

ORDINANCE No. 2013-03

**AN ORDINANCE ADOPTING AMENDMENTS TO  
THE COMPREHENSIVE PLAN OF THE TOWN OF LUCAS**

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

**SECTION I. ORDINANCE CREATED.**

- (a) **Statutory Authorization.** Pursuant to Sec. 60.22(3), Wis. Stats., the Town of Lucas is authorized to prepare and adopt a comprehensive plan as defined in Sec. 66.1001(1)(a) and (2), Wis. Stats. The State Comprehensive Planning law and the Lucas Comprehensive Plan both require that the Comprehensive Plan be reviewed and updated a minimum of once every ten years.
- (b) **Comprehensive Plan Adoption.** The Town Board, by enactment of an ordinance, formally adopted the document entitled the "Town of Lucas Comprehensive Plan" on October 14, 2003.
- (c) **Plan Commission Recommendation for Amendment.** The Town of Lucas Plan Commission, by a majority vote of the entire Commission at a meeting held on March 6, 2013, adopted a resolution recommending to the Town Board the adoption of amendments and revisions to the Town of Lucas Comprehensive Plan. Furthermore, the Town of Lucas Plan Commission has ensured the amendments are in full compliance with the Comprehensive Plan.
- (d) **Public Hearing.** The Town published or legally posted a Class 1 public notice and held a public hearing regarding the Comprehensive Plan amendment.
- (e) **Plan Amendment Adopted.**
  - (1) The Town of Lucas Board hereby adopts the proposed Comprehensive Plan amendments as outlined in the document entitled *Appendix A - Amendments to the Town of Lucas Comprehensive Plan*, a copy of which is attached and incorporated herein by reference.
  - (2) This Ordinance provides for a series of amendments and modifications to the Town of Lucas Comprehensive Plan addressing Plan objectives and goals regarding economic development, transportation, natural resources, agricultural resources, land use policies, farmland preservation, nonmetallic mining, and Plan implementation. The Town Chairperson [(651) 466-6220 telephone; angelag.davis@usbank.com email] or the Town Clerk [amy184@centurytel.com] may be contacted to provide additional information on this Ordinance. The full text of this Ordinance may be viewed or obtained at the Office of the Town Clerk at the Lucas Town Hall, E2301 State Highway 29, Menomonie, WI 54751.

- (f) **Adopted Plan Amendments to be Submitted.** The Town Clerk is directed to send a copy of this ordinance and the Plan amendment to the parties identified in Sec. 66.1001(4)(b), Wis. Stats.

**SECTION II. 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 III. EFFECTIVE DATE.**

This Ordinance shall take effect upon passage by a majority vote of the Town Board and publication or legal posting as required by law.

ADOPTED this 6th day of March, 2013.

Ayes 3 Noes 0 Absent \_\_\_\_\_

TOWN OF LUCAS, WISCONSIN

ADAMS  
Town Chairperson

Amy Gjestson  
Attest: Town Clerk

Date Published and/or Posted: March 6, 2013

↓  
March 17, 2013

State of Wisconsin:

County of Dunn:

I hereby certify that the foregoing ordinance is a true, correct and complete copy of an ordinance duly and regularly adopted by the Town Board of the Town of Lucas on March 6, 2013, and that said ordinance has not been repealed or amended and is now in full force and effect.

Dated this 6 day of March, 2013

Amy Gjestson  
Amy Gjestson, Town Clerk

## **Appendix A – Amendments To The Town of Lucas Comprehensive Plan**

### **Issues and Opportunities Subchapter (Page 7):**

#### **(a) Page 7, Paragraph 1:**

"The *Issues and Opportunities* chapter of the plan provides an overview of the important demographic trends and background information needed to understand the changes taking place in the Town of Lucas. As required under Sec. 66.1001, Wis. Stats., this chapter includes existing conditions, trends, and forecasts for population, households, and employment. It also includes overall goals to direct future preservation and development decisions in the Town over a 20-year planning period. The 20-year planning period shall run from the date of amendment of the Plan, satisfying the requirement in *Plan Monitoring, Evaluation and Update* (pg. 63) that the Plan be updated a minimum of every ten years, as required by Sec. 66.1001, Wis. Stats."

[Note: The Plan was originally adopted in 2003, a decade ago – half way through the Plan's original 20-year planning period. Sec. 66.1001, Wis. Stats., as well as the text on page 63 of the current Plan, requires that the Plan be updated a minimum of every ten years. The amendment language extends, in effect, the plan out through the next 10 years.]

#### **(b) Page 7, Paragraph 7:**

"***Plan Objectives.*** The purposes of the Plan are to provide information about the Town of Lucas, its resources, its residents and its existing character, and to provide clear planning direction to government officials when making determinations regarding zoning, land divisions, official maps and other land use-related ordinances and policy decisions, as required by the comprehensive plan consistency requirement of Sec. 66.1001, Wis. Stats. The Town of Lucas shall also follow the comprehensive plan consistency requirement with other local regulatory matters, including, but not limited to, licensing and other ordinances intended to protect public health and safety and the general welfare of the community. The Plan addresses what the community wants the Town of Lucas to be in the future and describes ways to meet those objectives. The Town Board, Plan Commission and all other governmental bodies and administrators shall use and adhere to the Plan in making decisions about future growth, economic development, transportation, environmental protection and farmland preservation, general community welfare, and protection of public health and safety."

[Note: This new version contains stronger, more precise language requiring ordinance and policy consistency with the Town Comprehensive Plan.]

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**Economic Development Subchapter (Page 47):**

(a) **Page 47, Paragraph 1:**

"*General Overview.* Short and long-term economic development will be influenced by the natural resources of the Town, particularly its agricultural, open space, water, bluffs and natural resources. Decisions on growth and possible change shall be managed for the benefit of the entire community, with sensitivity to the interests of all property owners, not solely applicant property owners. The Town should encourage new businesses which compliment production agriculture, can be located within the Town in conformity with the Plan and Town ordinances, and which respect the Town's rural nature and environmental resources. The Town encourages businesses that satisfy these criteria, particularly home-based businesses, and businesses that have minimal environmental/quality of life, farmland preservation and transportation impacts, such as, but not limited to:

- Denigration of surface water and groundwater resources and/or wetlands;
- Light pollution;
- Noise pollution;
- Exceptional demand for water useage or use of high capacity wells;
- Polluting discharges;
- Above-average waste production;
- Air pollution/quality factors;
- Heavy truck traffic or unusual impacts on Town infrastructure;
- Significant off-site impacts on neighbors;
- Loss of productive farmland or conversion to less productive farming/open space uses;
- Negative impacts on nearby property values; and/or
- Distruption of the landscape and natural environment."

[Note: This version provides more guidance in weighing potential negative impacts.]

(b) **Page 51, Paragraph 2:**

"The Town does not have a business park or sites served by full public services suitable for intensive commercial/industrial uses or non-agricultural resources processing, and thus would be an unsuitable location for such intensive uses. Any economic development proposals must be found to be reasonably consistent with the Plan, Town ordinances, and any other applicable regulations. The Town encourages low-impact economic development that is compatible with the objectives of the Plan. Where deemed consistent with the Plan, appropriate Dunn County Zoning commercial/industrial zoning districts will be utilized, particularly the new or revised Light Industrial District, or similar district, when made available through Dunn County Zoning."

[Note: This version provides greater clarity regarding objectives than the present Plan language, and specifically names "non-agricultural resource processing" as an unsuitable use.]

(c) **Page 52, Paragraph 3:**

**"Summary.** Production agriculture and supporting businesses are the primary business activities in the Town. Production agriculture-related businesses may be permitted that are consistent with the objectives of the Plan, Town ordinances, and other applicable regulations. Industrial-scale resource extraction operations, such as frac sand nonmetallic mining and processing/transloading facilities or metallic mining and processing/transloading facilities, within the Town are not consistent with the objectives and goals of this Plan and are not considered to be a production agriculture-related use. Agriculture-related businesses will be encouraged that fit within the rural and agricultural character of the Town. Having only basic transportation infrastructure and a lack of public utilities, the Town is best suited for businesses that meet needs related to production agriculture, are low-profile, and/or are environmentally friendly recreational uses. "Production agriculture" in this Plan means farming activities that generate food and fiber."

[Note: Other paragraphs in this Plan section are unchanged. The above revised version is a stronger statement in favor of agriculture and rural character, and contains specific language on frac sand mining and associated facilities. Please note the use of the term "production agriculture" throughout instead of the more general term "agriculture"; this is because nonmetallic mining is listed in some plans or ordinances elsewhere as an agricultural permitted or conditional use. Any potential confusion should be eliminated regarding such an interpretation.]

(d) **Page 55, Paragraph 4:**

**"Summary.** Agriculture is, and will continue to be, the primary business activity in the Town. Production agriculture-related businesses may be permitted that are consistent with the objectives of the Plan, Town ordinances, and other applicable regulations. Industrial sand mining and related resource extraction operations generally defined in NAICS Code 212322, such as frac sand nonmetallic mining and processing/transloading facilities, are generally discouraged and are not considered to be an agriculture-related use or a use consistent with the goals and objectives of this Plan. Agriculture-related businesses will be encouraged that fit within the rural and agricultural character of the Town. Having only basic transportation infrastructure and a lack of public water and sewer utilities, the Town is best suited for businesses that meet needs related to production agriculture, are low-profile, and/or are environmentally friendly recreational uses. The Town is best suited to meet local agricultural and rural residential needs."

[Note: The above revised version specifically amends ambiguous statements in the current Plan].

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**Implementation Subchapter (Page 57):**

**(a) Page 58, Introductory Paragraph:**

"The Town of Lucas Comprehensive Plan provides direction and objectives regarding development and determinations with planning, zoning, land divisions, official mapping and other land use-related ordinances and policy decisions in the Town. Such decisions shall be consistent with the Town of Lucas Comprehensive Plan, pursuant to Section 66.1001, Wis. Stats. The Town of Lucas shall also follow the comprehensive plan consistency requirement with other local regulatory matters, including, but not limited to, licensing and other ordinances intended to protect public health and safety and the general welfare of the community. This section of the Plan contains specific goals and objectives in addition to those found elsewhere in this Plan. This section also identifies some tools for implementation, such as community cooperation and ordinances."

[Note: The above revised version is an unambiguous statement on the requirement of satisfying the plan consistency requirement of Section 66.1001, Wis. Stats. The current Plan is weak on this key point because it was adopted in 2003, seven years prior to the comprehensive plan consistency requirement going into effect in 2010.]

**(b) Page 58, Paragraph 2, First Sentence Only Modified:**

"This Plan is for a 20-year planning period running from the date of amendment of the Plan."

[Note: See explanatory note with Page 7, Paragraph 1 revised subsection.]

**(c) Page 58, Paragraph 7; Continued on Page 59, Paragraph 1:**

"A common implementation tool available to the Town is the enactment of local ordinances. The Town has adopted a comprehensive Code of Ordinances and plans to develop and enact additional ordinances, including a variety of land use, public safety/welfare and transportation ordinances, intended to establish policies and regulations consistent with the community desires reflected in this Plan. All ordinances should be administered within the context of the goals and objectives of the Plan, and with applicable state regulations and county ordinances. Appropriate Dunn County Zoning districts shall be utilized, as appropriate. In some cases, Town ordinances can be more restrictive than county or state laws. In cases where a discrepancy exists, it is generally assumed that the more restrictive of the two regulations applies.

For example, the Town has expressed a desire to have or maintain as much local control as possible. To effectuate this goal, the Town has adopted, as part of its Code of Ordinances, a comprehensive land division and subdivision ordinance."

[Note: This revised version more accurately reflects the ordinance adoption work already completed by the Town, and, importantly, eliminates the current sentence that could be

interpreted as creating an affirmative duty on the part of the Town to eliminate inconsistencies in Town regulations/plans with those of the state or county; there can be times when the Town's regulations/plans may - for good reason - be different or more restrictive than state or county provisions.]

(d) **Page 59, Paragraph 5:**

"It is important to note that a land division applicant must meet the requirements of both the Town and county subdivision ordinances before the plat or other land division can be legally recorded. The requirements contained in each ordinance are complimentary but different in many areas. The responsibility to enforce the Town land division ordinance rests with the Town."

(e) **Page 59, Paragraph 7:**

"The county's ordinances and regulations regarding zoning, floodplain zoning, shoreland-wetland zoning, land divisions, stormwater management, post-nonmetallic mining reclamation, and erosion control are applicable in the Town. Zoning is a means to properly place community land uses in relation to one another while possibly providing adequate space for each type of development. Zoning can be used to control the development density in each area so the property can be adequately served with public facilities where needed. Zoning directs growth and designated uses into appropriate areas, while prohibiting other uses, protecting existing property by requiring new development to provide adequate light, clean air and water, and privacy to the citizenry. Zoning ordinances typically contain a range of districts such as agricultural, residential, commercial and industrial, seeking to keep separate and distinct otherwise incompatible uses. Zoning districts designate permitted and conditional/special exception uses within each district and establish minimum parcel dimensions, maximum building heights, setback requirements, etc. The County's Zoning Ordinance includes a process which allows the County ordinance to be amended. The review and decision-making processes under the County's ordinances are required to respect the objectives and goals in the Town Plan pursuant to the consistency requirement of Sec. 66.1001, Wis. Stats."

[Note: As explained in the explanatory note to Page 58, Paragraph 7, the revised version above eliminates confusing language in the current Plan section which could be interpreted as placing an affirmative duty on the Town to amend its comprehensive plan/ordinances if inconsistent with county regulations, clearly poor public policy.]

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**Goals and Objectives Subchapter (Page 60):**

**(a) Page 60, Paragraph 5:**

**"Housing.** To encourage adequate, safe and environmentally compatible housing which provides for the needs of current and future citizens while maintaining the rural character of the Town of Lucas:

- Enforce the Town land division ordinance in a manner consistent with the goals and objectives of the Town Plan.
- Ensure that county and other reviewing authorities in their administration/enforcement of land use ordinances in the Town adhere to the goals and objectives of the Town Plan.
- Prohibit the conversion of lands in the Town to uses deemed incompatible with the goals and objectives of this Plan regarding housing of a rural character."

[Note: The revised language above seeks to provide guidance on the importance of the Comprehensive Plan in regard to housing in the Town, and to better integrate this statement with other provisions of the Plan.]

**(b) Page 60, Paragraph 6:**

**"Transportation.** To maintain adequate, safe and environmentally compatible roads and other transportation infrastructure of a type normally associated with farm use, rural housing and low-impact commercial uses and deliveries:

- Maintain the level of service and maintenance on existing Town roads.
- Discourage new land uses in the Town that would place extraordinary demands on Town roads, produce heavy truck traffic or present public safety concerns."

[Note: The revised text above strengthens Plan language protecting Town transportation infrastructure.]

**(c) Page 61, Paragraph 2:**

**"Economic Development.** To provide economic development in appropriate locations consistent with the goals and objectives of this Plan, maintaining the rural character of the Town of Lucas:

- Direct large scale commercial development (frac sand and metallic mining/processing excluded) to locations adjacent to the I-94 corridor. Examples of such commercial development would be agricultural products processing, warehousing, implement dealerships, etc.
- Remain receptive to home-based businesses, production agriculture product-based businesses, and other economic development opportunities with minimal impacts to



- the landscape, air and water quality, Town infrastructure, farmland preservation, and the environment, utilizing the Light Industrial zoning district, when made available.
- Consider economic development in the context of the anticipated impacts on the rural character of the Town, local quality of life, farmland preservation, and the environment; the protection of the Town's rural character, farmland preservation, local quality of life, and natural and open space resources shall be the primary factors in reviewing proposed developments and businesses."

[Note: The revised text above is drafted to provide better clarity as to what the Town considers acceptable economic development types.]

(d) **Page 61, Paragraph 3:**

**"Natural Resources.** To preserve and ensure the integrity of the extraordinary natural resources of the Town of Lucas:

- Periodically invite representatives of the Wisconsin Department of Natural Resources, Trout Unlimited, and other groups knowledgeable of the Town's natural resources to public events or forums to discuss areas of environmental concern for the purpose of informing local officials and the public.
- Create a checklist for Town decision makers evaluating development requests or land use change proposals. Such checklist should ask whether the proposed land use change creates a negative or positive impact on natural resources, such as, but not limited to, air, surface and subsurface water, soil, farmland viability, slopes, wetlands, wildlife, endangered species, night sky, open spaces and general public welfare. The requirements contained in Town ordinances may fulfill this goal.
- Consider the development and distribution of a "Town Code of Rural Living."
- The Town recognizes with this Plan the requirement in Sec. 66.1001, Wis. Stats., that a comprehensive plan shall contain an Agricultural, Natural and Cultural Resources Element [Section (2)(e)]: "A compilation of objectives, policies, goals, maps and programs for the conservation, and promotion of the effective management, of natural resources such as groundwater, forests, productive agricultural areas, environmentally sensitive areas, threatened and endangered species, stream corridors, surface water, floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources consistent with the zoning limitations under Section 295.20(2), Wis. Stats., parks, open spaces, historical and cultural resources and other natural resources." The Town shall consider such factors when reviewing all development requests or land use change proposals.
- While portions of the Town contain deposits of sand and other aggregate materials, the industrial-scale intensive mining of such materials associated with frac sand mining and/or other industrial-type materials processing are generally incompatible and inconsistent with the goals and objectives of this Plan. A limited exception is to permit small-scale construction-grade aggregate extraction operations used primarily for road construction and concrete mixing purposes. All nonmetallic mining operations shall fully comply with all applicable regulations, including, but not limited to, Town licensing and other related ordinances and pertinent federal, state or county

- regulations. The proposed post-mining land use of any current or future nonmetallic mining site of any type shall be consistent with this Plan.
- Regard the bluffs, wetlands, woodlands, surface and ground waters, production agricultural lands and environmental corridors as irreplaceable resources and ensure that they are sustained for future generations.
  - Discourage development in or near areas that possess valuable natural resource characteristics, such as floodplains, wetlands, viewsheds, bluffs, and wildlife habitats.
  - Work to maintain and protect groundwater levels and quality within the Town, cooperating with other governmental agencies and organizations to identify and protect groundwater recharge areas in the Town. In light of these objectives and goals, the Town shall closely review proposals for high-capacity wells.
  - Any parcel subject to nonmetallic mining reclamation under any ordinances adopted pursuant to NR 135, Wis. Adm. Code, shall, as part of its reclamation plan, specify a proposed post-mining land use for the nonmetallic mining site. The proposed post-mining land use shall be consistent with both the Town Plan and applicable zoning requirements at the time the post-mining use plan is submitted, unless a change to the Comprehensive Plan is proposed and granted. Any parcel of land over 10 acres that is subject to post-mining reclamation located in areas under a farmland preservation zoning ordinance pursuant to subch. III of Chapter 91, Wis. Stats., shall be restored to an agricultural use of the type and quality as existed prior to the mining activity."

[Note: The revised paragraph above is intended to make satisfying such steps in the original Plan more practical and eliminate wording that could be misconstrued as mandates requiring Town actions.]

(e) **Page 62, Paragraph 1:**

**"Agricultural Resources.** To strongly support production agriculture and production agriculture-related activities which present minimal environmental impacts in the Town of Lucas:

- Preserve productive farmland for continued agricultural use by discouraging the introduction of incompatible or detrimental land uses while encouraging the maintenance and growth of a diverse range of farm and agricultural operations; the Town recognizes that the type of production agricultural commodities may change over time.
- The use of lands zoned A-1 Exclusive Agriculture or in a rural residential zoning category for frac sand nonmetallic or metallic mining and/or related processing or transloading facilities is inconsistent and incompatible with the goals and objectives of this Plan, whether by zoning classification, rezoning, issuance of a conditional use or special exception permit by zoning authorities, or conversion of a small scale pre-existing conventional construction-grade sand/gravel pit. Due to the extensive scale and operational nature of such industrial-type activities, such operations would impair or limit the viability of current or future production agricultural or rural residential uses at the site or of nearby parcels of land or would be detrimental to the rural

character of the Town of Lucas. Land use or licensing determinations by any reviewing authority shall be consistent with this Plan objective and goal, pursuant to the plan consistency requirements of Sec. 66.1001, Wis. Stats.

- Production agriculture is recognized as the highest and best use of land in the Town of Lucas; acceptable non-farming uses of land, such as rural residential uses, shall be of a type and design that present minimal impacts to farmland preservation and preservation of rural character.
- Do not permit rezoning of an agricultural district parcel to another zoning district (other than for a limited rural residential use compatible with this Plan and Town ordinances, including, but not limited to, the Town Land Division Ordinance unless such change is consistent with the Town Plan and is identified as such on the future land use map reserved for such purpose and adopted by the Town.
- Periodically invite representatives of the agriculture industry, local farmers and farmland owners to public events or forums to discuss areas of concern regarding production agriculture and farmland preservation in the Town of Lucas.
- Create a checklist for Town decision makers evaluating development requests or land use change proposals that may impact the future viability of production agriculture and farmland preservation in the Town. There shall not be significant negative impacts on neighboring farms and rural residences from such proposed changes. The requirements contained in Town ordinances may fulfill this goal.
- "Right-to-farm" language should be included on any certified survey map or subdivision approved by the Town. This provision can be recorded on the deed and alerts potential purchasers that they are buying property in an agricultural area with pre-existing agricultural operations. Legally zoned and properly operating farming facilities will not be considered a nuisance to new non-agricultural development."

[Note: The revised paragraph above is intended to make stronger the Town's commitment to its agricultural identity and to specifically identify certain incompatible uses.]

(f) **Page 62, Paragraph 4:**

**"Land Use.** To ensure a land use pattern in the Town of Lucas that effectively protects and maintains the rural and natural character of the Town and the Town's long-term commitment to production agriculture, farmland preservation and limited rural development that is consistent with these goals:

- Take affirmative steps so that decision making under the land use and land use-related ordinances, including zoning regulations, of the Town and other governmental bodies adhere to the goals and objectives of the Town of Lucas Comprehensive Plan, consistent with the plan consistency requirements of Sec. 66.1001, Wis. Stats.
- Inform governmental officials on the goals and objectives of the Plan and state law's consistency requirement in the decision making process at all levels of government.
- Make land use determinations in a manner that best safeguards property values, based on present use at the time of a development proposal, in the area."

[Note: This revised paragraph is a final statement of the requirement that the goals and objectives of the Plan are to be consistently followed, particularly during governmental decision-making.]