

Town of Lowell,
Dodge County, Wisconsin

Zoning Code

(Title 13 of Lowell Code of Ordinances)

Land Division & Subdivision Code

(Title 14 of Lowell Code of Ordinances)

April, 2004

AN ORDINANCE AMENDING THE TOWN OF LOWELL ZONING ORDINANCE
TOWN OF LOWELL, DODGE COUNTY, WISCONSIN

WHEREAS, the Town of Lowell, Dodge County, Wisconsin, is authorized by Wisconsin Statutes Sec. 60.62, Sec. 61.35, and Sec. 62.23 to adopt and amend a zoning ordinance for the purpose of promoting the health, safety, morals or the general welfare of the community; and

WHEREAS, the Town of Lowell Town Board adopted a comprehensive revision to the original zoning ordinance and retitled the "Town of Lowell Zoning Code" on April 1, 2004; and

WHEREAS, the Town of Lowell Zoning Code was subsequently reviewed by the Dodge County Planning & Development Committee on October 4, 2004, and approved by the Dodge County Board of Supervisors on October 12, 2004, subject to an additional amendment necessary to bring the Town of Lowell highway setback requirements into compliance with those of Dodge County as set forth in Exhibit "A"; and

WHEREAS, the Town of Lowell Plan Commission and Town Board conducted a public hearing on November 16, 2004, for purposes of soliciting comments, concerns, and recommendations from the Town's residents and property owners concerning the additional amendment to the highway setback requirements contained in Exhibit "A"; and

WHEREAS, the Town of Lowell Plan Commission has recommended to the Town Board that the proposed amendment contained in Exhibit "A" attached hereto are necessary and appropriate to bring the town's highway setback requirements into compliance with those of Dodge County, and, that said amendment should be adopted by the Town Board; and

NOW, THEREFORE, THE TOWN BOARD OF THE TOWN OF LOWELL, DODGE COUNTY, WISCONSIN, ORDAINS AS FOLLOWS:

Section 1. Adoption of Amendments.

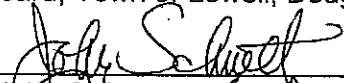
The amendment contained in Exhibit "A" is hereby ADOPTED and shall be made part of the Town's Zoning Code as of the effective date of this ordinance.

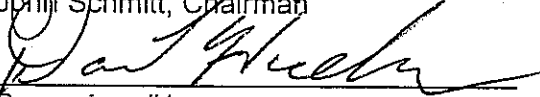
Section 2. Effective Date.

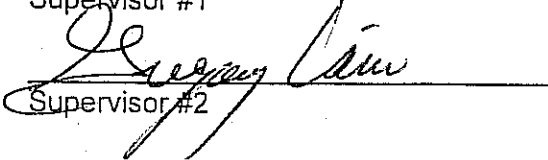
This ordinance shall take effect the day after the proof of posting in accordance with Wisconsin Statutes Section 60.80(1) has been filed with the Town Clerk, and, after review and approval by the Dodge County Board of Supervisors.

ADOPTED and approved this day, November 16, 2004.

Town Board, Town of Lowell, Dodge County, Wisconsin


John Schmitt, Chairman


Supervisor #1


Supervisor #2

ATTEST and CERTIFIED:

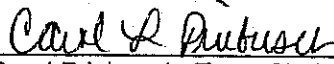

Carol Priebusch, Town Clerk

EXHIBIT "A"

Town of Lowell Zoning Ordinance Proposed Amendments (2004)

Section 13-1-24 Highway Setback Lines is amended to read as follows where words that are underlined are to be added and words that are ~~stricken~~ are to be deleted

Article B: General Provisions

Sec. 13-1-24 Highway Setback Lines.

- (a) **Purpose.** In order to promote and enhance the public safety, general welfare and convenience, it is necessary that highway setback lines be and they are hereby established in the Town of Lowell, Dodge County, Wisconsin, outside the limits of incorporated cities and villages; along all public highways; at the intersections of highways with highways and highways with railways as hereafter provided, and at the waters edge on riparian lands.
- (b) **Riparian Land Setbacks.** The setback line on riparian lands shall be the water line as defined in the Dodge County Shoreland Zoning Ordinance.
- (c) **Classes of Highways and Center Lines.** Highways are classified and the position of the center line shall be determined as follows:
 - (1) **Class 1 Highways.**
 - a. Town roads not otherwise classified that have not been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is the midway point between the edges of the road surface.
 - b. Town roads not otherwise classified that have been improved in accordance with engineering surveys and plans accepted by the County or Town Board. The center line is at the center of the surfacing or pavement, or, if there be none, the center of graded roadbed.
 - c. Roads and streets in platted subdivisions not otherwise classified. The center line is the midpoint between the edges of the road surface.
 - d. Private roads. The center line is at the mid-point between the edges of the road surface.
 - (2) **Class 2 Highways.**
 - a. County trunk highways that have not been improved in accordance with engineering surveys or plans accepted by the County Board or their agent, the County Highway Committee. The center line is at the midway point between fences or other markers indicating the boundary on opposite sides thereof.
 - b. County trunk highways that have been improved according to engineering surveys and plans accepted by the County Board or their agent, the County Highway Committee. The center line is the center of the surfacing or pavement, or if there be none, the center of the graded roadbed.
 - (3) **Class 3 Highways.** State Trunk Highways, except as hereinafter provided, that have been approved according to surveys and plans of the State Highway Commission or plans accepted by the County Board, and United States highways. The center line is the center of the roadbed, or the center of the surfacing or pavement of the adjacent lane if the highway is to be paved as a double-divided road.
- (d) **Structures Prohibited Within Setback Lines.** No new building, mobile home, new sign or other structure or part thereof shall be placed between the setback lines established this Section and the highway, except as provided by this Section, and no building, mobile home, sign or structure or part thereof existing within such setback lines on the original effective date of this Chapter shall be altered, enlarged or added to in any way that increases or prolongs the permanency thereof, or be reconstructed in its original existing location after having been destroyed by fire, storm or other catastrophe to the extent of fifty

percent (50%) or more of its current value as determined by the Town Assessor.

(e) **Structures Permitted Within Setback Lines.** The following kinds of structures may be placed between the setback line and the highway:

- (1) Open fences.
- (2) Telephone, telegraph and power transmission poles and lines and microwave radio relay structures may be constructed within the setback lines, and additions to and replacements of existing structures may be made, provided the owner files with the Town Board an agreement in writing to the effect that the owner will remove all new construction, additions and replacements erected after the adoption of this Section at his expense, when necessary for the improvement of the highway.
- (3) Underground structures not capable of being used as foundations for future prohibited overground structures.
- (4) Access or service highways constructed according to plans as approved by the Board of Appeals. In giving such approval, the Board of Appeals shall give due consideration to highway safety and maximum sight distances.
- (5) Sanitary drainfields.
- (6) This Section shall not be interpreted so as to prohibit the planting and harvesting of field crops, shrubbery or trees; provided, however, that no building or structure, trees or shrubbery, shall be so located, maintained or permitted to grow so that the view across the sectors at the intersections shall be obstructed.

(f) **Setback Distances.** Except as otherwise provided, the distances from the center line or nearest right-of-way edge to the setback line applicable to the various classifications of highways as defined in Subsection (c) above, shall be as provided by the following paragraphs of this Subsection, respectively:

- (1) **Improved Highways.** Whenever a highway is improved to a classification requiring a greater setback distance than that required by this Section prior to such improvement, the setback distance shall be that applicable to the latter classification.
- (2) **Conflicting Setbacks.** In cases where the provisions of this Section may be interpreted to provide for different setback distances, the greater setback distance shall prevail.
- (3) **Along Highways Generally.** The setback distances ~~from the center line,~~ at any point for the respective classes of highways; shall be as follows:
 - a. Class 1 highway (designated and undesignated town roads): seventy-five (75) feet from the centerline or forty-two (42) feet from the nearest edge of the right-of-way, whichever is greater one hundred (100) feet, except in platted subdivision where the setback distance shall be thirty (30) feet from the right of way lines as shown on the recorded plat; also excepting lots abutting on private roads where the setback distance shall be fifty (50) feet from right of way line but not less than seventy-five (75) feet from the center line of said road as shown on the instrument creating said road or road easement.
 - b. Class 2 and Class 3 highways (federal, state, and county highways): one hundred (100) feet from the centerline or sixty-seven (67) feet from the nearest edge of the right-of-way, whichever is greater one hundred (100) feet; provided, however, that in no case shall the distance of setback line outside of and from the nearest point in the boundary line of the highway, be less than sixty (60) feet for Class 2

and Class 3 highways.

~~e. Exceptions: Where buildings, structures or uses are to be erected or established between buildings existing at the time of the adoption of this Chapter which buildings are located not more than one hundred fifty (150) feet apart and have setback lines less than are established by this Section, the setback line for each such proposed building, structure or use shall be the average of the setback lines of the nearest existing buildings on both sides of the proposed building, structure or use, provided that a setback line of more than one hundred (100) feet from the center line of the highway, or sixty five (65) feet from the right of way line, shall not be required in any case. The Board of Appeals may further vary this regulation in appropriate cases, provided that the Board of Appeals shall establish such conditions as will save the Town harmless from additional improvement damages which might accrue when and if the highway is improved, and provided further that no such variation shall permit a setback less than the average setback of the adjacent buildings.~~

- (4) *At Ordinary Highway Intersections.* At grade intersections of highways with highways, except those roads and streets in platted subdivisions which do not intersect Class 2 Highways or Class 3 Highways, there shall be vision clearance triangles in each sector of such intersections. Each such vision clearance triangle shall be established by a supplementary setback line, which shall be a straight line connecting points on the setback lines along the intersecting highways and fifty (50) feet back from the intersection of such setback lines.
- (5) *At Highway Intersections With Transitional Widening.* At intersections provided with transitional widening of pavement or surfacing, such transitional widening shall be considered as additional width, and the setback line on the side which is widened shall be increased by an amount equal to the width of the additional pavement.
- (6) *At Highway Intersections With Curve Connections.* At intersections where the intersecting highways are connected with pavement or surfacing constructed on a curve, the setback distance along the curve shall be measured from the center of the curved section.
- (7) *At Railroad Grade Crossings.* At railroad grade crossings there shall be vision clearance triangles in each sector of such intersection. Each such vision clearance triangle shall be established by a supplementary setback line which shall be a straight line connecting points on the railway right-of-way line and the highway setback line and seventy-five (75) feet back from the intersection of such highway setback lines and such railway right-of-way line.