) Grade schools, cemeteries, churches and their affiliated uses.
- (h) Water storage facilities and their accessory structures.
- (i) Accessory buildings, including buildings clearly incidental to the residential use of the property; provided however, that no necessary building may be used as a separate dwelling unit.
- (j) Hunting cabins or warming shacks providing no water or sewerage facilities are included.
- (k) Home occupations when such operation is incidental to the residential use of the premises.
- (l) Solar energy systems that provide energy primarily for the residence and on-site structures.
- (m) Uses customarily incidental to any of the above uses; provided that no such use generates traffic or noise that would create a public or private nuisance.

3. Conditional Uses

A conditional use in this district is to permit the following uses only after public meeting and approval of the Town Board.

- (a) Professional offices, when such office is conducted solely by a member or members of the resident family.
- (b) Institutions of a charitable or philanthropic nature, hospitals, clinics and sanitariums. Libraries, museums and community buildings, private clubs and fraternities, except those whose principal activity is a service customarily carried on as a business, and except also riding clubs.
- (c) Commercial kennels.
- (d) Two-family dwelling only as a result of the conversion of an existing single-family dwelling.
- (e) Day Care Center, Group.
- (f) Camps and recreational vehicle parks.
- (g) Wind energy systems that provide energy primarily for the residence and on-site structures.
- (h) Warehouses, garages, shops and storage areas.
- (i) Telecommunication towers.
- (j) No subdividing of A-2 parcels without obtaining a conditional use permit for more than one single family dwelling.

4. Prohibit Uses

Consistent with the Town's comprehensive plan, installation of agricultural tile lines are prohibited.

5. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the A-2 district, with the exception of manure storage facilities and manure storage structures and systems. See subsections (6), and (7) of this section for manure storage facility, structure, and system requirements.

General Agriculture (A-2)	
Lot Size:	
Minimum lot area	5 acres
Maximum lot area	35 acres
Minimum lot width at building line	200 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	50 ft.
Side Yard Minimum:	20 ft.
Principal	25 ft. (one side)
Accessory	10 ft. (one side)
Height:	
Maximum Farm Residence:	35 ft.
Maximum Farm Residence Accessory:	22 ft. or the height of the residence, whichever is greater
Maximum Agricultural Structures:	60 feet

6. Yard Requirements: Livestock facilities with less than 100 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	100 ft.
Road Right of Way	100 ft.
Existing Residential Dwellings	100 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	100 ft.

7. Yard Requirements: Livestock facilities with 100 but less than 500 animal units shall comply with the following setbacks for manure and/or waste storage facilities, structures, and systems, or any manure and/or waste storage facility, structure, or system that is substantially altered:

Property line setback	350 ft.
Road Right of Way	350 ft.
Existing Residential Dwellings	650 ft.
Churches, Schools, Parks, Lodging, and Eating Establishments	650 ft.

- (a) Minimum setbacks for dwellings or businesses from existing manure and/or waste storage facilities, structures, and/or systems

with a Livestock Siting Conditional Use Permit or WPDES Permit shall be 1,320 feet.

- (b) Building Area—no minimum
- (c) Maximum Lot Coverage - 20 percent.
- (d) Density: Maximum of two dwelling units per public land survey quarter quarter section (40 acres). A density of three to eight units per public land survey quarter quarter section may be permitted by a conditional use permit.

10.0406 RS-1 Single-Family Residential District One

1. Purpose and intent of the RS-1 Residential District

The RS-1 District is intended to provide for a quiet, pleasant and relatively spacious living area protected from traffic hazards and the intrusion of non-compatible land uses.

2. Permitted Uses

The following-uses are permitted uses in this District:

- (a) Single-family dwellings.
- (b) Public parks, playgrounds, and athletic fields.
- (c) Churches, chapels, temples, synagogues, rectories, parsonages, and parish houses.
- (d) Community living arrangements with a capacity of 8 or fewer persons served by the program.

3. Permitted Accessory Uses

The following uses are permitted in this district only when there is a principal permitted use present:

- (a) Floriculture, forestry, greenhouses, horticulture, nurseries, orchards, truck farming, wildlife sanctuaries.
- (b) Livestock and poultry raising limited to one half animal unit per acre.
- (c) Private garages, carports, and driveways.
- (d) Home occupations.
- (e) Tool houses, sheds and other similar buildings used for the storage of common supplies.
- (f) Roadside stands provide the structure does not cover more than 300 square feet in ground area and does not exceed 10 feet in height.
- (g) Solar energy systems that provide energy primarily for the residence and on-site structures.
- (h) Day Care Home, family.

4. Conditional Uses

A conditional use in this district is to permit the following uses only after a public meeting and approval of the Town Board.

- (a) General farming, dairying, grazing, hatcheries, livestock raising, paddocks, pastures, poultry raising, truck farming, game farms, and game preserves, riding academies and stables.
- (b) Public and private campgrounds.

- (c) Water storage facilities.
 - (d) Fire stations, police stations, post offices and other municipal facilities necessary for town operation.
 - (e) Two-family dwellings.
 - (f) Day Care Center, group.
 - (g) Community living arrangements with a capacity of 9 to 15 persons served by the program.
 - (h) Professional offices, bed and breakfasts.
 - (i) Wind energy systems that provide energy primarily for the home and on-site structures.
 - (j) Subdividing of RS-1 parcels for additional residential dwellings
5. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the SR-1 district.

Single-Family Residential District One (RS-1)	
Lot Size:	
Minimum lot area	1.5 acres
Maximum lot area	5 acres
Minimum lot width at building line	100 ft.
Minimum width corner lot	120 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	25 ft.
Side Yard Minimum:	15 ft.
Minimum combined	30 ft.
Principal	25 ft. (one side)
Accessory	10 ft. (one side)
Height:	
Maximum Residence:	35 ft.
Maximum Residence Accessory:	22 ft. or the height of the residence, whichever is greater
Maximum Lot Coverage	30 percent

- (a) Minimum setbacks for dwellings or businesses from existing manure and/or waste storage facilities, structures, and/or systems with a Livestock Siting Conditional Use Permit or WPDES Permit shall be 1,320 feet.
- (b) Building Area - not applicable

10.0407 B-1 Business District

1. Intent and Purpose

The primary purpose of the Business District is to serve the retail and service needs of area residents with a wide range of products and services for both daily and occasional shopping. The following regulations shall apply in the B-1 Districts:

2. Permitted Uses

- (a) Licensed professional services.
- (b) Art supplies and galleries
- (c) Auto supply stores
- (d) Home improvement stores and services
- (e) Hair salons
- (f) Bed and breakfast establishments
- (g) Outdoor and recreational equipment dealers
- (h) Garden supply stores and landscape services
- (i) Campgrounds
- (j) Eating and drinking establishments
- (k) Farm machinery and equipment sales and service
- (l) Food stores
- (m) Beer or wine production facilities
- (n) Equine supplies and services
- (o) Antique, auction, and resale shops

3. Accessory Uses

- (a) Parking lots
- (b) Solar energy systems that provide energy primarily for on-site buildings.
- (c) Accessory buildings or use incidental to principal use

4. Conditional Uses

- (a) Amusement establishments - archery ranges, shooting galleries, game rooms, swimming pools, skating rinks, and other similar amusement facilities
- (b) Automotive repair shops
- (c) Contractor's yards - Plumbing, heating, etc.
- (d) Attached dwelling units for the owner or operator of the principal use

- (e) Motor vehicle sales (New and used)
 - (f) Sports and recreation sales and facilities
 - (g) Telecommunication towers
 - (h) Welding and metal fabrication
 - (i) Wind energy systems that provide energy primarily for on-site buildings.
 - (j) Woodworking and cabinetmaking
5. Yard Requirements for Permitted Principal, Permitted Accessory, and Conditional Uses within the B-1 district.

Business (B-1)	
Lot Size:	
Minimum lot area	2 acres
Maximum lot area	
Minimum lot width at building line	150 ft.
Yard Setbacks:	
Front yard:	<i>See Section 10.0311</i>
Rear Yard Minimum:	25 ft.
Side Yard Minimum:	20 ft.one side
Minimum Combined:	40 ft.
Accessory Use Minimum Setback:	15 ft.
Height:	
Principal Building:	35 ft.
Accessory Building:	20 ft.
Maximum Lot Coverage	60 percent

- (a) Minimum setbacks for dwellings or businesses from existing manure and/or waste storage facilities, structures, and/or systems with a Livestock Siting Conditional Use Permit or WPDES Permit shall be 1,320 feet.
- (b) Plans and Specifications to be submitted to Plan Commission
A site plan shall be submitted to the Plan Commission in accordance 10.0800 of this Ordinance.

10.0500 SUPPLEMENTARY USE REGULATIONS

10.0501 Fences and Hedges

1. Definition - For the purposes of this Ordinance a fence is herein defined as an enclosing barrier consisting of vegetation, wood, stone, metal, brick, cement or other material. The term "fence" shall be construed to include planting, such as hedges, hedgerows, and treelines.
2. Location - Fences must be located on the land owner's property
3. No fence or other structure consisting in whole or in part of barbed wire, rods or bands or other material dangerous to life and limb, shall be erected along or within four (4) feet of any public streets, sidewalks or alleys.
4. Construction and Maintenance - Fences shall be constructed in a workmanlike manner and of substantial material reasonably suited for its intended purpose. Every fence shall be maintained on both sides in a condition of good repair and shall not be allowed to become or remain in a condition of disrepair or danger, or constitute a nuisance, public or private. Any such fence which is, or has become dangerous to the public health or welfare, is a public nuisance, and the Town may commence property proceedings for the abatement thereof.
5. Electric fences shall not be permitted except for agricultural purposes.
6. Barbed wire fences shall only be permitted for agricultural uses.
7. Hedges and other plantings shall be trimmed and all parts thereof confined to 'the property on which planted.
8. Consistent with the Town's comprehensive plan to promote natural resources, wildlife, and recreational opportunities, fencerows and fence lines shall not be removed. Egress sufficient for agricultural equipment to move between adjacent fields shall not exceed 30 (thirty) feet along a single tree line.
9. Residential Fences - No fence or hedges exceeding two and one-half (2-1/2) feet in height shall be allowed within the building setback limits adjacent to a street right-of-way, except in rear yard setback where there is no access to a street right-of-way, the maximum height may be six (6) feet. The maximum height of fences or any other boundary line shall not be more than six (6) feet in height, except the hedges may be permitted to grow to their natural height. Barbed wire fences, electrical fences, and single, double and triple strand fences are prohibited. The most attractive side of a fence shall face adjoining property.
10. Commercial and Agricultural Fences - Fences used for commercial and agricultural, purposes shall have a maximum height of eight (8) feet, except within the required front or corner setback areas wherein such height shall be limited to two and one-half (2-1/2) feet. Arms or extensions which project from the fence must project into the lot proper.
11. Swimming Pool Fences - All permanent in-ground or above ground private swimming pools shall be completely enclosed by a fence of not less than four

(4) feet in height so as to prevent uncontrolled access by children. All fence openings or points of entry into the pool enclosure shall be equipped with gates or doors which shall have self-closing and self-latching so as to be inaccessible to small children.

10.0502 Quarries and Mines

1. **Applicability** - The following regulations shall apply to mining operations on activities for the extraction from the earth of mineral aggregates such as stone, sand and gravel; nonmetallic minerals such as asbestos, beryl, clay, feldspar, peat and talc; and other natural material; and to related operations or activities such as excavation, grading or dredging; and related processes such as crushing, screening, scalping, dewatering and blending.
2. **Exempt Activities** - These regulations do not apply to the following activities:
 - (a) Excavations or grading by a person solely for domestic use at his or her residence.
 - (b) Excavations or grading conducted for highway construction purposes within the-highway right-of-way.
 - (c) Grading conducted for farming, preparing a construction site or restoring land following a flood or natural disaster.
 - (d) Excavations for building construction purposes.
3. **Permit** - The application for a conditional use permit shall be submitted to the Town Zoning Administrator on forms provided by the Town of Lincoln. The application shall be signed and dated by the applicant and shall be accompanied by information which shall include but not be limited to the following:
 - (a) **General Information** - The name and address of the operator.
 - (b) **Lease(s)** - A signed copy of the lease(s) or a letter(s) signed by the owner(s) of record which authorizes the operator to enter upon the lessor's land for the purpose of mining as defined in this Ordinance. The expiration date of the lease of agreement shall clearly be indicated thereon.
 - (c) **Legal Description** - A legal description and general location map of the tracts of land to be involved and affected by the proposed operation and the approximate total number of acres involved.
 - (d) **General Map** - Two copies of a general map which shall be drawn at a scale of no less than one (1) inch equals 200 feet and shall include the following:
 - (1) Property boundaries of the operator's owned or leased land and the location of other owners' property boundaries at the point where they abut the boundary of the project site.
 - (2) Topography of affected lands at intervals no greater than

ten feet.

- (3) Location and names of all streams and roads, on or within 300 feet of the project site.
 - (4) Location of all structures on or adjacent to the site and the purpose for which each structure and the adjoining land is used.
 - (5) Boundaries of previous excavations on the site.
 - (6) Location and description of mining site boundary stakes and permanent reference point. Boundary stakes may not be required for projects which are to be completed in six (6) months or less.
4. Operational Plan - All horizontal and vertical measurements shall be referenced to a permanent reference point. The operational plan shall include two (2) copies of maps, information about the site, a description of the proposed mining operation, methods and procedures to be used in mining the site and a proposed timetable for completion of various stages of the operation as follows:
 5. Observed or estimated depth to groundwater.
 6. Type of mining and processing.
 7. Estimated total volume of materials to be extracted.
 8. A timetable for the commencement and cessation of mining operations, and if seasonal operations are intended, the months of operation shall be identified.
 9. Measures to be taken to screen the operation from view of surrounding land uses or a written explanation of why such measures are not needed.
 10. Plan view drawing and a description of the sequential stages of mining. The drawing shall show the location of the stage boundary stakes, the location and extent of the mining site to include but not be limited to mining refuse dumps, sediment and/or wash ponds, and sediment basins.
 11. Two (2) copies of a plan showing temporary erosion control measures to be used during excavation.
 - (a) Temporary stabilization measures shall describe how such things as haul roads and stockpiles will be dealt with to minimize erosion and contamination of surface and groundwater.
 - (b) Temporary stabilization measures may be ordered by field directive by the Town Zoning Administrator or his designee to correct situations which arise out of the operation of a project site.
 - (c) Temporary stabilization may include but need not be limited to the following: Silt fencing, bale check dams, sod strips, rock riprap, hard surfacing through the use of concrete or blacktop, slope or

high-wall reduction, temporary seeding, erosion mat placement, mulching and sediment basin construction.

12. Proposed truck and machinery access to the site.
13. Types and location of temporary or permanent buildings and structures to be erected on the site.
14. Approximate number of trucks and other types of machinery to be used at the site.
15. Reclamation Plan - All horizontal and vertical measurements shall be referenced to a permanent reference point. The reclamation plan including maps, information about the site, a description of the proposed reclamation including methods and procedures to be used and a proposed timetable for completion of various stages of reclamation of the mining site shall be provided as follows:
 - (a) Two (2) copies of a plan and description of the proposed reclamation including final slope angles, high wall reduction, benching, terracing and other structural slope stabilization measures.
 - (b) Description of topsoil stripping, stabilization and conservation methods that will be used during replacement.
 - (c) Two (2) copies of a plan and description of anticipated final topography, water impoundments, artificial lakes, and anticipated future land use of the site.
 - (d) Description of plans for disposition of surface structures, roads, and related facilities after cessation of mining.
 - (e) The estimated cost of reclamation for each stage of the project or the entire site if staging is not planned.
 - (f) A seeding plan which shall include methods of seedbed preparation, seeding rates, mulching, netting and/or other techniques needed to accomplish soil and slope stabilization.
 - (g) A timetable of the commencement, duration, -and cessation of reclamation activities.
16. Other Information - The Plan Commission and the Town Board may require the submittal of such other information as may be necessary to determine the nature of the mining operation and proposed reclamation.
17. Conditions - These conditions shall apply to the Permit in addition to those established under 10.1300.
 - (a) No fixed machinery shall be erected or maintained within 200 feet of any property or street right-of-way.
 - (b) No excavation shall take place within 100 feet of any property line or 100 feet of an existing or platted street right-of-way.

- (c) Screening, silting, washing, crushing or other forms of processing conducted upon the premises shall be at least 500 feet from any residential zone.
- (d) The following conditions shall apply to reclamation work:
 - (1) Slopes - No site shall exceed a three (3) feet horizontal to one foot vertical incline. This angle of repose shall extend vertically six (6) feet below the lowest seasonal groundwater level. This angle of repose may be modified to a flatter but not a steeper angle if it is shown that the material to be excavated or to be used in reclamation of the site will be unstable at three-to-one (3:1) ratio.
 - (2) Topsoil Storage and Reapplication - All topsoil on a mining site shall be saved for future application unless it can be proven that it is not all needed for reclamation. Topsoil shall be reapplied to the slopes as uniformly as possible. Sites which lack adequate topsoil shall have the topsoil applied preferentially to the sloped areas.
 - (3) Seeding/Re-vegetation/Stabilization - Seeding shall be done in accordance with a Soil Conservation Service Critical Area Plan or Wisconsin Department of Transportation, Road and Bridge Standards, 1981 Edition, Section 630, entitled, "Seeding", except that seeding rates listed in subsection 630.3.3.4.2 shall be doubled.

18. Standards Applied to all Permits:

- (a) Right of Access - The filing of an application shall grant the Town the right of access onto the site and contiguous lands owned or leased by the applicant for any purposes relative to this Ordinance.
- (b) Boundary Staking - All excavation and phase boundaries shall be staked or otherwise marked and the operator shall notify the department that the site is staked at least two work days prior to commencing operations on a site. Stakes shall be made of steel, fiberglass or other material acceptable to the Town. Stakes may be removed after reclamation-is completed and accepted. Painted wood lath may be used for operations of one year or less. Staking may be waived with department approval if an operation boundary is the same as an existing fence line or other easily identifiable feature.
- (c) Permit Period - Permits shall be granted for a specified period of time not to exceed two (2) years based on the nature of the operation.
- (d) Limits of Operation - Projects shall be limited to approved dimensions and depths.

- (e) Conflicts with other Regulations - It is the responsibility of the operator to obtain any local, state and federal permits or approvals.
- (f) Compliance with Reclamation - The operator shall comply with progressive and final reclamation plans for the site.
- (g) Notification of Commencement and Secession - The operator shall notify the department, in writing, at least fifteen (15) working days prior to initial mining operations and at least thirty (30) work days prior to final completion of project reclamation. All stages within a site shall also comply with the notification requirements above. When a stage is complete, the operator shall notify the Town for approval of the reclamation before entering the next stage.
- (h) Other Standards - The Town may apply such other requirements as are necessary to ensure progressive and final reclamation in a manner consistent with the Ordinance and to limit environmental pollution.

19. Renewal of a Permit

- (a) Requests for permit renewal must be submitted in writing to the Town Zoning Administrator prior to the 60 days expiration date of the existing permit.
- (b) Permit renewals may be granted by the Town Board for not more than the duration of the original permit.
- (c) No permit renewal shall be granted unless the project is in reasonable compliance with the terms of the existing permit.
- (d) Permit renewals may be conditioned upon correction of any unanticipated environmental pollution occurring during the original permit.

20. Project Site Modification or Enlargement and Transfer of Permit

- (a) Site modification - An operator may apply, in writing, to the Town Zoning Administrator, for a modification or cancellation of a permit or for a change in the reclamation plan for a project site. This application shall identify the area to be removed as affected by a change on the operation and reclamation plans.
- (b) Transfer of Permit - When one operator succeeds to the interest of another in an uncompleted site, the Town Board shall release the first operator of the responsibilities imposed by the permit only if:
 - (1) Both operators are in compliance with the requirements and standards of this Ordinance.
 - (2) The new operator assumes the responsibility of the former operator to complete the reclamation of the entire project site by a written, witnessed document.

- (c) Site Enlargement - Any proposed enlargement may be approved by the Town Board subject to the Town Board's evaluation of the revised reclamation plan.

21. Fees

- (a) The application for a permit shall be accompanied by a permit fee established by the Town Board.
- (b) The Applicant shall furnish the necessary sureties which will enable the Town to perform the planned restoration of the site in event of default by the applicant. The form and type of such sureties shall be approved by the Town Attorney.

10.0503 Hunting Cabins

- 1. Where Permitted. Hunting Cabins are allowed as a permitted or an accessory use in the A-1 Exclusive Agricultural District and the A-2 General Agricultural Zoning
- 2. Lot Size, Bulk Restrictions and Yard Requirements - All bulk restrictions and yard requirements for A-1 or A-2 apply.

Comment: Any new lots created in the A-1 district after the effective date of this ordinance must be 35 acres or greater.

- 3. Commercial use of hunting cabins are not permitted
- 4. Site Plan Required: A site plan is required under the provision of 10.0800 of this ordinance. The Zoning Administrator may approve the site plan for hunting cabins on behalf of the Plan. There is no site plan review fee for hunting cabins.
- 5. Sanitation Facility Removed: To ensure that the hunting cabin is not used for as a permanent dwelling, toilet facilities are not permitted. Existing toilet facilities such as those in mobile home used as hunting cabins must be removed.

10.0504 Adult Entertainment Establishments

In recognition of the protection afforded to the citizens under the 1st and 14th Amendments of the Constitution of the United States, the purpose of this section is to regulate the location of specifically defined activities and materials consistent with the town's interest in the present and future character of its development, and this section is not intended to inhibit any person's freedom of speech or the freedom of the press. For that reason, commercial establishments dealing in adult entertainment activities and materials may be permitted as a conditional uses in designated zoning districts.

- 1. The following Conditional Uses may only be allowed as herein provided:
 - (a) Commercial establishments which display, sell, have in their possession for sale, offer for view, publish, disseminate, give, lease, or otherwise deal in any written or printed matter, pictures,

films, sound recordings, machines, mechanical devices, models, facsimiles, or other material and paraphernalia depicting sexual conduct or nudity and which exclude minors by reason of age.

- (b) Commercial establishments which display for viewing any film or pictures depicting sexual conduct or nudity and which exclude minors by reason of age.
- (c) Commercial establishments in which any person appears or performs in a manner depicting sexual conduct or involving nudity and from which minors are excluded by reason of age.

2. Definitions

- (a) As used herein, "nudity" means the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering, or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the areola, or the human male genitals in a discernible turgid state even if completely or opaquely covered.
- (b) As used herein, "sexual conduct" means acts or simulated acts of masturbation, homosexuality, sexual intercourse, or physical contact with a person's clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breasts.

3. The conditional uses allowed by this section are subject to the following provisions:

- (a) No permit shall be granted where the proposed establishment is within 500 feet of any hospital, church, school, funeral parlor, restaurant, library, museum, or playground, or any other public or private building or premises likely to be utilized by persons under the age of 18 years.
- (b) No permit shall be granted where the proposed establishment is within 1,000 feet of any area zoned residential or agricultural in the same or a contiguous town or municipality.
- (c) The applicant shall furnish the Town detailed information as to the nature of use and activity of the proposed establishment. If the application is for an establishment under s. 10.0605, subparagraph (1)(a) or (1)(b), the applicant shall furnish representative samples of the materials to be dealt in. If the application is for an establishment under s. 10.0605, subparagraph (1)(c), the applicant shall in detail specify the nature of the activity to be engaged in.
- (d) The applicant for the permit shall provide the names and addresses of the owners and occupants of all property within 300 feet of the proposed establishment.
- (e) Advertisements, displays, pictures, or other promotional materials shall not be shown or exhibited on the premises in a manner which

makes them visible to the public from pedestrian ways or other public or semipublic areas.

- (f) All points of access into such establishments and all windows or other openings shall be located, constructed, covered, or screened in a manner which will prevent a view into the interior from any public or semipublic area.
- (g) In case of a protest signed by 20 percent or more of the persons of the area within 300 feet of the proposed establishment, the grant of such permit shall require a unanimous vote of the Town Board.
- (h) The Town Board in determining whether to grant a permit hereunder shall, in addition to considerations otherwise taken into account when acting on Conditional Use Permits, consider the protection of property values in the affected area; the preservation of neighborhoods, the tendency of such use to attract an undesirable quantity or quality of transients; the tendency of such use to cause increases in crime, especially prostitution and sex-related crimes and the need for policing; the tendency of such use to cause increases in noise, traffic, and other factors interfering with the quiet and peaceful enjoyment of the neighborhood; the tendency of such use to encourage residents and businesses to move elsewhere; the protection of minors from such materials and activities; and any other factor created by the type of use being considered, along with the health, safety and general welfare of the community.

10.0600 RESERVED

10.0700 SITE PLAN REVIEW AND APPROVAL AND ARCHITECTURAL CONTROL

10.0701 Purpose and Intent

For the purpose of promoting compatible development, stability of property values, and to prevent impairment or depreciation of property values, no person shall be issued a permit for new construction or additions without first obtaining the approval of the Plan Commission of a site plan as set forth in this section.

The Plan Commission shall insure that such construction is in accord with any official map, subdivision ordinance and comprehensive plan of the town of Lincoln and other applicable codes and ordinances of the town of Lincoln.

The Plan Commission shall review the site, existing and proposed structures, architectural plans, neighboring uses, utilization of landscaping and open space, parking areas, driveway locations, loading and unloading in the case of commercial uses, highway access, traffic generation and circulation, drainage, sewerage and water systems and the proposed operation.

10.0702 Exceptions

1. Residential development consisting of one dwelling on a lot of record of record are exempt from the site plan review.
2. Manufactured homes located in the A-1 Exclusive Agricultural District and A-2 General Agricultural District and hunting cabins are not exempt from the provision of 10.0700; however, the Zoning Administrator may approve the site plan for hunting cabins on behalf of the Plan Commission. There is no site plan review fee for hunting cabins.
3. The Zoning Administrator or the Plan Commission may waive certain site plan materials that are not critical to the purpose and intent of this section.

10.0703 Fee

All site plans submitted to the Town of Lincoln for review and approval shall be accompanied by a site plan review fee as established from time to time by the Town Board.

10.0704 Principles

To implement and define criteria for the purposes set forth in 1, the following principles are established to apply to all new structures and uses and to changes or revise the additions to existing structures and uses.

1. No building shall be permitted the design or exterior appearance of which is of such unorthodox or abnormal character in relation to its surroundings as to be unsightly or offensive to generally accepted taste and community standards.
2. No building shall be permitted the design or exterior appearance of which is so identical with those adjoining as to create excessive monotony or drabness.

3. No building shall be permitted where any exposed facade is not constructed or faced with a finished material which is aesthetically compatible with the other facades and presents an attractive appearance to the public and to surrounding properties.
4. No building or sign shall be permitted to be sited on the property in a manner which would unnecessarily destroy or substantially damage the natural beauty of the area, particularly insofar as it would adversely affect values incident to ownership of land in that area; or which would unnecessarily have an adverse effect on the beauty and general enjoyment of existing structures on adjoining properties.
5. No building or use shall be permitted that would have a negative impact on the maintenance of safe and healthful conditions in the town.
6. Buildings and uses shall provide for safe traffic circulation and safe driveway locations.

10.0705 Site Plan Materials

Four copies of the site plan shall be submitted to the Zoning Administrator who shall transit all applications and their accompanying plan to the Plan Commission for their review. Plan data to be submitted with all review applications shall include the following:

1. Site plan drawn to a recognized engineering scale not less than one (1) inch equals 50 feet.
2. Name of project noted.
3. Owner's and/or developer's name and address noted.
4. Architect and/or engineer's name and address noted.
5. Date of plan submittal.
6. Scale of drawing noted on plan.
7. North arrow shown.
8. Existing and proposed topography shown at a contour interval not less than two (2) feet.
9. The characteristics of soils related to contemplated specific uses.
10. Total number of parking spaces noted including location and dimension.
11. Dimensions of lot.
12. The type, size, and location of all structures with all building dimensions shown including setbacks.
13. Indicate height of building(s).
14. Existing and proposed street names indicated.
15. Indicate existing and proposed rights-of-way and widths.

16. Locate existing and general location of proposed sanitary disposal systems.
17. Locate any proposed storm water management facilities, including detention/retention areas.
18. Locate existing trees and wetlands.
19. Note location, extent, and type of proposed plantings.
20. Note location of pedestrian sidewalks and walkways.
21. A graphic outline of any development staging which is planned is required to be shown on the site plan.
22. Architectural plans, elevations, and perspective drawings and sketches illustrating the design and character of proposed structures.
23. Setbacks or buildings and other structures from property lines and roads.
24. Location of proposed, existing, and abandoned wells on the property and their setbacks from all existing and proposed buildings and other structures, property lines, and roads.
25. Setbacks from all drainage features on the property.
26. Location of any Karst features on the property, especially sink holes, closed depressions, and internal drainages.
27. Location of driveways, parking, and provisions for traffic circulation.
28. Outdoor area lighting and locations.
29. Any future expansion plans.
30. A certified survey may be required by the Plan Commission.

10.0706 Review and Findings

The Plan Commission shall review the referred plans at the first regular Plan Commission meeting following their submittal. The Plan Commission shall render a decision no later than the following regular Plan Commission meeting. The Plan Commission shall not approve any plans unless they find after viewing the application that the structure or use, as planned, will not violate the intent and purpose of this Ordinance. The Plan Commission will approve said plans only after determining the proposed building or buildings will not impair an adequate supply of light and air to adjacent property, or substantially increase the danger of fire, or traffic congestion, or otherwise endanger the public health or safety. The Plan Commission may, at its discretion, require an application for a Building Permit requiring a Site Plan Review to enter into a Development Agreement with the Town. All Development Agreements shall be approved by the Town Board of Supervisors.

10.0707 Sureties

The Plan Commission may impose time schedules for the completion of buildings, parking areas, open space utilization, and landscaping. The Plan Commission shall

require appropriate sureties to guarantee that requirements will be completed on schedule. Failure to complete required improvements within specified time limits shall constitute a zoning violation, and the Zoning Administrator shall initiate the appropriate action to correct the violation pursuant to Section 10.1108 of this Ordinance.

10.0800 RESERVED

10.0900 NONCONFORMING USES AND STRUCTURES

10.0901 Purpose and Intent

The purpose and intent of this section is to provide for the regulation of non-conforming buildings, structures, land and other uses and to specify those circumstances and conditions under which such non-conforming buildings structures, land and uses shall be permitted to continue. Any non-conforming buildings, structure, land or other use which existed lawfully at the time of the adoption or amendment of this Ordinance is subject to the regulations which follow.

10.0902 Buildings Under Construction

Buildings or structures on which construction was started or for which a construction contract was entered into before the effective date of this Ordinance or amendment of this Ordinance may be constructed notwithstanding this Ordinance, provided that the construction was legal and had received any necessary permits under the ordinances in effect on the date the construction project commenced.

10.0903 Existing Structures: Dimensional Nonconformance

Buildings which were constructed prior to the effective date of this Ordinance or amendment of this Ordinance, which are conforming to the Ordinance as to use, but do not conform as to dimensional rules (setbacks, height, yard spaces, separations, etc.) are subject to the following requirements.

1. Repairs and improvements of a maintenance nature are allowed.
2. Alterations, additions and expansions which change the exterior dimensions of the structure or building and which conform to the dimensional rules of this Ordinance are allowed.
3. Alterations, additions and expansions which change the exterior dimensions of the structure or building, and which do not conform to this Ordinance, but which do not increase the dimensional nonconformity beyond that which existed before the work commenced are allowed provided that they do not exceed 50 percent of full market value of the structure or building.
4. No alterations, additions or expansions may occur which will increase the dimensional nonconformity.

10.0904 Existing Uses and Structures: Use Nonconformance

The lawful conforming use of a structure, land, or water existing at the time of the adoption or amendment of this Ordinance may be continued although the use does not conform with the provisions of this Ordinance; provided that:

1. If such nonconforming use is discontinued or terminated for a period of 12 months, any future use of the structure, land, or water shall conform to this Ordinance.
2. A nonconforming use may be changed to another nonconforming use only as a special exception. A nonconforming use which is changed to a conforming

use shall not revert back to a nonconforming use or structure.

3. Permitted Nonconforming Uses in the A-1 Exclusive Agricultural District:
 - (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.0906 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.)
 - (b) Isolated commercial uses that existed prior to the effective date of this ordinance are allowed by the Town Board as nonconforming uses.
 - (c) Residences existing prior to the effective date of December 1, 1986 of the Town of Lincoln Zoning Ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

10.0905 Existing Structures and Uses: Other Standards and Requirements

1. Restoration of Certain Nonconforming Structures. In accordance with Wis. Stat. § 60.61(5m), a nonconforming structure that is damaged or destroyed by fire, flood, ice, infestation, mold, snow, vandalism, or violent wind may be restored to the size, location, and use that it had immediately before the damage or destruction occurred. The size of the nonconforming structure may be enlarged, but only to the extent necessary for the structure to comply with applicable state and federal requirements.
2. Except for historic buildings, no repairs or restoration of nonconforming structures shall be located within any public right-of way.
3. Isolated substandard parcels less than 35 acres in size that existed prior to the effective of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with Section 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.).
4. Permitted Nonconforming Uses in the A-1 Exclusive Agricultural District:
 - (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.).
 - (b) Isolated commercial uses that existed prior to the effective date of this ordinance are allowed by the Town Board as nonconforming uses.

- (c) Residences existing prior to the effective date of this ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

10.0906 Substandard Lots

Any nonconforming lot of record in the Kewaunee County Register of Deeds Office prior to the effective date of this Ordinance may be developed even though it does not meet the minimum lot size and lot width requirements of this ordinance if the proposed use is a principal or accessory use in the district in which it is located.

1. Compliance with the standards of the Kewaunee County Sanitary Code shall be a condition for the granting of a building permit.
2. Compliance with the Kewaunee County Conservation Department and NR 313 shall be a condition of the granting of a building permit for a manure storage structure.
3. Substandard lots granted permits under this Section shall be required to meet the setback and other yard requirements of this Ordinance. A building permit for the improvement of a lot with lesser dimensions and requisites than those stated above shall be issued only after a variance is issued by the Board of Appeals.
4. Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.).
5. Creation of new non-conforming A-1 parcels is not allowed.
6. Permitted Nonconforming Uses in the A-1 Exclusive Agricultural District:
 - (a) Isolated substandard parcels less than 35 acres in size that existed prior to the effective date of this ordinance are allowed by the Town Board as a prior nonconforming uses. (Note construction of residence on substandard parcel must comply with 10.1006 of this Ordinance, which does not permit the construction of residences of such substandard lots in the A-1 District.)
 - (b) Isolated commercial uses that existed prior to the effective date of this ordinance are allowed by the Town Board as nonconforming uses.
 - (c) Residences existing prior to the effective date of this ordinance that do not conform to the provisions of this district may continue in residential use, such existing residences may be altered, repaired or rebuilt if destroyed, but are subject to setback, width, and other dimensional requirements.

10.1000 ADMINISTRATION AND ENFORCEMENT

10.1001 Purpose

This section of the Ordinance shall set forth the requirements to adequately provide for the proper administration and enforcement of this Ordinance.

10.1002 Administrative Structure

1. This Ordinance hereby establishes a Town Building/Zoning Administrator, and Plan Commission.
2. This section shall provide the authority and necessary requirements for issuance of land use permits; amendments; conditional uses; special exceptions; fees; and penalties.

10.1003 Building/Zoning Administrator

The Town Board of Lincoln shall appoint a Building/Zoning Administrator. It will be the primary responsibility of the Building/Zoning Administrator to administer and enforce the provisions of this Ordinance. The Town of Lincoln Building/Zoning Administrator shall have the following responsibilities and duties:

1. Issue all land and building permits and make and maintain records thereof.
 - (a) “Substantial” versus “minor” changes in a building permit: The Zoning Administrator, in consultation with the Plan Commission Chair and/or the Chair of the Board of Supervisors, shall make a determination as to whether the changes made to the plans for a building permit are substantial or minor. If the determination is that the changes are substantial, the applicant must re-apply for the building permit and undergo a site plan review as required.
2. Issue all rezoning certificates and make and maintain records thereof.
3. Conduct inspection of buildings, structures, and use of land and water to determine compliance with the terms of this Ordinance.
4. Provide and maintain a public information bureau relative to all matters arising out of this Ordinance.
5. Forward to the Town of Lincoln Plan Commission all applications for rezoning requests, conditional uses and for amendments to this Ordinance that are initially filed with the Building/Zoning Administrator.
6. Forward to the Board of Appeals applications of appeals, variances, or other matters on which the Board of Appeals is required to pass under this Ordinance.
7. Maintain permanent and current records of this Ordinance including, but not limited to: all maps, amendments, conditional uses, variances, appeals, and applications thereof.
8. Initiate, direct and review from time to time, a study of the provisions of this Ordinance and to make reports of its recommendations to the Plan

Commission.

9. If the Building/Zoning Administrator shall find that any of the provisions of this Ordinance are being violated, he/she shall consult with the Town Board and only with their advice and consent, shall thereafter notify, in writing, the person responsible for such violation and ordering the action necessary to correct it.

10.1004 Plan Commission

The Town Plan Commission shall perform the duties set forth in Wis. Stat. § 62.23 and in accordance with the Town Board Ordinance that established the Plan Commission.

1. The Town of Lincoln Plan Commission shall have the power to carry out the following duties under this Ordinance:
 - (a) To review all conditional use permits and conduct site plan reviews in accordance to the provisions of this Ordinance and report in writing said findings and recommendations to the Town Board. As appropriate, to draft Development Agreements that result from Conditional Use Permit Hearings and forward them on to the Town Board for approval.
 - (b) To review and vote on all zoning changes requests and report said findings and recommendations to the Town Board.
 - (c) To receive from the Building/Zoning Administrator or Town Board recommendations as related to the effectiveness of this Ordinance and craft ordinance revisions as appropriate, including holding public hearings on any proposed ordinance changes. Ordinance revisions shall then be passed on to the Town Board for adoption.
 - (d) As requested by the Town Board, to draft and edit resolutions and pass them on to the Town Board of Supervisors.
 - (e) To periodically review and revise the Town's Comprehensive Plan and forward the Plan to the Town Board for adoption. In conjunction with the Town Board, to carry out the Implement Section of the Comprehensive Plan.
 - (f) To hear and grant applications for temporary uses in any district, provided that such uses are of a temporary nature, do not involve the erection of a substantial structure, and are compatible with the neighboring uses. The permit shall be temporary, revocable, subject to any conditions required by the Plan Commission and shall be issued for a period not to exceed twelve (12) months. Compliance with all other provisions of this Ordinance shall be required.
 - (g) Other duties as assigned by the Town Board.

10.1005 Membership

1. The Plan Commission shall consist of five (5) members appointed by the Town Board Chairperson and subject to the confirmation of the Town Board. One member shall be a Town Board member and the Town Chairperson shall appoint the Commission's presiding officer. The Building/Zoning Administrator shall be an ex officio member and shall attend all Plan Commission meetings but shall not be a voting member.
2. The four citizen members shall serve for terms of three years. The term of the Town Board member shall be for one year, to be reappointed annually.
3. Whenever a vacancy shall occur, the Town Board shall elect or appoint the appropriate member to complete the unexpired term.
4. Town Board Chairperson will appoint an Alternate Member, subject to the confirmation of the Town Board, for a term of three (3) years. The Alternate Member shall act only when a regular member is absent or refuses or is disallowed to vote by the Town Board because of conflict of interest.

10.1006 Meetings

1. All meetings of the Plan Commission shall be held at the call of the Chairperson of the Commission or the Town Chairperson and at such times as the Commission may determine.
2. The Plan Commission shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing vote, indicating such fact and shall also keep records of its hearings and other official actions.
3. Three members shall constitute a quorum to transact any business and formulate its proper action.

10.1007 Permit Fees

All persons, firms or corporations performing work which by this Ordinance requires the issuance of a permit shall pay a fee for such permit to the Town Zoning and Building Inspector, to help defray the cost of administration, investigation, advertising, and processing of permits, licenses and variances. The permits for which a fee is required include but are not limited to the Building Permit, Conditional Use Permit, Site Plan Review Fee, Development Agreement Fee, and Quarry and Mine Fee. A fee shall also be required for a zoning text or map amendment, and a zoning appeal or variance. All fees shall be established by separate resolution by the Town Board from time to time as deemed appropriate, except where specifically listed in this Ordinance.

10.1008 Violations and Penalties

1. Complaints Regarding Violations
Whenever a violation of this Ordinance occurs, or is alleged to have occurred, any person may file a written complaint. Such complaint stating fully the causes and basis thereof shall be filed with the Building/Zoning

Administrator. He shall record properly such complaint, immediately investigate, and take action thereon as provided by this Ordinance. The Building/Zoning Administrator may also investigate violations on his/her own initiative (see 10.1103).

2. Penalties for Violation

Violation of the provisions of this Ordinance or failure to comply with any of its requirements, including violations of conditions and safeguards established in connection with grants of variances or conditional uses, shall constitute the basis for a civil forfeiture action on behalf of the Town of Lincoln. Any person who violates this Ordinance or fails to comply with any of its requirements shall, upon conviction thereof, forfeit not less than \$100.00 and not more than \$5,000.00 or in lieu of payment thereof be imprisoned for not more than 30 days and in addition shall pay all costs and expenses involved in the case. Each day such violation continues shall be considered a separate offense.

The owner or tenant of any building, structure, premises, or part thereof, and any architect, builder, contractor, agent, or other person who commits, participates in, assists in, or maintains such violation may each be found guilty of a separate offense and suffer the penalties herein provided.

Nothing herein contained shall prevent the Town of Lincoln from taking such other lawful action as is necessary to prevent or remedy any violation.

3. Abatement of Violation

Any person, firm, or corporation who violates, disobeys, neglects, omits, or refuses to comply with or who resists the enforcement of any of the provisions of this Ordinance shall, upon conviction, remove the building, structure or part thereof or discontinue the use thereof which violates the terms of this Ordinance. Such removal may be performed by a Town agency or by contract arrangements with private persons and the cost of such removal shall become a lien upon the property, collectible as are other taxes.

10.1100 BUILDING PERMITS

10.1101 Cases Where Building Permits are required

1. Where any building or other structure is erected, moved or structurally altered.
2. Where any land is substantially altered.
3. Where 50 percent or more of the fair market value of a structure is destroyed and it is being repaired or altered.
4. For any accessory building or structure where the market value of the labor and materials exceeds \$2,000.
5. For any interior improvements where the market value of the labor and materials exceeds \$2,000.
6. For any exterior improvements having a cost or fair market value of \$2,000 or more.

10.1102 Cases Where Building Permits are not required

1. For any accessory structure where the market value of the labor and materials does not exceed \$2,000, provided that such building conforms to this Ordinance including all the setback, yard and open space requirements.
2. For any interior improvements or alterations to an existing building where the market value of the labor and materials does not exceed \$2,000, which shall not affect a structural change in use or encroach upon any yard or open space.
3. For any exterior improvements having a cost or fair market value of less than \$2,000 which shall not affect a structural change in use or encroach upon any yard or open space.
4. Any ADA structures.

10.1103 Application for Building Permit

1. Application for a building permit shall be made to the Lincoln Town Building/Zoning Administrator by the landowner or his authorized agent and shall include the following, where applicable.
 - (a) Plans and information required by 10.0800 of this Ordinance.
 - (b) A copy of the plat or certified survey map of the proposed building site.
 - (c) A plat, in duplicate, drawn at a minimum scale of one inch to 100 feet showing the ground area, height, and bulk of building or structure, the building lines in relation to lot lines, the use to be made of the building, structure, or land; and such other information as may be required by the Plan Commission and Building/Zoning Administrator for the proper enforcement of this Ordinance.
 - (d) Estimated cost of the construction activity.

- (e) For new residential dwellings, proposed sewage disposal plan if municipal sewerage service is not available. This plan shall include a copy of the permit issued by the Kewaunee County Zoning Administrator for the installation of an on-site soil absorption sanitary sewage disposal system, or other appropriate means of waste disposal.
- (f) Additional information as may be required by the Plan Commission and Building/Zoning Administrator.
- (g) A building permit shall be granted or denied in writing by the Building/Zoning Administrator. The permit shall expire within six (6) months unless substantial work has commenced. Any permit issued in conflict with the provisions of this Ordinance shall be null and void.

10.1104 Building Permit Fee

The applicant, upon filing of the Building Permit with the Building/Zoning Administrator, shall pay a fee to the Building/Zoning Administrator in accordance with 10.1107 of this Ordinance.

10.1105 Building Permit

No vacant land shall be built upon or occupied; and no building or premises shall be erected, altered, moved or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended until an building permit shall have been applied for and received from the Building/Zoning Administrator. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such permit shall be applied for prior to excavation or construction and shall be accompanied by the fee set forth in 10.1107 of this Ordinance. Hunting cabins are not exempt from Building Permits.

10.1106 Occupancy Permit

No building shall be occupied or used; and no building or premises shall be erected, altered, moved or create change in use; and no nonconforming use shall be maintained, renewed, changed, or extended by more than 25 percent until an occupancy permit shall have been applied for and issued by the Building Inspector. Such permit shall show that the building or premises or part thereof is in compliance with the provisions of this Ordinance. Such permit shall be applied for at the time of occupancy of any land and/or building and shall be accompanied by the fee set forth in 10.1107 of this Ordinance. Hunting cabins are exempt from Occupancy Permits.

10.1107 Delinquency

No license, rezoning, permit, conditional use permit, development agreement, or renewal thereof will be granted to any person or entity or any premises which is delinquent in submission of documents or payment or in any obligation due to the Town for any taxes, assessments, forfeitures from ordinance violations, or other

charges or completion of duties or obligations due to the Town, the Zoning Administrator, or the Plan Commission, including obligations for any granted rezoning, any conditional use permit, development agreement, or other permit requirements.

10.1200 CONDITIONAL USE PERMITS

10.1201 General Provisions

Any use listed as a conditional use in this Ordinance shall be permitted only upon application in duplicate to the Building/Zoning Administrator and issuance of a Conditional Use Permit by the Town Board after recommendation by the Plan Commission. A Conditional Use Permit shall be issued only upon satisfaction of the requirements listed herein, in addition to all other requirements of this Ordinance. All such uses are hereby declared to possess such unique and special characteristics that each specific use shall be considered as an individual case.

10.1202 Application

The application for a Conditional Use Permit shall be filed with the Town Building/Zoning Administrator on a form so prescribed by the Town of Lincoln. The application shall be accompanied by such plans and data prescribed by the Town Board and shall include a statement in writing by the applicant and adequate evidence showing that the proposed conditional use will conform to the standards, purpose and intent set forth in the respective zoning district. The Plan Commission Chair and the Zoning Administrator shall set a date for a public hearing on the condition use request. After receiving testimony at the public hearing, such application shall be considered by the Plan Commission and conditions, if any, reviewed and voted on by the Plan Commission. A written conditional use permit recommendation thereon shall be submitted to the Town Board. In order to secure evidence upon which to base its recommendation, the Plan Commission or the Town Board may require, in addition to the information required for a Conditional Use Permit, the submission of plans of buildings, arrangement of operations, plat of grounds showing location of buildings, stockpiles, equipment storage, fences or screens, specifications of operations, parking areas, traffic access, open spaces, landscaping and any other pertinent information that may be necessary to determine if the proposed use meets the requirements of this Ordinance.

The Plan Commission may, at its discretion, require an applicant for a Conditional Use Permit requiring a Site Plan Review to enter into a Development Agreement with the Township. All Development Agreements shall be approved by the Board of Supervisors.

10.1203 Standards Applicable to All Conditional Uses

1. In passing upon a Conditional Use Permit application, the Plan Commission and Town Board shall consider the following factors:
 - (a) The location, nature, and size of the proposed use with respect to other uses in the immediate area.
 - (b) The location of the site with respect to existing or future roads giving access to it.
 - (c) Provisions for safe vehicular and pedestrian access and circulation.
 - (d) Its compatibility with existing uses on land adjacent thereto.

- (e) Its harmony with the existing and future development in the township.
 - (f) Whether the proposed use will adversely affect property values in the area.
 - (g) Whether the proposed use creates noise, odor, and dust that is incompatible with the area.
 - (h) Whether the proposed use creates excessive exterior lighting glare, or spillover lighting onto neighboring properties.
 - (i) Existing topography, drainage, soil types, groundwater and surface water flow, and vegetative cover.
 - (j) Provisions for proper surface drainage and erosion control.
 - (k) The impact of the proposed project on the public health, safety, and welfare of the Town and its residents.
 - (l) Its relationship to the public interest, the purpose and intent of this Ordinance, and substantial justice to all parties concerned.
 - (m) Whether the proposed use is consistent with the Town's Comprehensive Plan, especially Chapter 5 on Land Use, the Agricultural Transition Map, and the Sensitive Areas Map; which is in effect at the time of the rezoning.
2. Once granted, a conditional use permit shall remain in effect as long as the conditions upon which the permit was issued are followed, but the town may impose conditions such as the permit's duration, transfer, or renewal, in addition to any other conditions specified in the zoning ordinance or by the town zoning board. Wis. Stat. § 60.61(4e)(d)
 3. The applicant for the conditional use has the burden of showing why the conditional use should be approved.

10.1204 Authorization

For each application for a conditional use, the Plan Commission shall report in writing its findings and recommendations, including the stipulation of additional conditions and guarantees that such conditions will be complied with when they are deemed necessary for the protection of the public interest.

10.1205 Conditions Attached to Conditional Use Permit

Upon consideration of the factors listed above and prior to the granting of any conditional use, the Plan Commission may recommend and the Town Board shall attach such conditions, in addition to those otherwise specifically listed, that it deems necessary to fulfill the purpose and intent of this Ordinance. The conditions may include measures to minimize odors, noise, and dust, landscaping, architectural design, type of construction, construction commencement and completion date, lighting, fencing, location, size and number of signs, water supply and waste disposal systems, higher performance standards, road dedication,

certified survey maps, flood proofing, ground cover, diversions, silting basins, terraces, stream bank protection, planting screens, operational control, hours of operation, improved traffic circulation, deed restrictions, highway access restrictions, increased yards, or additional conditions may be recommended by the Plan Commission and may be required by the Town Board upon its finding that these are necessary to fulfill the purpose and intent of this Ordinance.

10.1206 Notice and Public Hearing

Upon receipt of a request, the Plan Commission, shall hold a public hearing on the proposed conditional use. Notice of such public hearing specifying the time, place and matters to come before at Commission shall be given as a Class 2 notice as referred to in Chapter 985 of the Wisconsin Statutes. Due notice of the hearing shall be given to parties of interest as well as owners of property within 200 feet of the proposed conditional use.

10.1207 Conditional Use Permit Fee

The applicant, upon filing of the application, shall pay a fee to the Building/Zoning Administrator in accordance with 10.1107 of this Ordinance. Costs incurred by the Town Board in retaining legal, planning, engineering, and other technical and professional advice in connection with the review of Conditional Use applications and the preparation of conditions to be imposed on such uses shall be charged to the applicant.

1. Expiration. All Conditional Use Permits shall expire 12 months from the date of issuance where no action has commenced to establish the authorized use as determined by the Town Board. If a time limit has been imposed as a condition for the Permit, the Permit shall expire at the end of the time limit.
2. Amendments. Changes subsequent to the initial issuance of a Conditional Use Permit which would result in a need to change the initial conditions shall require an Amendment to the Conditional Use Permit. The process for amending a Conditional Use Permit shall generally follow the procedures for granting a Conditional Use Permit as set forth in Section 10.1200.
3. Revocation of a Conditional Use Permit. Should a Permit applicant, his or her heirs or assigns, fail to comply with the conditions of the Permit issued by the Town Board, or should the use, or characteristics of the use be changed without prior approval by the Town Board, the Conditional Use Permit may be revoked. The process for revoking a Permit shall generally follow the procedures for granting a Conditional Use Permit as set forth in Section 10.1200.
4. Permit fees are set by resolution by the town board of supervisors from time to time.

10.1300 BOARD OF APPEALS

10.1301 Establishment

There is hereby established a Board of Appeals for the Town of Lincoln for the purpose of Public Hearing appeals and applications, and granting Variances to the provisions of this Ordinance.

10.1302 Membership

1. The Board of Appeals shall consist of **five (5) members** appointed by the Town Chairperson and confirmed by the Town Board.
2. **Terms** shall be for staggered three-year periods.
3. **Chairperson** of the Board of Appeals shall be designated by the Board of Appeals.
4. **Two Alternate Members** shall be appointed by the Town Chairperson for a term of three (3) years. The first alternate shall act, with full power, only when a member of the Board of Appeals refuses to vote because of conflict or potential conflict of interest or when a member is absent. The second alternate shall act only when the first alternate so refused or is absent or when more than one member of the Board of Appeals so refuses or is absent.
5. **No member** shall be a Town Board member, Plan Commission member, or the Zoning Administrator.
6. The Town Clerk shall act as Secretary of the Board of Appeals.
7. **Zoning Administrator** shall attend meetings for the purpose of providing technical assistance when requested by the Board of Appeals.
8. **Conflict of Interest.** Any member who has any interest in a matter before the Board of Appeals shall not vote thereon and shall remove himself or herself from any meeting or Public Hearing at which said matter is under consideration.
9. **Official Oaths** shall be taken by all members in accordance with Wis. Stat. § 19.01, within 10 days of receiving notice of their appointment.
10. **Vacancies** shall be filled for the unexpired term in the same manner as appointments for a full term.

10.1303 Organization

1. The Board of Appeals shall organize and adopt rules of procedure for its own government in accordance with the provisions of this Ordinance.
2. Meetings shall be held at the call of the Chairperson and shall be open to the public; however, the Board of Appeals may convene in closed session in accordance with s Wis. Stat. § 19.85.
3. Minutes of the proceedings and a record of all actions shall be kept by the Secretary showing the vote of each member upon each question, the reasons

for the Board of Appeal's determination, and its findings of facts. These records shall be immediately filed in the office of the Town Clerk and shall be a public record.

4. A majority vote of four (4) members of the Board of Appeals shall be necessary to correct an error; grant a Variance; make and interpretation, and allow a substituted use.

10.1304 Powers

The Board of Appeals shall have the following powers:

1. Errors. To hear and decide appeals where it is alleged there is error in any order, requirements, decision, or determination made by the Plan Commission or Zoning Administrator.
2. Variances. To hear and decide appeals for Variances where based on special conditions, a literal enforcement will result in practical difficulty or unnecessary hardship. Such a Variance shall not be contrary to the public interest and shall be so conditioned that the spirit and purpose of this Ordinance shall be observed and the public safety, welfare, and justice secured. **Use Variances and self-imposed hardships shall not be granted.**
3. Interpretations. To hear and decide application for interpretations of the codes, regulations, ordinances and the boundaries of the zoning districts after the Plan Commission has made a review and recommendation.
4. Substitutions. To hear and decide application for substitution of more restrictive nonconforming uses for existing nonconforming uses, provided no structural alterations are to be made and the Plan Commission has made a review and recommendation. Whenever the Board of Appeals allows such substitution, the use may not thereafter be changed without application.
5. Permits. The Board of Appeals may reverse, affirm wholly or partly, modify the order, requirement, decision, or determination appealed from, and may issue or direct the issuance of a permit.
6. Assistance. The Board of Appeals may request assistance from other Town officers, and Kewaunee County officials, departments, commissions and boards.
7. Oaths. The Chairperson of the Board of Appeals shall administer oaths and may request the attendance of witnesses.
8. Renewable Energy. To grant Variances for Renewable Energy Resource Systems. If the Board of Appeals denies an application for a Variance for a Renewable Energy Resource System, the Board of Appeals shall provide a written statement of its reasons for denying the application.

10.1305 Appeals and Applications

Appeals to the Board of Appeals may be made by any person aggrieved or by any officer, department, or board of the Town affected by any decision of the Zoning

Administrator concerning the literal enforcement of this Ordinance. Such appeals shall be filed with the Secretary within sixty (60) days after the date of written notice of the decision or order of the Zoning Administrator. Applications may be made by the owner or lessee of the structure, land, or water to be affected at any time and shall be filed with the Secretary. Such appeals and application shall include the following:

1. Name and Address of the appellant or applicant and all abutting and opposite property owners of record and owners within two hundred (200) feet.
2. Plat of Survey prepared by a registered land surveyor showing all of the information required under Section 12.3 for a Building Permit.
3. Additional Information required by the Plan Commission, Board of Appeals or Building/Zoning Administrator.
4. Fee Receipt from the Town Clerk in the amount specified by 10.1107 of this Ordinance.

10.1306 Hearings

The Board of Appeals shall hold a public hearing within thirty (30) days of receiving written application for the hearing, give public notice thereof at least ten (10) days prior to the hearing by publication of a Class 2 notice under Chapter 985 of the Wisconsin Statutes, and shall give due notice to the parties in interest, the Building/Zoning Administrator and the Plan Commission. At the hearing, the appellant or applicant shall appear in person, by agent, or by attorney.

10.1307 Findings

No variance to the provisions of this Ordinance shall be granted by the Board of Appeals unless it finds beyond a reasonable doubt that all of the following facts and conditions exist and so indicates such in the minutes of its proceedings:

1. Preservation of Intent: No variance shall be granted that is not consistent with the purpose and intent of the regulations for the district in which the development is located. No variance shall have the effect of permitting a use in any district that is not a stated permitted use, accessory use, or conditional use in that particular district.
2. Exceptional Circumstances: There must be exceptional, extraordinary, or unusual circumstances or conditions applying to the lot or parcel, structure, use or intended use that do not apply generally to other properties of uses in the same district, and the granting of the variance should not be of so general or recurrent nature as to suggest that the Zoning Ordinance should be changed.
3. Economic Hardship and Self-Imposed Hardship Not Grounds for-Variance: No variance shall be granted solely on the basis of economic gain or loss. Self-Imposed hardships shall not be considered as grounds for the granting of a variance.
4. Preservation of Property Rights: The variance must be necessary for the

preservation and enjoyment of substantial property rights possessed by other properties in the same district and same vicinity.

5. Absence of Detriment: No variance shall be granted that will create substantial detriment to adjacent property or that will materially impair or be contrary to the purpose and spirit of this Ordinance or the public interest.

10.1308 Decision

1. The Board of Appeals shall decide all appeals and applications within thirty (30) days after the final hearing and shall transmit a signed copy of the Board of Appeals decision to the appellant or applicant, Building/Zoning Administrator and Plan Commission.
2. Conditions may be placed upon any Building Permit ordered or authorized by the Board of Appeals.
3. Variances, Substitutions, or Use-Permits-Granted by the Board of Appeals shall expire within six (6) months unless substantial work has commenced pursuant to such grant.

10.1309 Review by Court of Record

Any person or persons aggrieved by any decision of the Board of Appeals may present to the court of record a petition duly verified setting forth that such decision is illegal and specifying the grounds of the illegality. Such petition shall be presented to the court within thirty (30) days after the filing of the decision in the office of the Town Clerk.

10.1400 CHANGES AND AMENDMENTS

10.1401 Authority

Whenever the public necessity, convenience, general welfare or good zoning practice require, the Town Board may, by ordinance, change the district boundaries or amend, change or supplement the regulations established by this Ordinance when the amendment is consistent with the purposes and intent of this Ordinance.

Such Change or Amendment shall require the review and recommendation of the Plan Commission.

Additionally, the Town Board shall report to DATCP prior to the local approval of a comprehensive revision to the ordinance or any local governmental approval of a text or map amendment to the A-1 Exclusive Agricultural District. The Town Board shall delay the effective day of any revision or amendment until such revision or amendment has been certified by the Land and Water Conservation Board under s. 91.06 or until the Town Board is notified by DATCP that such amendment does not require certification under s.91.06. This is to help ensure that the tax credit coverage is maintained uninterrupted.

10.1402 Initiation

A change or amendment may be initiated by the Town Board, Plan Commission, or by a petition of one or more of the owners or an agent of property within the area proposed to be changed.

10.1403 Petitions

Petitions for any change to the district boundaries or amendments to the regulations shall be filed with the Building/Zoning Administrator, describe the premises to be rezoned or the regulations to be amended, list the reasons justifying the petition, specify the proposed use and have attached the following:

1. Plot Plan drawn to scale of 1 inch equals 100 feet showing the area proposed to be rezoned, its location, its dimensions, the location and classification of adjacent zoning districts, and the location and current use of all properties within five hundred (500) feet of the area proposed to be rezoned.
2. Owner's Names and addresses of all properties lying within five hundred (500) feet of the area proposed to be rezoned.
3. Additional Information required by the Plan Commission or the Town Board.
4. Fee Receipt from the Town Clerk in the amount specified by 10.1107 of this Ordinance.
5. Certified Survey as may be required by the Plan Commission or the Town Board.

10.1404 Recommendation

The Plan Commission shall review all proposed changes and amendments within the limits of the Town and shall recommend that the petition be granted as

requested, modified, or denied. Where the purpose and effect of the proposed amendment is to change the zoning classification of a particular property, the Plan Commission shall make findings based upon the evidence presented to it in each specific case with respect to the following matters:

1. Existing uses or property within the general area of the property in question.
2. Zoning classification of property within the general area of the property in question.
3. Suitability of the property in question to the uses permitted under the existing zoning classification.
4. Trend of development, if any, in the general area of the property in question, including changes, if any, which have taken place in its present zoning classification.
5. The Plan Commission shall not recommend the adoption of a proposed amendment unless it finds that the adoption of such amendment is in the public interest and is not solely for the interest of the applicant.
6. Whether the proposed use is consistent with the Town's Comprehensive Plan, especially Chapter 5 on Land Use, the Agricultural Transition Map, and the Sensitive Areas Map.

10.1405 Hearings

The Town Clerk shall notify all property owners within five hundred (500) feet of the land in question and after publishing a Class 2 notice under Chapter 985 of the Wisconsin Statutes, listing the time, place, and the changes or amendments proposed, the Town Board shall hold a public hearing upon each recommendation. The Town Board shall also give at least ten (10) days prior written notice to the Clerk of the municipality within one thousand (1,000) feet of any land to be affected by the proposed change or amendment.

10.1406 Town Board's Action

Following such hearing and after careful consideration of the Plan Commission recommendations, the Town Board shall vote on the passage of the proposed change or amendment.

Recommendations of the Plan Commission with respect to said petition may only be overruled by a unanimous vote of the entire Town Board membership.

10.1407 Protest to Proposed Change

In the event of protest against a proposed district change or amendment to this Ordinance, duly signed and acknowledged by the owners of 20 percent or more of the areas of the land included in such proposed amendment, or by the owners, of 20 percent or more of the area of the land immediately adjacent extending 200 feet from, or by the owners of 20 percent or more of the land directly opposite thereto extending 200 feet from the street frontage of such opposite land, such amendment

shall not become effective except by the favorable vote of two thirds of the members of the Town Board voting on the proposed change.

10.1408 Rezoning Record

The Town Board shall keep a record of all rezoning activities, including the rationale for rezoning.

10.1500 ADOPTION AND EFFECTIVE DATE

10.1501 Plan Commission

The Plan Commission of the Town of Lincoln recommended the adoption of this Ordinance at a meeting held on the _____ day of _____.

10.1502 Public Hearing

Pursuant to and in accordance with the Laws of the State of Wisconsin, the Town Board held a public hearing on this Ordinance on the 19th day of January, 2019.

10.1503 Town Board Approval

The Town Board concurred with the recommendations of the Plan Commission and adopted the Zoning Ordinance at a meeting held on the _____ of _____.

10.1504 Effective Date

This Ordinance shall take effect upon adoption by the Town Board and the filing of proof of publication or posting in the office of the Town Clerk.

APPENDIX:

**FARMLAND PRESERVATION ZONING
DATCP CERTIFICATION MATERIALS**

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