

Town of Lincoln Sawmill Ordinance

Ordinance Number 2022-23

Be it enacted by the Town Board of the Town of Lincoln as follows:

Section 1. Title.

This Local Ordinance may be cited as the Town of Lincoln Sawmill Ordinance.

The Town of Lincoln, Eau Claire County, State of Wisconsin ordains as follows:

Section 2. Findings.

The Town finds that all sawmills which may be constructed and operated in the Town require special licensing by the Town, in addition to any restrictions that may be imposed by Eau Claire County, in order to protect the public health and safety of Town residents and property owners. With these concerns in mind, the Town Board of the Town of Lincoln finds and declares that:

2-1 The Wisconsin State Constitution legally obligates government officials to protect the health, safety and well-being of their community.

2-2 Shortsighted planning has often resulted in the creation of problem industries that adversely affect public health and quality of life, compromise aesthetics, and degrade community character. Sawmills are not exempt from those problems, and careful siting and protections are of paramount importance. This local Law will contribute to this effort.

2-3 Regulation of the installation and operation of sawmills is necessary for protection of the health, safety, and well-being of neighboring property owners, the general public, the local economy, and the environment.

2-4 The findings set forth in this section are cumulative and interactive, and they shall be liberally interpreted in conjunction with one another.

2-5 Sawmills can potentially be opened and operated without sufficient regard to their impact on the health, welfare, and safety of residents, especially in small, rural communities.

2-6 While sawmills provide certain benefits, those benefits must be balanced against potential negative impacts to local citizens, local economy, and the environment.

2-7 Sawmills represent significant potential negative noise, environmental, traffic, contamination, pollution and aesthetic impacts.

2-8 Portions of land within our community are designated as State-regulated wetlands

2-9 This community's geology includes erodible soils and high-water tables. Some of this community's geology appears incompatible with the operation of a sawmill. Risks

include aquifer and well water contamination via soil overburden infilling on shallow bedrock.

2-10 Without proper setbacks, sawmills can adversely affect property values, which can cause economic hardship to property owners. Reductions in property values could reduce our community's tax base, resulting in a tax rate increase on all community property owners.

2-11 Wood dust inhalation may cause irritation, asthma, allergic reaction, and nasopharyngeal cancer. "Environmental, Health, and Safety Guidelines for Sawmilling and Manufactured Wood Products, 2007.

2-12 Wood dust is known to be a human carcinogen based on sufficient evidence of carcinogenicity from studies in humans. "National Toxicology Program, Department of Health and Human Services, Report on Carcinogens, Fourteenth Edition"

2-13 Eau Claire County Health Department tested and deemed a neighboring yard of a sawmill a "human health hazard" from a sawmill 300' from the resident's property.

2-14 The runoff from log yards may contain toxic chemical (such as tannins, phenols, resins and fatty acids) leached from the timber, and soil and other materials washed out of the bark. "Environmental, Health, and Safety Guidelines for Sawmilling and Manufactured Wood Products, 2007"

2-15 Sawmills have the potential to adversely interfere with orderly development of our community, including single-family residences and small subdivisions, by making such development unappealing.

2-16 The Town of Lincoln's land use goals, objectives & policies include "1.) Maintaining comprehensive future land use plan and map that provides for the growth of agriculture and the protection of natural resources, while guiding rural residential housing and commercial or light industrial business unrelated to agriculture to specific and desirable locations within the Town. 2.) Preserve the Town's rural character, inclusive of quiet and peaceful atmosphere, abundant wildlife, dark evening skies, clean air, wetlands, stream corridors, and scenic natural beauty. *Town of Lincoln, Eau Claire Country, 2015-2035 Comprehensive Plan*", pg 21.

2-17 The Town of Lincoln has designated land for future commercial/industrial use. "The Town of Lincoln Plan Committee developed a future land use plan focused on retaining and preserving rural lands, while recognizing the need to designate lands appropriately situated for commercial/industrial development " *Town of Lincoln, Eau Claire Country, 2015-2035 Comprehensive Plan*", pg 29-34.

2-18 The Town of Lincoln strives to minimize land use conflicts between business and non-business uses. "The Town discourages development of non-agricultural related

commercial and industrial development within rural portions of the Town and encourages it near urban areas where there is easier access to public services and facilities to support such developments.” *Town of Lincoln, Eau Claire County, 2015-2035 Comprehensive Plan*”, pg 19.

Section 3. Purposes and Intent.

The purpose and intent of this Ordinance are to protect the public health and safety of the residents and property owners of the Town of Lincoln who may be affected by the development and operation of Sawmills. Such purposes and intent shall be accomplished by regulating noise, regulating dust, hours of operation, ensuring adequate fire protection, establishing adequate setbacks, protecting water quality, preventing soil erosion, regulating visual obstructions and preventing conflicts between incompatible land uses.

Section 4. Definitions.

As used in this chapter, the following terms shall have the meanings indicated. Words not defined in this Sawmill Ordinance shall be given their ordinary and common meaning:

Accessory building: A building that is located on the Sawmill (“Sawmill”) property.

Accessory Equipment: Any equipment serving or being used in conjunction with a Sawmill. The term includes saws, power supplies, generators, batteries, equipment buildings, and storage sheds, shelters or similar structures.

Administrative Approval: The Town of Lincoln has the right to review applications and the right to approve or disapprove applications submitted by the owner of a proposed Sawmill.

Board: This refers to the Town Board for the Town of Lincoln, Eau Claire County, State of Wisconsin.

Conservation Area: Such areas include natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act 33 USC Sec..1251 et seq.; shoreland areas; water bodies; riparian buffers; populations of endangered or threatened species or habitat for such species; archaeological sites, cemeteries, and burial grounds; important historic sites; other significant natural features and scenic viewsheds; and existing trails or corridors that connect the tract to neighboring areas.

dBA: A-weighted decibels, abbreviated dBA (or dBa or dB(a)], is an expression of the relative loudness of sounds in air as perceived by the human ear. With A-weighting, the decibel levels of low frequencies are reduced compared to the middle and high frequencies (A-weighted energy equivalent sound level). Unless specified otherwise, in this law dBA means LAeq (energy equivalent sound level).

Maintenance: The cleaning, painting, repair, or replacement of defective parts (including plumbing, electrical, or mechanical work that might require a building permit) in a manner that does not alter the basic design or composition of a structure, such as a Sawmill.

Modification or Modify: Any change, addition, removal, swap-out, exchange, and the like that does not qualify as "Repairs and/or Maintenance" as defined herein is a Modification. Also included is any change, addition, swap-out, exchange, and the like that requires or results in changes and/or upgrades to the structural integrity of a Sawmill.

Necessary: What is technologically required for the equipment to function as designed by the manufacturer. Anything less will restrict or inhibit the provision of service as intended and described in the Application. Necessary does not mean what may be desired or preferred technically.

Ordinary Maintenance: Actions that ensure that the Sawmill is kept in good operating condition. Ordinary Maintenance includes inspections, testing and modifications that maintain functional capacity and structural integrity. Ordinary Maintenance does not include Modifications.

Person: An individual, trustee, executor, receiver, other fiduciary, corporation, firm, partnership, association, organization, club, etc., acting as an entity.

Repair: The replacement of existing work with the same kind of material used in the existing work, not including additional work that would change the structural safety of the structure or that would affect or change required existing facilities. The term "Repair" or "Repairs" shall not apply to any change in construction.

Sawmill: A facility in which logs are delivered and sawed into lumber for use, sale or transfer to any Person other than the owner of the Sawmill. For clarity, a small, non-commercial sawmill which is used solely by a Person to make lumber for use at that person's property, or that person's individual use, shall not be considered a "Sawmill" for purposes of this Ordinance.

State: The State of Wisconsin

Temporary: Something intended to exist or does exist for fewer than 180 days, except for an anemometer or other meteorological measuring device that is used to test the wind conditions, which are considered temporary when it exists for two years or less.

5-1 Sawmill Permit Application.

Prior to operating a Sawmill in the town, the owner shall submit a Sawmill licensing application for consideration of the Town Board. Any Sawmill in existence as of the date of this Ordinance shall submit a Sawmill licensing application to the Town Board within 90 days after the effective date of this ordinance, and shall come into compliance with the provisions set forth in this Ordinance no later than 90 days after the effective date of this ordinance.

5-2 Sawmill Permit Application.

Throughout the permit process, the applicant shall promptly notify the Town Board of any changes to the information contained in the permit application. Changes that do not materially alter the initial site plan may be administratively accepted. The application for a Sawmill shall contain at least the following:

5-2.1 Summary.

A narrative overview of the Sawmill.

5-2.2 Inventory.

A tabulation describing the:

- A:** Type of equipment that will be used and the expected weekly and annual output.
- B:** Traffic expectations.
- C.** Appurtenant structures and/or facilities.

5-2.3 Vicinity map.

Identification of the property on which the proposed Sawmill will be located.

5-2.4 Sawmill Site Plan.

A plan showing the:

- A:** Planned location the Sawmill Equipment
- B:** All property lines within one (1) mile of the property lines of the proposed site.
- C.** The setback distance from the closest boundary.
- D.** Access road and turnout locations.
- E:** Conservation Areas, including natural areas protected by law, such as wetlands that meet the definition in the Clean Water Act; shoreland areas; water bodies; riparian buffers; populations of endangered or threatened species (Federal or State) or habitat for such species; flyways; archaeological sites, cemeteries, and burial grounds; important local historic sites; existing healthy, native forests consisting of at least one acre of contiguous area; individual existing healthy trees that are at least 100 years old; other significant natural features and scenic viewsheds; existing trails or corridors that connect the tract to neighboring areas.
- F.** Location of all structures and properties within the geographical boundaries of any applicable setback.
- G.** The expected dBA level during peak operation and the basis for such expectation.

5-2.5 Noise Impacts.

Applicant will provide a post-construction noise monitoring plan which shall, at a minimum, provide verification from a qualified party that at the Sawmill boundaries and at proximate residences, Sawmill noise does not exceed 55 dBA for more than five (5) consecutive minutes during a representative range of operating and atmospheric conditions. Instrumentation to verify this shall meet ANSI or IEC Type 1 standards, and

measurement procedures shall comply with relevant portions of ANSI S12.9, Part 3. Each report will include the SCADA/ Power output data at the time of the testing.

5-2.6 Maintenance Plan.

The Applicant shall detail the triennial, storm follow-up, and other actions that will be taken to keep the Sawmill operating quietly, efficiently, and not polluting land, water, or air. This will include (but not limited to) the minimization of: audible sounds, infrasound, vibrations, and fluid leaks. The Applicant shall conduct preventive maintenance inspections at least once every year. Each inspection shall look for such things as metal fatigue, nut loosening, and other potential failures that might impact the public health and safety. Such inspection reports shall be provided to the Town Board within thirty (30) days of the inspection.

5-2.7 Ancillary Materials.

Other relevant studies, reports, certifications, and approvals as may be reasonably requested by the Town to ensure compliance with this Ordinance, or to protect the health, safety and well-being of the Town's citizens or local ecosystems. The inputs of local citizens will be solicited in at least one (1) public hearing on this application.

5-2.8 Testament.

The Applicant will sign a document that Applicant (and successive assigns) agree to all the provisions of this Ordinance without reservation or qualification.

5-2.9 Town Board Decision

The approval by the Town Board shall be valid for a period of five (5) years. Prior to the expiration of such approval, the Owner of the Sawmill may submit extension applications for additional five (5) year periods. Such an approval of the extension application shall be accompanied by a second application fee (T 5-10) as well as a letter explaining the reasons that would justify an approval extension.

5-3 Setbacks. All aspects of the sawmill operation (except access drives) shall be set back no less than 200 feet from the property and not less than 1,000 feet from the nearest residence, church or school. The Town shall have discretion to require greater front, back and side setbacks and/or to require a berm or other appropriate noise barriers where circumstances require to prevent a disturbance to persons or farm animals on neighboring properties.

5-4 Application Fee.

The Applicant shall pay to the Town a non-refundable Application Fee (see 5-6). The Town Board and/or Planning Board reserve the right to obtain engineering, economic impact, environmental impact, or other professional services to aid it in the review of any submitted Sawmill application. These costs (and other expenses incurred by the Town) are reimbursable by the Applicant.

5-4.1 The Applicant shall reimburse the Town for all oversight expenses incurred relating to the Sawmill, from application through decommissioning.

5.5 Operations

5-5.1 Hours of Operation Hours of operation shall be limited to 8 a.m. to 5 p.m. central time. Monday-Friday. Operation of the sawmill business shall not occur on the following holidays: Memorial Day, Labor Day, July 4th, Thanksgiving, Christmas and New Year's Day.

5-5.2 Road Analysis.

The applicant shall agree, in writing, to the conditions of IT 6-3.

5-5.3 Security.

The Applicant shall submit design plans to verify that the Sawmill is:

- A. Secured so as to prevent unauthorized access.
- B. Installed in such a manner that it is readily accessible only to persons authorized to operate or service it.

5-5.4 The Sawmill shall:

- A. Be a non-obtrusive color.
- B. Not be artificially lighted and all lighting shall have light shields directing the light down.
- C. Not contain any signs or other advertising other than one entrance sign.
- E. Have a leak containment system for oil, hydraulic fluids, and other non- solids.
- F. Have a runoff containment plan to ensure that there is not excessive runoff into sensitive areas like wetlands or ditches.
- G. Have a sawdust containment and disposal plan to prevent sawdust from blowing or otherwise running off the Sawmill property.
- H. Not have other processing or accessory equipment permitted, including but not limited to a head saw, debarker, hedging, sawdust conveying and handling, chip conveying and handling, chipper, planer, edger, ducting, stud mill.
- I. Be housed in the confines of a building.
- J. Be limited to being the residence of the owner/operator of the sawmill, the minimum lot size shall be seven acres with six hundred feet of road frontage.
- K. Meet Federal, State and Local Laws and shall adhere to any guidelines and permitting requirements regulated by agencies such as, but not limited to, the EPA and DNR.
- L. Not burn shavings, sawdust and refuse materials on the premises.
- M. Ensure that Vehicular access to the sawmill shall be by means of an access drive at least twelve feet wide and of stone surface.

N. Ensure that no sawmill activity or storage shall be within two hundred feet from the edge of any stream or any wetland as defined by state or federal law.

O. Ensure that all sawmill by-products shall be disposed of on a regular basis, at the discretion of the Town, so as not to create a nuisance or hazard and shall in no event be allowed to accumulate longer than three months before being removed and properly disposed of. No storage of logs, lumber, sawdust, bark, scrap wood or equipment of any kind shall be permitted within any yard setback area at any time. Lumber/logs shall be piled with due regard of pile and in no case higher than 20 feet.

P. Not skid Timber and logs across any roads or highways nor shall log skidders cross same as part of operation at any time.

Q. Be located in designated Commercial/Industrial (CI) land use area defined by 3.1.1 Future Land Use Map in the Town of Lincoln, Eau Claire County, 2015-2035 Comprehensive Plan.

5-6 Fees.

Non-refundable Fees shall be as follows.

5-6.1 An application fee of \$500.

5-7 Standards for the Town Board's Sawmill License Application Decision. The Town Board may disapprove a Sawmill License Application for a variety of reasons, including but not limited to, the following:

- A.** Conflict with safety and safety-related codes and requirements.
- B.** The use or construction of a Sawmill that is contrary to an already-stated purpose of a specific zoning or land use designation.
- C.** The operation of an Sawmill would be a net economic liability to the community.
- D.** The operation of an Sawmill would create unacceptable health risks to the public.
- E.** The placement and operation of an Sawmill that would create unacceptable risks to wildlife and/or regional ecosystems.
- F.** The placement and location of a Sawmill would result in a conflict with, or compromise, or significantly change, the nature or character of the surrounding area.
- G.** Conflicts with any provisions of this Local Law.

Section 6. Post-Permit Approval Requirements

6-1 Sawmill Certification.

Prior to operation of any approved and constructed Sawmill, the applicant must provide a certification that the project complies with applicable codes, industry practices and conditions of approval (where applicable).

6-2 Reservation of Authority to Inspect Sawmill.

In order to verify that the holder of a license for a Sawmill and any and all lessees, renters, and/or licensees of it, have placed and constructed such facilities in accordance with all

applicable technical, safety, fire, building, and zoning codes, laws, local ordinances and regulations and other applicable requirements, the Town may inspect all facets of said permit holders, renter's, lessee's or licensee's placement, construction, and maintenance of such facilities, including saws, buildings, and other structures constructed or located on the site.

6-2.1 Sawmill shall not begin operation until all approvals required under this ordinance shall have been obtained and all required certifications are provided.

6-2.2 Following the issuance of any approval required under this ordinance, the Town Board or its designee shall have the right to enter onto the Site upon which a Sawmill has been placed, at reasonable times, in order to inspect such Sawmill and its compliance with this ordinance.

6-2.3 After undertaking such inspection, the Town Board or its designated representative shall provide notice of any non-compliance with the terms of this ordinance or the conditions of approval of any permit issued hereunder and shall provide the owner or Applicant with a reasonable time frame to cure such violation, such time frame to be determined based upon the seriousness of the violation, its actual and/or potential impact upon public safety, and the actual and/or potential impact of the violation upon Town residents and/or local ecosystems.

6-3 Sawmill Construction Related Damage.

The Applicant shall reimburse the Town (as appropriate) for any and all repairs and reconstruction to roads that are necessary due to the construction or operation of a Sawmill, specifically, but without limitation, damage from log trucks accessing the Sawmill facility.

6-4 Environmental Monitoring:

The Applicant will permit post-construction environmental studies deemed appropriate by the Town Board.

6-5 Sawmill Complaints:

The Town shall set up a procedure for filing and handling Sawmill complaints. The Sawmill owner shall initially be given a reasonable opportunity to resolve all complaints. The cost of such resolution shall be borne by the Sawmill owner. If resolution is not made in a reasonable time (as determined by the Town), the Town may attempt to resolve any issues. The Town may establish a monitoring committee to oversee resolution of complaints regarding Sawmills.

7-1 Enforcement; Penalties and Remedies for Violations.

7-1.1 The Town Board shall appoint such Town staff or outside consultants as it sees fit to enforce and implement this Ordinance.

7-1.2 Any person owning, controlling or managing any building, structure or land related to a Sawmill shall be legally and financially responsible for any and all violations of this Ordinance. Such violations would include noncompliance with the terms and conditions of the license herein or any order of the enforcement officer. Any person who is responsible for doing so shall be guilty of an offense and subject to a fine of not more than \$500 per incident and/or any other penalties provided by local, state, or federal law. Every such person shall be deemed guilty of a separate offense for each day such violation shall continue. The Town may institute a civil proceeding to collect civil penalties in the amount of \$500 for each violation, and each day said violation continues shall be deemed a separate violation.

7-1.3 In case of any violation (or threatened violation) of any of the provisions of this Ordinance, including the terms and conditions imposed by any permit issued pursuant to this Local Law, in addition to other remedies and penalties herein provided, the Town may institute any appropriate legal action or proceeding to prevent such unlawful erection, structural alteration, reconstruction, operation, moving and/or use, and to restrain, correct or abate such violation, to prevent the illegal act.

Section 8. Applicability. The requirements of this Ordinance shall apply to all Sawmills proposed, operated, modified or constructed after the effective date of this Local Law.

Section 9. Severability. Should any provision of this Ordinance be declared by any Court, administrative body, or board, or any other government body or board to be unconstitutional, invalid, preempted, void, or otherwise inapplicable for any reason, such decision shall not affect the validity of this Local Law as a whole or any part thereof other than the part so decided to be unconstitutional, invalid, preempted, void, or otherwise inapplicable.