



MARATHON COUNTY

MEMORANDUM

TO: Wisconsin Department of Agriculture, Trade and Consumer Protection – Division of Agriculture Resource Management

FROM: Dean Johnson, Marathon County Zoning Administrator

DATE: October 17, 2014

SUBJECT: MARATHON COUNTY FARMLAND PRESERVATION ZONING DISTRICT

The Marathon County Conservation, Planning and Zoning (CPZ) Department's mission is to protect our community's land and environment. We promote thoughtful and deliberate use of resources to ensure that Marathon County has healthy people, a healthy economy, and a healthy environment, today and tomorrow. In this spirit we submit our ordinance language and accompanying maps for certification by the Department of Agriculture, Trade and Consumer Protection (DATCP).

Summary of Ordinance

Marathon County has chosen to use DATCP's model ordinance for not allowing non-farm residences within the Farmland Preservation district (rezone method). This strategy, over the base farm tract or the use of easements, was chosen by Marathon County Land Conservation and Zoning (LCZ) Committee for the following reasons:

- 1) Towns are familiar with the rezone and special exception processes and the general process of having to apply for the rezone or special exception permit.
- 2) The rezone strategy has the advantage of being easier to administer for the towns and county staff.
- 3) The strategy is easier for the towns and residents to explain and understand.
- 4) The LCZ Committee felt the risk of losing land from the Farm Preservation zoning program would be less with the rezone strategy than with the Base Farm Tract or the Easement strategies.

Marathon County used DATCP's model ordinance for its base ordinance, then modified the ordinance to fit Marathon County needs. Areas that deviated from the model ordinance are as follows:

- 1) *A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm.* This section Marathon County opted not to place into the ordinance. Our thoughts were that this section was too broad and could allow business activities that are not compatible with the Town's Comprehensive plans.
- 2) *Additional individually listed Agricultural related uses:* Marathon County has uses that we wish to be listed and believe qualify for agricultural related uses. These include ponds, manure storage facilities, storage of biomass products, and roadside stands as permitted uses and veterinarian clinics, canneries, dairy processing and manufacturing facilities and commercial green houses as special exception permits.
- 3) *Farm Consolidation:* The history in Marathon County has been that some larger farms purchase smaller/family farms when the landowners no longer want to continue farming. The larger farm usually does not need or require the buildings on the property, so this gives the option of separating the buildings from the farm land without additional expense to the landowners by requiring a rezone. As directed by DATCP communications,

we did place the date of January 1, 2014, as the cutoff date to be in compliance with ATCP 49. Marathon County created two sections to limit the acreage allowed to be subdivided off with the structures in order to preserve agricultural land.

- 4) *Transient amusements and temporary / intermittent uses:* Landowners are farming and cropping the land except for short time periods that they wish to use the land for events that, in many cases, promote agricultural. The 3 types of events currently permitted are an antique steam and farm show, snowmobile races, and a tractor pull event. The event may not last any longer than 7 consecutive days; this still allows the land to be used for crops or other agricultural uses.
- 5) *Hunting and fishing shelters:* These buildings are not permanent residences and they follow the regulations set by the state-managed forest law (MFL) for consistency. Landowners may participate in both programs. In order to ensure consistency between county and state regulations, hunting and fishing shelters have been placed as a special exception permit per request of DATCP.

Marathon County feels that these additions/modifications are within the spirit of the Farmland Preservation district regulations for DATCP's favorable consideration.

Relationship between Farmland Preservation Zoning and Farmland Preservation Plan

<u>Town</u>	<u>Farm Preservation Plan Acres</u>	<u>Farmland Preservation Zoning Acres</u>	<u>Percent of Farm Preservation Plan Zoned Farmland Preservation Zoning</u>
Brighton	21,598	21,532	99.69%
Day	19,356	19,356	100.00%
Eau Pleine	20,959	20,612	98.34%
Hull	20,227	19,788	97.83%
Marathon	19,591	19,591	100.00%
McMillan	15,817	14,151	89.47%

Marathon County has taken consistency very seriously in considering the Farmland Preservation Zoning district in relation to the Certified Farmland Preservation Plan. DATCP's consistency requirement was that a minimum of 80% of the Certified Farmland Preservation Plan be zoned into the Farmland Preservation Zoning District. As you can see by the above chart, we have met and exceeded that requirement with 97.85% of land that is in the Farmland Preservation Plan being zoned into the Farmland Preservation District.

Farmland Preservation Zoning Ordinance Timeline

The following bullet point timeline indicates formal communications with Town officials and Marathon County Committee and Board action:

- December, 2013
 - Marathon County Farmland Preservation Plan is certified
- January – March, 2014
 - Discussions with the Land Conservation and Zoning Committee on Education Plans, proposed strategies, (Rezone, Base Farm Tract, Easement), for implementation of Farmland Preservation Zoning, and rezoning requirements for the Farmland Preservation district.
- April 28 – May 8, 2014
 - Marathon County hosted 4 listening/information gathering sessions with the towns in Marathon County.

- May 1, 2014
 - Marathon County CPZ Department created a web page to keep residents and County officials involved in the process.
- June 3, 2014
 - Draft one of ordinance written and presented to Land Conservation and Zoning Committee.
- June 16, 2014
 - Marathon County sent out 500+ surveys to residents who participated in Farmland Preservation programs in the past and Town officials who did not attend a listening session.
- September, 2014
 - Drafts 2 & 3 of the ordinance were created and distributed for comments. This included forwarding a copy to DATCP for comments which were received and incorporated into Draft 4.
- September 17 – October 25, 2014
 - Individual meetings with each of the 6 towns that participate in the Exclusive Agricultural zoning currently to review changes to the district requirements and review the zoning maps to make ensure consistency with the town's comprehensive plan and the certified farmland preservation plan.
- October 3, 2014
 - Sent out final drafts of maps and ordinance language to the 6 towns that have Exclusive Agricultural zoning to take town board action on approval of map and adoption of Farmland Preservation zoning.
- October 17, 2014
 - Marathon County Conservation, Planning and Zoning Department sent out 2795 trifold information brochures on the new Farmland Preservation District and included the public hearing notice.
- November 5, 2014
 - Proposed Public Hearing on the changes to the maps and Farmland Preservation district
- November 11, 2014
 - Proposed County Board action for adoption of Farmland Preservation zoning district
- November – December 2014
 - DATCP Certification

Primary contact person for communications related to the proposed certification

Dean Johnson, Marathon County Zoning Administrator
 Marathon County Conservation, Planning and Zoning Department
 210 River Drive
 Wausau, WI 54403
 715-261-6031
Dean.johnson@co.marathon.wi.us

Thank you for your time. Feel free to contact me with any additional questions.

Application For Farmland Preservation Zoning Ordinance Certification

Instructions

Farmers covered by a county or local farmland preservation ordinance may claim state income tax credits if the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) certifies that the ordinance meets or exceeds state farmland preservation standards (s. 71.613, Wis. Stats., and ch. 91, Wis. Stats.) Among other things, a certified ordinance must be consistent with the *county's* certified farmland preservation plan. Certification does not affect the validity of the ordinance, only farmers' eligibility for tax credits.

A county or local government may amend a certified ordinance, but DATCP must certify an amendment that comprehensively revises the ordinance or extends coverage to a new town. You should also contact DATCP if you are considering an ordinance change that may materially affect compliance with certification standards (for example, by removing zoning protection from land targeted for preservation in the county plan).

- Minor technical amendments are automatically certified (without any action by DATCP) if they do not cause the amended ordinance to violate certification standards. DATCP may de-certify an ordinance if an amendment causes the ordinance to violate certification standards (check with DATCP if you are unsure).

Applying for Ordinance Certification

To have your farmland preservation zoning ordinance (or ordinance amendment) certified, complete and submit all of the following to DATCP:

- The attached APPLICATION FORM, including a short cover memo and required certifications.
- The ordinance (or amendment) to be certified. Include the ordinance (or amendment) text and maps, as well as the spatial location data used to create the maps. In the "citation" spaces provided on the APPLICATION FORM, please cite the relevant ordinance sections and page numbers. Maps and spatial location data should comply with the attached MAP AND SPATIAL LOCATION DATA GUIDELINES.

Submit *all application materials* in electronic form to DATCPWorkingLands@wisconsin.gov (enter "Zoning Ordinance Certification Request" on the subject line). Submit a hard copy of the signed cover memo and application form *only* (hard copy needed to verify signatures) to the following address:

Wisconsin Department of Agriculture, Trade and Consumer Protection
Agricultural Resource Management Division
WORKING LANDS
PO Box 8911
Madison, WI 53708-8911

Review and Decision

Within 10 business days after DATCP receives the application, DATCP will determine whether the application is complete. If the application is complete, DATCP will grant or deny the application within 90 calendar days after the date on which DATCP received it. DATCP will normally grant or deny the application *based solely on the materials that you submit*, so please make sure that the materials are clear, complete and accurate.

Questions

Call 608-224-4604 or email DATCPWorkingLands@wisconsin.gov with any questions or problems.

Map and Spatial Data Guidelines

A clear farmland preservation zoning PDF map should:

- Clearly delineate farmland preservation zoning districts. Farmland preservation area boundaries should follow existing parcel boundaries where possible.
- NOT display environmental or other "overlay" districts in a way that obscures or confuses the boundaries of an underlying farmland preservation zoning district.
- Have a map scale no greater than one inch = 2,000 ft. (1:24,000). It is recommended that a county ordinance map be submitted as a series of town maps. For example, a 6 mile by 6 mile township would meet the certification requirement if it could be printed on an 18" x 24" piece of paper.
- Show political boundaries (county, city, town, village), parcel boundaries, section lines, section numbers, roads and water bodies.
- Have a map legend that includes symbols for all data represented on the map, including zoning district boundaries, political boundaries, parcel boundaries, section lines, roads and water bodies.
- Identify mapped zoning districts with titles that exactly correspond to zoning ordinance text that applies to those districts.
- Identify map scale, north arrow, map date and map producer.
- Be submitted in .pdf or equivalent file format via an appropriate electronic data transfer method (email, ftp, cd, flashdrive, or other acceptable method).

Spatial location data used to create a map should:

- Be projected in the WTM83, NAD83(1991) coordinate reference system.
- If overlay areas are present in text and map, the overlay areas should be provided as a separate shapefile and include full metadata.
- Include an attribute table that has a specific column to identify which of the districts are to be certified and which are not. This can be achieved by adding a column titled "Certified" and indicating for each record if it is or is not located in the certified area. If the shapefile only shows the Farmland Preservation District area, the county only needs to describe in the metadata that the shapefile describes the district area in its entirety.
- Include metadata written to the "Content Standard for Digital Geospatial Metadata (CSDGM), Vers. 2 (FGDC Metadata Standard)." This includes data source, producer, contact, and attribute definitions. Metadata should also indicate, in the "summary" section, that the map information is provided in support of a request for certification of a farmland preservation zoning ordinance.
- Be submitted in vector shapefile or equivalent file format via an appropriate electronic data transfer method (email, ftp, cd, flashdrive, or other acceptable method). If files are submitted through DATCP's ftp site, please only upload them to the temporary folder (<ftp://ftp.datcp.state.wi.us/TEMP/>) and send an email informing DATCP of the submission. All files are automatically deleted from the ftp site after 24 hours.



Wisconsin Department of Agriculture, Trade and Consumer Protection
Division of Agricultural Resource Management
P.O. Box 8911
Madison, WI 53708-8911
(608) 224-4604

Farmland Preservation Ordinance Certification Application

COUNTY: MARATHON COUNTY

LOCAL GOVERNMENT

(IF APPLICANT IS NOT THE COUNTY): _____

DATE SUBMITTED: OCTOBER 16, 2014

DISTRICT(S) TO BE CERTIFIED: FP-

FARMLAND PRESERVATION DISTRICT

The above-named county or local government hereby requests certification, under s. 91.36, Wis. Stats. of the attached farmland preservation zoning ordinance (or ordinance amendment).

PART A: Enclosed Materials

In support of its ordinance certification request, the applicant submits all of the following materials:

1. *The farmland preservation zoning ordinance (or ordinance amendment) to be certified, including ordinance text and maps (zoning district maps).* Each map is clearly correlated with the ordinance text that applies to that map. All farmland preservation zoning districts are clearly identified.
2. *The spatial location data used to create each map.*
3. *A short cover memo, signed by the applicant's zoning director or chief elected official, that does all of the following:*
 - a. Concisely summarizes the farmland preservation zoning ordinance (or ordinance amendment), including key changes from the applicant's last certified ordinance if any. The summary identifies key text changes and all new or modified farmland preservation zoning districts proposed for certification.
 - b. Concisely summarizes the relationship between the farmland preservation zoning ordinance (or ordinance amendment) and the certified *county* farmland preservation plan (including material inconsistencies, if any).
 - c. Concisely summarizes the steps (and timeline) by which the applicant developed the farmland preservation zoning ordinance. The summary briefly describes the public hearing process, notice to other government units, input by other government units, and the process of approval. It indicates which steps are completed, and which steps are planned but not yet completed.
 - d. Identifies the applicant's primary contact person for communications related to the proposed certification (name, telephone, email, and mailing address).

PART B: Certifications

County Planning Director or County Chief Elected Official:

The *county* planning director or *county* chief elected official hereby certifies that the county or local farmland preservation zoning ordinance (or ordinance amendment) attached to this application meets all of the following requirements:¹

1. All of the land included in farmland preservation zoning districts is also included in farmland preservation areas designated in the *county's* certified farmland preservation plan.
2. The ordinance (or ordinance amendment) is in all other respects substantially consistent with the *county's* certified farmland preservation plan.

Signature: I have reviewed the attached farmland preservation zoning ordinance (or ordinance amendment), and certify that it meets the above requirements.

Signed and certified this 17 day of October, 2014.
By: Rebecca J. Frisch
County Planning Director or County Chief Elected Official (circle one)

Applicant's Attorney or Chief Elected Official

The applicant's attorney or chief elected official hereby certifies that the farmland preservation zoning ordinance (or ordinance amendment) attached to this application complies with s. 91.38, Wis. Stats. and meets all of the following applicable requirements:²

	<u>Citation³</u>
3. The ordinance identifies all of the following:	
a. The authority responsible for ordinance administration and enforcement	<u>17.92</u>
b. Standards and procedures for granting conditional use permits, if allowed under the ordinance (if not allowed, enter NA). The standards and procedures meet or exceed applicable minimum requirements listed under s. 91.46, Wis. Stats.	<u>17.13</u>
c. Standards and procedures for granting rezoning petitions, if allowed under the ordinance (if not allowed, enter NA). The standards and procedures meet or exceed the minimum requirements listed under s. 91.48(1), Wis. Stats.	<u>17.49(4) & 17.91</u>
d. Standards and procedures for the regulation of prior nonconforming uses, consistent with s. 91.42(3), Wis. Stats.	<u>17.19 & 17.49(2)(d)1b</u>
e. Penalties or other sanctions that apply to ordinance violations	<u>17.93</u>

¹ The *county* planning director (or *county* chief elected official) must sign this certification, regardless of whether the applicant is the county or a local government within the county.

² For a complete farmland preservation zoning ordinance, the applicant's attorney or chief elected official certifies that the zoning ordinance complies with *all of the listed requirements*. For an ordinance *amendment*, the applicant's attorney or chief elected official certifies that the amendment complies with all of the listed requirements that are *relevant to that amendment*, and that the amendment *does not cause the amended ordinance to violate any of the listed requirements*. See Wis. Stat. s. 91.38(2).

³ Enter specific ordinance section and page number.

- 4 The ordinance clearly describes and limits the types of land uses that are allowed in each farmland preservation zoning district⁴
- a. The ordinance does not allow, in any farmland preservation zoning district, any type of land use that is not allowable in that district under s. 91.44, 91.46 or 91.42(3), Wis. Stats. 17.49
 - b. The ordinance does not allow, as a permitted use (without a conditional use permit), any type of land use that is not allowable as a permitted use under s. 91.44, Wis. Stats. 17.49(2)
 - c. The ordinance does not allow, as a conditional use, any type of land use that is not allowable as a conditional use under s. 91.46(1), Wis. Stats. 17.49(3)
 - d. If the ordinance allows any type of land use as a conditional use, the ordinance specifies standards for that conditional use that meet or exceed the applicable minimum standards in s. 91.46 (2) to (6), Wis. Stats. 17.13(3) & 17.49(3)
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- e. The ordinance does not allow, as a prior nonconforming use, any use that is not allowable as a prior nonconforming use under s. 91.42(3), Wis. Stats. 17.49
5. The ordinance includes maps that clearly delineate each farmland preservation zoning district, so a reader can easily determine whether a parcel is within that zoning district (county maps may consist of a series of town maps) See attached maps
- a. Each map is clearly correlated to the zoning ordinance text that applies to that map (titles are consistent) See attached maps
 - b. All of the land included in farmland preservation zoning districts is also included in farmland preservation areas designated in the *county's* certified farmland preservation plan See attached maps & cover memo
6. If the ordinance superimposes an overlay district (such as an environmental corridor) on a farmland preservation zoning district, all of the following apply (if no overlay district exists, enter N/A): See attached maps and section 17.49
- a. The ordinance text and map clearly identify the overlay district See Marathon's Map
 - b. Ordinance maps clearly show the boundaries of the overlay district and the underlying farmland preservation zoning district 17.56
 - c. The overlay district does not remove land use restrictions from the underlying farmland preservation zoning district
7. The ordinance contains no significant internal inconsistencies affecting farmland preservation districts, such as inconsistencies between the zoning text and maps, inconsistencies within the zoning text, or inconsistencies between zoning maps
8. The ordinance (or ordinance amendment) text and map are substantially consistent with the county's certified farmland preservation plan

Signature: I have reviewed the attached county farmland preservation zoning ordinance (or ordinance amendment), and certify that it meets the applicable requirements for certification as listed above.

Signed and certified this 16 day of OCTOBER, 2014

By: Hunt A. Gibbs
 Applicant's Attorney or Chief Elected Official (circle one)

⁴ A certified ordinance may be more restrictive, but not less restrictive, than the statute (which describes the maximum scope of allowable uses). For example, a certified ordinance may restrict some land uses that are allowable under the statute, or may require conditional use permits for some uses that are allowable as permitted uses (without a permit) under this statute, but a certified ordinance may not allow any land use not allowable under the statute, nor may it allow as a permitted use (without a permit) a land use that is *only* allowable as a conditional use (with a permit) under the statute. Restrictions should be consistent with the purpose of the farmland preservation law. Regulation of livestock operations is subject to s. 93.90, Wis. Stats. and ch. ATCP 51, Wis. Adm. Code.