

RESOLUTION No. 201301

**ADOPTION OF PUBLIC PARTICIPATION PROCEDURES FOR
AMENDING THE TOWN OF LUCAS COMPREHENSIVE PLAN**

The Town Board of the Town of Lucas, Dunn County, Wisconsin, does resolve as follows:

SECTION I. RESOLUTION ADOPTED.

WHEREAS, pursuant to Sec. 66.1001, Wis. Stats., all local units of government which enact or amend zoning, subdivision, official mapping, or other land use-related ordinances on or after January 1, 2010, shall adopt a comprehensive plan; and

WHEREAS, the Town of Lucas adopted a comprehensive plan under the authority of and procedures established by Sec. 66.1001, Wis. Stats., on October 14, 2003; and

WHEREAS, the Sec. 66.1001(4)(a), Wis. Stats., requires that the Town Board adopt written procedures designed to foster and encourage public participation during the preparation or amendment of a comprehensive plan; and

WHEREAS, it is the practice and policy of the Town Board of the Town of Lucas that meaningful public involvement in the comprehensive planning process, including the amendment and revision process, is important to ensure that the Comprehensive Plan continues to reflect input and from the public; and

WHEREAS, a public participation plan has been developed that includes written procedures intended to encourage public participation in the Comprehensive Plan amendment process.

NOW, THEREFORE, BE IT RESOLVED, that the Town Board of the Town of Lucas hereby adopts the following Public Participation Procedures for Amending the Town of Lucas Comprehensive Plan, satisfying the requirements of Sec. 66.1001(4)(a), Wis. Stats.:

Public Participation Procedures For Amending The Town of Lucas Comprehensive Plan

Background Information:

On October 14, 2003, the Town Board of the Town of Lucas adopted a comprehensive plan pursuant to Sec. 66.1001, Wis. Stats., which is entitled the Town of Lucas Comprehensive Plan. The Comprehensive Plan was prepared in accordance with a public participation plan adopted by the Town Board that included procedures to encourage public participation in the preparation

of a comprehensive plan. Pursuant to Sec. 66.1001(4)(a), Wis. Stats., any future amendments/revisions to the Town of Lucas Comprehensive Plan shall also be carried out in accordance with a public participation plan adopted by the Town Board and intended to foster public participation in the amendment process. The following provisions outline the process to be followed by the Town of Lucas to encourage public participation in the consideration of amendments and revisions to the Comprehensive Plan.

Required Public Participation Procedures For Comprehensive Plan Amendments:

- (a) ***Opportunities for Public Review of Amendment Materials.*** The Town will provide opportunities for public access to and review of materials explaining all proposed amendments and revisions to the Town of Lucas Comprehensive Plan, including, but not limited to, making copies available by request to the Town Clerk of materials describing proposed Plan amendments.
- (b) ***Public Informational Meeting.*** The Town Board, at its option, may schedule a public informational meeting to be held prior to the required public hearing on Plan amendments. This optional informational meeting may be conducted by the Town Board, Plan Commission or a joint meeting thereof. The public informational meeting would provide an additional opportunity for the public to review proposed Plan text amendments, maps or other information relating to the proposed amendment. No special notice or procedures requirements are mandated for such optional informational meetings; however, the Town would provide notice of any informational meeting through publication or legal posting meeting the standards of Ch. 19, Wis. Stats.
- (c) ***Mandatory Public Hearing; Notice.***
 - (1) As required by Sec. 66.1001(4)(d), Wis. Stats., the Town will hold a public hearing on proposed amendments to the Town of Lucas Comprehensive Plan. The hearing may be held by the Town Board, Plan Commission, or jointly by the Town Board and Plan Commission. The hearing will include an informational segment describing the proposed amendments followed by an opportunity for the public to offer comment on the proposed amendments. The Town Board and Plan Commission will consider public testimony provided at the hearing and any written comments submitted to the Town at or prior to the hearing during their deliberation on the proposed Plan amendment.
 - (2) The public hearing will be preceded by a Class 1 notice that is published a minimum of thirty (30) days before the public hearing is held. Pursuant to Sec. 66.1001(4)(d), Wis. Stats., the notice shall include:
 - a. The date, time, and place of the hearing;
 - b. A concise summary of the proposed Comprehensive Plan amendment and/or map illustrating the proposed amendments;
 - c. A local contact person who may be contacted for additional information regarding the proposed Plan amendment and to whom written comments regarding the Plan amendment may be submitted; and
 - d. Information regarding where and when the proposed Plan amendment may be inspected before the hearing and how a copy of the proposed Plan amendment may be obtained.

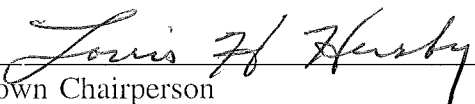
- (3) The Town Clerk will provide a copy of the public hearing notice and the proposed amendment a minimum of thirty (30) days prior to the public hearing to any person who submits a written request to receive notice of a proposed amendment under Sec. 66.1001(4)(f), Wis. Stats. The Town may charge a minimal fee to cover the cost of providing such notice. In accordance with Sec. 66.1001(4)(e), Wis. Stats., the Town Clerk will also provide notice to nonmetallic mining operators currently operating within the Town of Lucas and to persons who have registered a marketable nonmetallic mineral deposit within the Town of Lucas. The Town of Lucas will also maintain a list of persons who have submitted a written request to receive notices of the public hearings under Sec. 66.1001(4)(e)(3) and (4)(f), Wis. Stats.
- (d) **Post-Hearing Plan Commission Recommendation Resolution.** Following the public hearing, the Plan Commission will make a recommendation to the Town Board to approve, deny, or modify the proposed amendment. The Plan Commission's recommendation will be in the form of a resolution approved by a majority of the full membership of the Plan Commission.
- (e) **Town Board Determination.**
- (1) Following the action of the Plan Commission, the Town Board will consider the amendment and the Plan Commission's recommendation and approve, deny, or refer the proposed amendment back to the Plan Commission. If approved, Town Board approval will be in the form of an ordinance adopted by a majority vote of the full membership of the Town Board.
 - (2) If approved by the Town Board, printed copies of the amendment will be sent by the Town Clerk to the parties listed in Sec. 66.1001(4)(b), Wis. Stats.

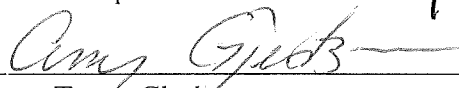
SECTION II. ADOPTION DATE.

The above and foregoing Resolution was duly adopted at a meeting of the Town of Lucas Board on the 6th day of February, 2013.

Ayes 4 Noes 0 Absent 1

TOWN OF LUCAS, WISCONSIN


Town Chairperson


Attest: Town Clerk

ORDINANCE NO. 2012-03

AN ORDINANCE EXTENDING A MORATORIUM ON EXPANSION AND CREATION OF NEW NONMETALLIC MINING OPERATIONS

The Board of Supervisors of the Town of Lucas, Dunn County, Wisconsin, do ordain as follows:

SECTION I. TITLE.

The full title of this Ordinance is "An Ordinance Extending a Moratorium on Expansion and Creation of New Nonmetallic Mining Operations Within the Town of Lucas".

SECTION II. AUTHORITY.

The Town of Lucas Board of Supervisors has the specific authority:

- (1) To engage in proper planning including, but not limited to, consideration and adoption of amendments to the Town of Lucas Comprehensive Plan, pursuant to Sec. 66.1001, Wis. Stats.; and
- (2) To have the specific authority granted pursuant to Secs. 60.10(2)(c), 60.22 and 60.23, Wis. Stats., including, but not limited to, village powers.

SECTION III. GENERAL PURPOSE.

The Town of Lucas Board of Supervisors finds that substantial areas exist in which the existing planning and regulatory provisions in the Town of Lucas may be inadequate for the special environmental, public welfare, safety, transportation and farmland preservation concerns created by nonmetallic mining operations. Of particular concern is the consistency of such operations with the provisions of the Town of Lucas Comprehensive Plan. A temporary moratorium, and extension thereto, on the expansion of existing or creation of new nonmetallic mining operations is deemed necessary to provide the Town of Lucas with an adequate opportunity to examine all existing Town ordinances and Comprehensive Plan provisions regarding nonmetallic mining activities, and determine the regulatory circumstances under which these activities may be permitted or limited in the Town of Lucas. The Town of Lucas Board of Supervisors notes that federal and state courts have upheld the right of local governments to impose temporary moratoriums to properly effectuate planning and regulatory study and development, and to extend the such period of moratorium for legitimate planning purposes. The intent of this moratorium

is to allow the Town of Lucas adequate time to study the possible impacts that nonmetallic mining operations and related processing facilities may have on the health, safety, welfare and planning protections of the residents of the Town of Lucas, including, but not limited to:

- (1) Air quality and water quality concerns;
- (2) Impacts to and the adequacy of infrastructure of the Town, property values and the local economy;
- (3) To determine the advisability of amending the Town of Lucas Comprehensive Plan; and
- (4) To review and consider amending or adopting, pursuant to police powers conferred on the Town, regulatory and/or licensing ordinances so as to effectively regulate the impacts of nonmetallic mining activities and related processing plants in the Town of Lucas, including the new for developer agreements and reclamation plans.

SECTION IV. MORATORIUM EXTENDED.

The Town of Lucas Board of Supervisors adopted "An Ordinance Establishing a Moratorium on Expansion and Creation of New Nonmetallic Mining Operations Within the Town of Lucas" on 12.23, 2011; without a moratorium time extension, such original moratorium would expire on 12.23, 2012. In order for the Town Board and Plan Commission to continue review of potential revisions to the Town of Lucas Comprehensive Plan and regulatory and/or licensing ordinances regarding nonmetallic mining and related processing facilities and their impact on Town planning and the health and welfare of its citizens, the Town of Lucas Board of Supervisors hereby extends such moratorium for an additional six (6) months. With this moratorium extension, the Town of Lucas Board of Supervisors hereby continues to prohibit the expansion of any existing nonmetallic mining operation and related facilities beyond its present legally permitted physical dimensions as of the date of the original moratorium Ordinance, and further prohibits the creation of any new nonmetallic mining operations and related facilities in the Town of Lucas during the pendency of this moratorium, as extended. Further, there is hereby established and extended a temporary stay on the acceptance, review, and approval by Town officials, staff, and/or consultants of any applications for permits of any type for nonmetallic mining operations after the original effective date of this moratorium Ordinance until the period of moratorium, as extended, expires. Exempt from the provisions of this moratorium, and extension thereto, are existing state or county-owned borrow pit sites used exclusively for public purposes, with aggregate not being sold for profit.

SECTION V. DURATION OF MORATORIUM EXTENSION.

This Ordinance moratorium extension shall be effective for a period of not longer than six (6) months after what would have been the date of expiration of the original moratorium Ordinance, unless recinded or extended sooner by Town Board action.

SECTION VI. STUDY AND ACTION GENERALLY DURING THE MORATORIUM PERIOD.

During the moratorium imposed by the original moratorium Ordinance, and this extension thereto, the Town of Lucas Plan Commission shall study and analyze the impacts of nonmetallic mining activities and shall make final recommendations to the Town Board. The Plan Commission shall make such recommendations to the Town Board no later than sixty (60) days prior to the end of the moratorium extension. The Plan Commission shall make reports to the Town Board as directed by the Town Board; the Plan Commission and Town Board may engage in joint planning meetings during this period. The Plan Commission shall be charged with researching the issues associated with nonmetallic mining operations and making recommendations to the Town Board regarding regulatory and police powers necessary to protect the public health, safety and welfare and to responsibly manage new, existing and/or proposed nonmetallic mining operations. Issues under consideration by the Plan Commission include, but are not limited to:

- (1) Regulatory structures including licensing, blasting, bonding, infrastructure protection, groundwater safeguards, reclamation, and public safety ordinances and developer agreements;
- (2) Environmental impacts and health concerns;
- (3) Impacts on Town infrastructure; and
- (4) Fiscal impacts of such activities on the Town.

SECTION VII. DEFINITIONS.

The following definitions shall be applicable in this Ordinance:

- (1) ***Nonmetallic Minerals.*** A product, commodity or material consisting principally of naturally occurring, organic, inorganic, nonmetallic, non-renewable material, and includes, but is not limited to, rock, sand, stone, gravel, asbestos, beryl, diamond, clay, coal, feldspar, peat and talc.
- (2) ***Nonmetallic Mining.***
 - a. Extraction from the earth of mineral aggregates or nonmetallic minerals for off-site use or sale, including drilling and blasting as well as associated activities such as excavation, grading, dredging, crushing and washing of such materials.
 - b. Manufacturing or processing operations that may involve the use of equipment for the crushing, screening, separation, washing, or blending of the mineral aggregates or nonmetallic minerals obtained by extraction from the mining site or with minerals transferred from off-site.
 - c. Manufacturing processes aimed at producing nonmetallic products for sale or use by the operator.
 - d. Stockpiling of nonmetallic products for sale or use of off-site and stockpiling of waste materials.
 - e. Transport of extracted nonmetallic materials, finished products or waste materials to or from the extraction site.
 - f. Disposal of waste materials as defined in this Ordinance.
 - g. Reclamation of extraction sites.

- (3) **Physical Dimensions.** The external footprint of an existing mine site, quarry, pit, or other excavation areas within which nonmetallic mining or processing operations are occurring as of the effective date of this Ordinance.
- (4) **Site or Mine Site.** Land from which mineral aggregates or nonmetallic minerals will be extracted for sale or use by the land owner or any agent or lessee of the land owner, including all land on which is or will be located any structures, equipment, storage facilities, washing or screening facilities, private roads or haulage ways associated with nonmetallic mining operations; and all contiguous lands to the nonmetallic operation under common ownership or control of the owner or his/her agent or lessee.

SECTION VIII. REVIEW OF EXCEPTIONS.

The Town Board shall be responsible for evaluating any applications for relief from this moratorium and extensions thereto. Such relief shall only be granted upon clear evidence of extraordinary or unique circumstances that would warrant special treatment and relief from the general provisions of this moratorium extension Ordinance.

SECTION IX. PENALTIES.

Any person, partnership, corporation, limited liability corporation, or other legal entity that fails to comply with the provisions of this Ordinance shall, upon conviction, pay a forfeiture of not less than One Thousand Dollars (\$1,000.00), plus all applicable surcharges, assessments and costs of legal prosecution for each violation. Each day a violation exists or continues constitutes a separate offense under this Ordinance. In addition, the Town of Lucas Board of Supervisors may seek injunctive relief from a court of record to enjoin further violations.

SECTION X. ADOPTION.

This Ordinance adopted by a majority vote of the Town of Lucas Board of Supervisors on roll call vote with a quorum present and voting and proper notice having been given, provides for the extension of the imposition of a moratorium on the expansion of existing or creation of new nonmetallic mining operations within the Town of Lucas, Dunn County.

SECTION XI. SEVERABILITY.

If any provision of this Ordinance is invalid or unconstitutional or if the application of this Ordinance to any person or circumstance is invalid or unconstitutional, such invalidity or unconstitutionality shall not affect the other provisions or applications of this Ordinance which can be given effect without the invalid or unconstitutional provisions or applications.

SECTION XII. EFFECTIVE DATE.

This Ordinance shall take effect upon passage and legal posting pursuant to Sec. 60.80, Wis. Stats. The Town Clerk shall legally post this Ordinance in at least three (3) places as required under Sec. 60.80, Wis. Stats., and such Ordinance shall be in effect one (1) day after the date of legal posting. To facilitate public notice of the adoption of this Ordinance, the Town Clerk shall, in addition, publish this Ordinance as a Class I Notice in a newspaper of general circulation in the Town of Lucas.

ADOPTED this 9th day of OCTOBER, 2012, by majority vote of the Town Board on roll call vote with a quorum present and voting and proper notice having been given.

TOWN OF LUCAS, WISCONSIN

ADAMS

Chairperson

Bob Krzyz

Supervisor

Steven Olson

Supervisor

Amy Grata

Attest: Town Clerk

Legally Posted and/or Published: _____