

ORDINANCE NO. 2021.21

An Ordinance to Establish Temporary Moratorium on Development of Wind Energy Systems
in the Town of Lincoln, Eau Claire County, Wisconsin

The Town Board for the Town of Lincoln, Eau Claire County, Wisconsin, does hereby adopt this Ordinance establishing a temporary moratorium as follows:

Section 1. Legislative Findings.

a. The Public Service Commission of Wisconsin recently adopted regulations governing the siting process and performance standards for wind energy systems, which are found in Chapter PSC 128 Wind Energy Systems, hereinafter PSC 128.

b. PSC 128 allows a town to adopt an ordinance regulating wind energy systems consistent with its provisions that may require a permit and payment of a reasonable application fee for the construction and/or expansion of wind energy systems in a Town.

c. Residents of the Town of Lincoln have expressed a desire for the Town to exercise local control on issues relating to wind energy systems and enact an ordinance related to wind energy development in the town.

d. For the Town to exercise local control over wind energy systems, it must enact an ordinance consistent with PSC 128.

e. Without an ordinance related to wind energy development the Town does not have authority to regulate wind energy systems as it pertains to setbacks, noise levels, shadow flicker requirements, signal interference limits, stray voltage limits, construction and operation standards or other matters related to wind energy and the safety, health and welfare of town residents.

f. The Town of Lincoln does not have an ordinance regulating wind energy systems and, therefore, time is needed to investigate and establish an ordinance regulating wind energy systems consistent with PSC 128.

g. Because the Town of Lincoln does not have planning staff, it must consult with county officials, as well as legal, engineering, or other professionals to draft an ordinance related to wind energy systems.

h. The Town also needs to develop application and compliance forms to administer any wind energy system ordinance it may develop.

i. Time is of the essence in adoption of this moratorium.

j. This moratorium serves to preserve and protect the public health and safety and is in the best interests of the Town of Lincoln.

Section 2. Authority. This Ordinance is adopted pursuant to Wis. Stat., §§ 60.10(2)(c), 60.22(3), 60.50, 60.61, 61.34, 62.17, 62.23, 66.0401 and 236.45. This Ordinance is also adopted pursuant to the Town's police powers, which are being exercised for the purpose of protecting the public health, safety, and general welfare in the Town of Lincoln.

Section 3. Temporary Moratorium on Acceptance of Applications, Construction, or Expansion of Wind Energy Systems. The Town does hereby declare a moratorium on the issuance of conditional use permits related to wind energy systems, acceptance of applications for wind energy systems, the construction of wind energy systems, and the expansion of wind energy systems, whether the applications are for building permits, driveway permits, or any other type of permit or land division approval, that may be required to construct and operate wind energy systems in the Town.

Section 4. Term of Moratorium. This moratorium shall be in effect until six months after the date of its adoption. The Town reserved the right to lift this moratorium prior to that date if the Town adopts an ordinance regulating wind energy system, or if the Town otherwise chooses to lift the moratorium. The Town further reserves the right to extend this moratorium if it finds that an extension of necessary.

Section 5. Inconsistent Ordinances Voided. All ordinances or provisions of ordinances inconsistent with or contravening the provisions of this Ordinance are hereby temporarily voided and shall have no legal force or effect during the period that this Ordinance is in effect.

Section 6. Scope. This temporary moratorium applies throughout the Town of Lincoln.

Section 7. Interpretation and Severability. This Ordinance shall be liberally construed to accomplish its intended purposes. If a court of competent jurisdiction determines that any section or provision is invalid or illegal, the court is authorized to substitute reasonable language in order to preserve the intended purposes of this ordinance. If any section or provision of this Ordinance is adjudged to be invalid or illegal by a court of competent jurisdiction, the remainder of this Ordinance shall not be affected thereby.

Section 8. Definitions. For purposes of this Ordinance "wind energy system" shall have the same definition as that set forth in Wis. Stats. § 66.0403(1)(m).

Section 9. Effective Date. This Ordinance shall take effect upon adoption and publication as provided by law.

Adopted this 10 day of May 2021.

TOWN OF LINCOLN

By; _____
Robert Dewitz
Town Chairperson

Attest:

Sherri McCormick
Town Clerk