



State of Wisconsin
Governor Scott Walker

Department of Agriculture, Trade and Consumer Protection
Ben Brancel, Secretary

To: Towns with Certified Farmland Preservation Zoning Ordinances
From: John Petty, Administrator, Division of Agricultural Resource Management
Date: August 25, 2014
Subject: Farmland Preservation and Shoreland Zoning

Recently, the Wisconsin Supreme Court denied review of court of appeals' 2013 decision in *Hegwood v. Town of Eagle Board of Appeals*, which addressed the relationship between town zoning authority and county shoreland zoning. Except in limited circumstances, towns are now unable to zone inside a county's shoreland district. Though this case may have greater implications for your town as a zoning authority, we wanted to alert you to the fact that *Hegwood* affects all towns under town zoning that wish to have a farmland preservation zoning ordinance certified by the department.

As a result of *Hegwood*, towns cannot currently zone for farmland preservation inside the county shoreland district. Because landowners can only claim farmland preservation tax credits on land that is covered by a certified farmland preservation zoning ordinance, landowners in towns under town zoning may not claim the tax credit on land that is within the county shoreland district. As you work to update your zoning ordinance, we encourage you to alert landowners to this development.

We will continue to certify maps that show the farmland preservation district for an entire parcel; however the town must ensure that it is fully complying with the *Hegwood* decision. We recommend including the county shoreland district boundaries on the zoning map submitted for certification. This will enable landowners to see whether they are affected by shoreland regulations. We also recommend including a disclaimer on the map stating that landowners whose land is covered by both a farmland preservation district and a shoreland district may not be able to claim on their entire parcel. Landowners should work with the town and the county to determine the correct number of acres covered by the farmland preservation zoning district.

When the department certifies a farmland preservation zoning ordinance, the department does not also certify that the ordinance complies with all other relevant laws. Outside of the farmland preservation district, the department defers to the interpretations of a town's attorney. Consequently, towns should work with their attorney to ensure that their ordinances are in compliance with the *Hegwood* decision. Should you have any questions about farmland preservation and shoreland zoning, please contact Keith Foye at 608-224-4603 or Alison Volk at 608-224-4634.

cc. Applicable Counties with Towns under Town Zoning containing FP zoning ordinances
Wisconsin Towns Association
Wisconsin Counties Association

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