

STATE OF WISCONSIN

Town of Linden

Iowa County

### **SECTION 1 - TITLE/PURPOSE**

The Title of this Ordinance is the **Town of Linden Siting Ordinance**. The purpose of this Ordinance is to regulate and control the citing or buildings within the limits of the Town of Linden, Iowa County, Wisconsin, in order to accomplish all of the following purposes:

- A. Promoting the public health, safety, and general welfare of the Town of Linden.
- B. Promoting the planned use of the land in the Town of Linden.
- C. Encouraging the most appropriate use of the land throughout the Town of Linden.
- D. Providing the best possible environment for human habitation in the Town of Linden.
- E. Enforcing the goals and policies set forth in the Town Comprehensive Plan, master plan, or other land use plans.
- F. Ensuring that the design of the road system will not have a negative long-term effect on neighborhood quality, traffic flow, and safety in the Town of Linden.
- G. Securing safety from flooding and other dangers in the Town of Linden.
- H. Avoiding the inefficient and uneconomical extension of governmental services in the Town of Linden.
- I. Conserving the value of prime agricultural soils in the Town of Linden.
- J. Providing for the conservation of the agriculturally important lands in the Town of Linden by minimizing conflicting land uses.
- K. Promoting the rural and agricultural character, scenic vistas, and natural beauty of the Town of Linden.
- L. Protecting all taxpayers of the Town of Linden from costs incurred for improving and maintaining town roads and other infrastructure improvements
- M. Providing for administration and enforcement of this Ordinance by the Town Board.

### **SECTION 2: JURISDICTION**

This ordinance shall regulate the location of new structures on land in the Town of Linden

### **SECTION 3: AUTHORITY**

These regulations are adopted under the statutory authority granted pursuant to its adoption of village powers under sec. 60.10(2)(c), 60.22(3), 61.34 and 62.23 of the Wisconsin Statutes.

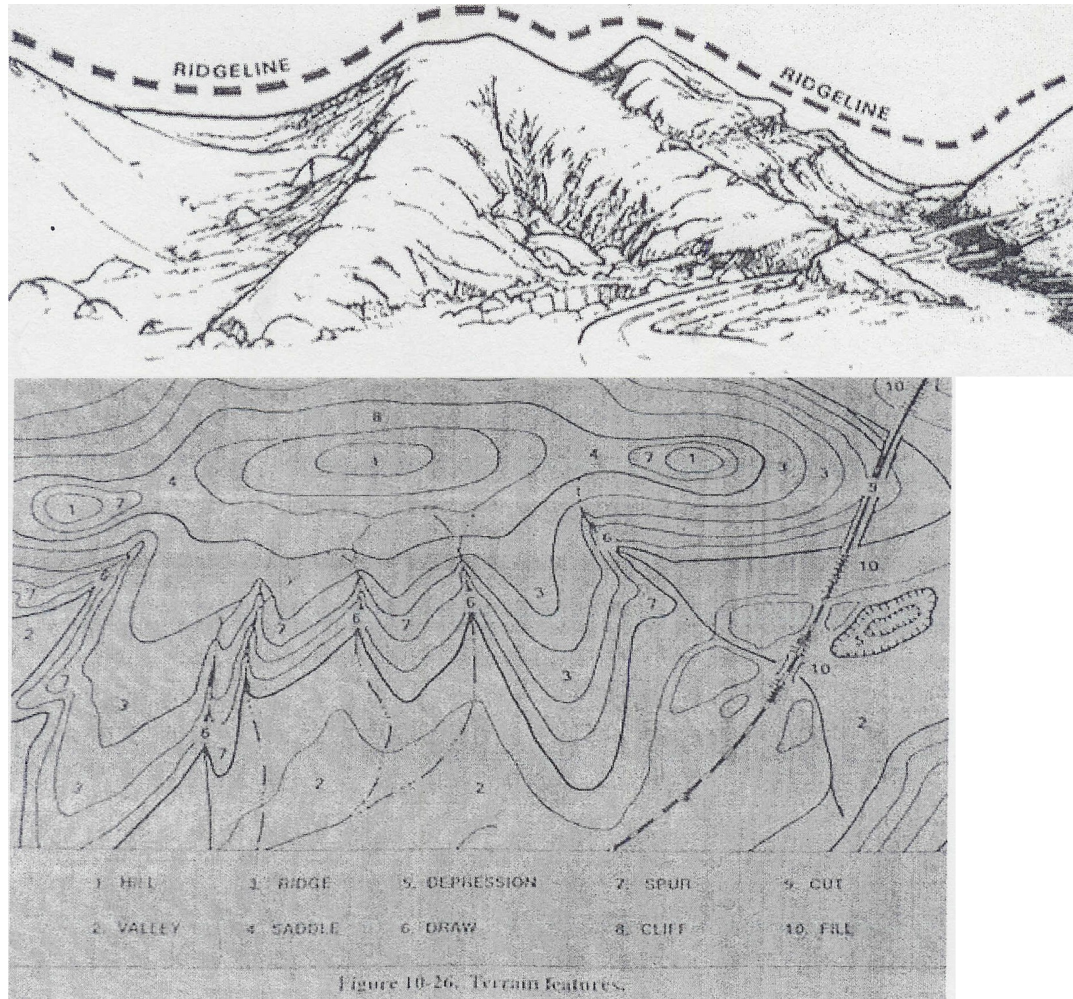
**SECTION 4: DEFINITIONS**

In this Ordinance, the following definitions shall apply:

- A. "Accessory Building" means any building, structure, or use of land customarily incidental to the permitted uses, but only on the same premises with the primary permitted uses.
- B. "Agricultural Use" as provided in s. 91.01 (1), Wis. Stats., means beekeeping; commercial feed lots; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint, and seed crops; raising of fruits, nuts, and berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831 to 3836; participating in the milk conservation reserve program under 7 USC 1446(d); and vegetable raising.
- C. "Building" means any structure having a roof supported by columns or walls, used or intended to be used for the shelter or enclosure of persons, animals, equipment, machinery or materials.
- D. "Comprehensive Plan" means the plan, concerning issues of land in the town, adopted pursuant to s. 62.23, Wis. stats.
- E. "Critical Slope Area" means an area predominately characterized by either an average change in elevation greater than 15 percent of the corresponding horizontal distance through the slope (15 percent slope), or by a very high erosion hazard as indicated by the erodibility factor ("k") of 0.40 or greater as determined by the United States Department of Agriculture, Natural Resources Conservation Service" (S.D.R.P., 2001).
- F. "Environmentally Sensitive Features" means the following natural and cultural resources, the disturbance of which tends to impair the physical, biological, social, or aesthetic quality of the resource. Resources include but are not limited to aquifer recharge and well head protection areas, Critical Slope Areas, Flood Plains, habitats of endangered and threatened species, habitats with wide diversity of resident species, historic sites and areas, public water supply reservoirs, ridge lines or ravines, scenic vistas and corridors, staging areas for migratory species, stream corridors, wetlands and ponds, wildlife corridors.
- G. "Farm" means a parcel of land as defined by the Iowa County Zoning Ordinance..
- H. "Land Use Plan" means the Town of Linden Comprehensive Plan, concerning issues of land use in the Town, adopted by the Town of Linden, including any subsequent amendment.
- I. "Lot" means any description of land proposed to be used as a site to locate a building.
- J. "Natural resource" means air, land, water, groundwater, drinking water supplies, wildlife, fish, biota, and other such resources, belonging to, managed by, appertaining to, or otherwise controlled by the United States, State of Wisconsin, or the town.
- K. "Parcel" means "lot."
- L. "Potentially hazardous roads" means town roads with areas of limited visibility or other potential safety hazards including but not limited to curves with a radius of less than 45 feet measured to the center of the curve, blind curves, slopes greater than 10 percent and one lane bridges.
- M. "Prime farmland" means land that has the best combination of physical and chemical characteristics for producing food, feed, forage, fiber, and oilseed crops and that is available for these uses. It has

the combination of soil properties, growing season, and moisture supply needed to produce sustained high yields of crops in an economic manner if it is treated and managed according to acceptable farming methods. In general, prime farmland has an adequate and dependable water supply from precipitation or irrigation, a favorable temperature and growing season. Its soils are permeable to water and air. Prime farmland is not excessively eroded or saturated with water for long periods of time, and it either does not flood frequently during the growing season or is protected from flooding.

- N. "Ridgeline" means a line of high ground, as shown below, with changes in elevation along its top and low ground on all sides, from which 10 natural terrain features, as illustrated below, are derived.



- O. "Rough land" means land that does **not** meet any of criteria one through four below.
1. Is productive field cropland or has been productive field cropland at any time in the 10 years before the proposed building siting.
  2. Is enrolled in the Forest Managed Tax Program or has been enrolled in the Forest Managed Tax Program at any time in the 10 years before the proposed building siting.
  3. Is enrolled in the CRP or CREP Programs or has been enrolled in the CRP or CREP Programs at any time in the 10 years before the proposed building siting.

4. Contains environmentally sensitive features (see definition above)
- P. "Structure" means any object or construction, excluding fills and fences, or any production or piece of work artificially build or composed of parts joined together in some definite manner having form shape and utility built or placed by man.
- Q. "Town" means the Town of Linden, Iowa, County, Wisconsin.
- R. "Town Board" means the Board of Supervisors for the Town of Linden, Iowa County, Wisconsin and includes designees of the board authorized to act for the board.
- S. "Town Clerk" means the clerk of the Town of Linden, Iowa County, Wisconsin.
- T. "Town Comprehensive Plan" means a Comprehensive Plan adopted by the Town Board of the Town of Linden under §66.1001 Wis Stats.
- U. "Town Plan Commission" means the Town of Linden Plan Commission appointed by the Town Chair of the Town of Linden, Iowa County, Wisconsin.
- V. "Wetland" means an area where water is at, near, or above the land surface long enough to be capable of supporting aquatic or hydrophilic vegetation and that has soils indicative of wet conditions.
- W. "Wis. Stats." means the Wisconsin Statutes, including successor provisions to cited statutes.

## **SECTION 5 - EXEMPTIONS**

- A. Accessory Building: Accessory buildings meeting all four of the following criteria do not require a Building Site Approval:
1. within 300 feet of existing structures,
  2. greater than 500 feet from nearest road,
  3. less than 900 square feet in area and
  4. not more than 1 ½ stories.
- B. Additions or Additional Stories: Additions that do not substantially increase the foot-print of an existing structure (no more than 50 percent of the footprint of the original structure) or additional stories to a permitted use do not require a Building Site Approval.

## **SECTION 6 - COVERAGE/COMPLIANCE**

- A. This Ordinance applies to all lands in the Town of Linden. The Town Board shall be responsible to administer this Ordinance unless it designates by Resolution such other authority.
- B. Permit fees shall be established annually in January or thereafter by resolution of the Town Board prior to any new Building Site approval.
- C. No person shall request, nor be issued by the Town Board, a driveway permit, building permit, or any other Town permit or license authorizing any construction, installation, or improvement on any land within the Town of Linden until building site approval has been granted by the Town Board. The Town Board may institute the appropriate action or proceedings to enjoin violations of this Ordinance.

## SECTION 7 – SITING STANDARDS

All new residential buildings, regardless of the size of the lot, will require siting approval by the Town of Linden. Proposed residential building siting shall be reviewed by the Town of Linden Land Use Commission and approved by the Town Board of Linden. Siting criteria are as follows:

- 1) Residential development is directed to “rough land.”
- 2) Any development on productive farmlands (lands having a history of being farmed, including cropland and pastureland and/or lands containing soils defined as Class I or Class II by the Iowa County Soil Survey) must be located so that the least possible amount of agricultural land is disturbed.
- 3) New private driveways or roads for non-agricultural use purposes shall not be permitted to cross or dissect productive farmlands unless allowed along existing field roads, fences or natural features such as a stream.
- 4) To avoid possible nuisance complaints and to minimize conflicts between incompatible land uses, new rural residences that are not built within an existing cluster of farm buildings should be sited so that they would not be disturbed by or disturb existing farming practices. Consideration of building sites may include the proximity to active farm fields and livestock operations.
- 5) Farm-related housing shall occur on the least fertile soils and in a manner that maximizes the agricultural use of the remaining useable area.
- 6) Only one residence will be allowed per farm with the following exception; a second residence for family members only may be built within 300 ft. of the original farm residence if it meets all listed siting criteria.
- 7) Residences must be
  - i Built away from elevations whether a ridge line, ridge, saddle, hill, etc. to prevent impact on the natural skyline.
  - ii Built away from the center of meadows/fields.
  - iii Set back from adjacent, existing farm operations and / or create a buffer between the new structure and the adjacent, existing farm operation.
  - iv Built away from wetlands, floodplains, and critically sloped areas of the Town, pursuant to applicable county and state regulations.
  - v Be sited to preserve as many mature trees as possible
- 8) Those proposing to build on slopes over 20% must present a plan for erosion control and be subject to spot inspections.

## SECTION 8 - SPECIFIC COMPLIANCE PROVISIONS

- A. Subdivisions, as defined by Iowa County Subdivision and Land Division Ordinance are prohibited.
- B. The Town of Linden will not accept the dedication or maintenance responsibility of any additional, future public roads for residential development. Private roads will be considered driveways.

- C. A maximum of three residences are allowed per driveway.
- D. No new residential development will be allowed along potentially hazardous roads without a specific written waiver by Resolution of the Town Board. Such a waiver can only be granted after a public hearing with a Class I notice of the hearing with written notice by U.S. mail to owners of adjoining lands. The findings of the Town Plan Commission and the Town Board in recommending or permitting any waiver shall be, at minimum, that the variance will not violate the purpose of this Ordinance or provisions of Chapter 236Wis Stats, and that because of the unique topographic or other conditions of the land involved, literal application of this Ordinance will cause an undue hardship to the land owner.

## **SECTION 9 - APPLICATION REQUIREMENTS AND PROCEDURES**

- A. Any person or entity proposing to construct a building or install a manufactured building shall submit a request with the appropriate fee to the Town Clerk and obtain building site submittal package, which includes the Building Site Application Form, to the applicant.
- B. Application forms are to be approved by the Town Board with commission recommendation and made part of the submittal package used by the Commission and shall contain the following:
  - 1. Name, address and phone number of applicant.
  - 2. Name, address and phone number of landowner (if different from above).
  - 3. A sketch map showing the following:
    - (i) North arrow, date, scale, reference to section corner.
    - (ii) Recorded easements.
    - (iii) Property lines.
    - (iv) Zoning setbacks.
    - (v) Location of existing buildings.
    - (vi) Location of proposed building or buildings with distances to existing buildings, property lines, and public roadways.
    - (vii) Side view of proposed buildings, showing elevation.
    - (viii) Additional information, if deemed necessary by the Commission.
  - 4. A copy of the relevant plat book page with the parcel highlighted.
  - 5. Aerial Photo/Site Analysis. The aerial photo should be marked to show property lines, existing fencerows and hedgerows, farm fields, pastures, existing field roads and driveways, existing vegetation, wetlands, floodplains, lake and river shorelines, streams/ditches and other watercourses.
  - 6. Soils Map and Soil and Slope Analysis. The soils map should include highlights showing prime farmland, existing topography (contours, ridgelines, and hilltops) and lands unsuitable for development due to critical slope conditions.
- C. Steps in the Application Review, Approval or Denial process are as follows:
  - 1. Building Site Application shall be referred to the Commission for review.
  - 2. Upon receipt of the complete Building Site Application, the Commission shall schedule a review for the next regularly scheduled meeting.
  - 3. Review will consist of the following:

- a. An evaluation of the proposal by the Commission for conformity with the Town of Linden Comprehensive Plan, this Ordinance, and all other Town Ordinances;
  - b. A site visit. In addition to confirming the conditions described in the application, the site visit will evaluate the proposal for its impact on significant wildlife habitat, scenic views and the Town's rural character.
4. The Commission issues its findings and recommendation to the Town Board, which shall either approve or disapprove the Building Site Application at the next regularly scheduled Board Meeting.
  5. An applicant for a Building Site Approval shall be required to submit at the same time an application for internal driveway approval and an application for access to a Town road if applicable. If driveway access is to a county road or a state or federal highway, approval from the highway authority with jurisdiction will be required. The three applications shall be reviewed and acted on together by both the Commission and the Town Board.
- D. Approval Period. The Building Site Approval is effective for 12 months from the date of issuance, and shall expire after 12 months unless renewed.
- E. Renewal. The Building Site Approval may be renewed for one additional period of 12 months. If the building has not been constructed by the end of this period, a new application must be submitted and approved.
- F. Revocation of Approval. After notice and a hearing, the Town Board may revoke a Building Site Approval previously issued in the event the applicant fails to maintain compliance with the conditions listed in the ordinance. The Building Site Approval is not transferable from one person to another or from one place to another. If the Building Site Approval is revoked, reapplication is required.

## **SECTION 10 – VARIANCES**

The Town Board may grant and the Town Plan Commission may recommend variances because of exceptional or undue hardship, but not of one's own making, from the provisions of this Ordinance, after a public hearing with a Class I notice of the hearing with written notice by U.S. mail to owners of adjoining lands. The findings of the Town Plan Commission and the Town Board in recommending or permitting any variance shall be, at minimum, that the variance will not violate the purpose of this Ordinance or provisions of Chapter 236Wis Stats, and that because of the unique topographic or other conditions of the land involved, literal application of this Ordinance will cause an undue hardship to the land owner.

## **SECTION 11 – VIOLATIONS AND ENFORCEMENT**

- A. The Town of Linden reserves the right to cancel or suspend any or all permits issued for a project until compliance with the Building Site Approval is achieved.
- B. Any person or entity that violates this Ordinance shall, upon conviction, pay a forfeiture of \$100.00 plus applicable surcharges and court costs per violation. Each day that the violation continues to exist shall constitute a separate offense. This Ordinance may be enforced by a civil action. A violation of this Ordinance is deemed a public nuisance and may be enjoined.
- C. The provisions of the Ordinance shall be deemed severable. It is expressly declared that the Town Board would have passed the other provisions of this Ordinance irrespective of whether or not one or more provisions may be declared invalid. If any provision of this Ordinance is held invalid, the remainder of the Ordinance and the application of such provisions to other persons or circumstances shall not be affected thereby.
- D. DISCLAIMER: The Town of Linden issuance of a Building Site Approval does not constitute a warranty or assurance of any kind whatsoever as to whether the building which is the subject of the permit is safe,

suitable for its intended purpose, merchantable, or in compliance with any applicable codes or regulations.

**SECTION 12 – EFFECTIVE DATE**

This ordinance is effective upon publication. The Town Clerk shall properly post or publish this ordinance as required under s. 60.80, /Wis. Stats/.

Adopted this \_\_\_\_\_ day of \_\_\_\_\_ 20\_\_.

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Members of the Town Board

Attest: \_\_\_\_\_

Town Clerk