

DATE: 03/15/22

R E S O L U T I O N

No. 003

To The Board of Supervisors of Winnebago County, Wisconsin:

AMENDATORY ORDINANCE 03/03/22

WHEREAS, it is desirable to amend the Zoning Ordinance of the TOWN OF NEPEUSKUN in accordance with the petition of the Town Board.

WHEREAS, the Winnebago County Planning and Zoning Committee has reviewed said amendments, has found no conflicts with county zoning jurisdiction or regulatory authority with them, and is hereby submitting those amendments of the Chapters 5, 6,14 Code, Farmland Preservation Overlay to the Winnebago County Board of Supervisors for final approval; and

WHEREAS, said amendments to the Town of Nepeuskun Chapters 5, 6,14 Code, Farmland Preservation Overlay are hereby attached and available on the County Clerks website.

www.co.winnebago.wi.us/county-clerk/meetings

AND BE IT FURTHER RESOLVED, by the Winnebago County Board of Supervisors that the enclosed Ordinance is hereby **ADOPTED** OR **DENIED**.

County Board Supervisor
(Town of Nepeuskun)

COUNTY DISCLAIMER:

County Board approval does not include any responsibility for County liability for the legality or effectiveness of the Town Zoning Amendment or the Town Zoning Ordinance.

APPROVED BY WINNEBAGO COUNTY EXECUTIVE THIS _____ DAY OF _____, 2022.

Jon Doemel

Agenda Item Report



Winnebago County
The Wave of the Future

DATE: *February 15, 2022*

TO: *Planning and Zoning Committee (for March 4, 2022 Committee meeting)*

FROM: *Jerry Bougie, Director of Planning and Zoning, Cary Rowe, Zoning Administrator*

RE: *Committee review and action to forward Town Zoning Ordinance amendment(s) to County Board*

Background:

Amendments to Town zoning ordinances are required to be adopted by the Winnebago County Board pursuant to section 60.62(3), Wis. Stats., and s. 8.04, Winnebago County General Code.

Policy Discussion:

County Zoning Staff receives Town zoning ordinance amendment(s) from the affected Town(s). Staff reviews the Town's action for completeness of information (i.e. findings of fact) and whether the proposed zoning amendment(s) is/are consistent with the Winnebago County Comprehensive Plan and subsequently prepares a Staff recommendation on each of the proposed zoning amendment(s). Amendments are then reviewed by the Planning and Zoning Committee whereby the Committee takes action to forward the zoning amendment(s) to County Board for approval. Town zoning amendments do not require a County public hearing, as the hearing has already occurred at the Town level.

For this month's agenda the following Town Zoning Change(s) is/are requested:

1. Review of Zoning Ordinance Amendments –Town of Nepeuskun.

Findings:

1. The Town of Nepeuskun Town Board has deemed it is in its best interest and that of its citizens to amend the Town of Nepeuskun Municipal Code that would address the needs of Town of Nepeuskun.
2. The Town of Nepeuskun Town Board directed the Town of Nepeuskun Plan Commission, with the assistance of Cedar Corporation to review and recommend text amendments to the Town of Nepeuskun Municipal Code.
3. The Town of Nepeuskun Plan Commission held a public hearing on proposed text amendments to the Town of Nepeuskun Municipal Code on January 10, 2022 for the purpose of collecting comments and public input.
4. The Town of Nepeuskun Plan Commission following the January 10, 2022 public hearing on proposed text amendments to the Town of Nepeuskun Municipal Code, recommended adoption of the text amendments by the Town Board.

Requested Action:

Approve a motion to forward town zoning ordinance amendments to County Board for action. (Note: a separate motion is made for each zone change on the agenda).

Committee Action:

*Motion by T. Egan, seconded by B. Defferding to forward zoning change to County Board for action.
Motion carried 4-0. Excused: Ben Joas*

Attachments:

See attached.



Winnebago County

Zoning Department

The Wave of the Future

MEMO FOR P & Z PLANNING MEETING AGENDA OF MARCH 4, 2022

TO: Planning & Zoning Committee

FM: Zoning Administrator *CAR*

RE: Review of Town of Nepeuskun Zoning Ordinance Amendments

1. Review of Zoning Ordinance Amendments – Town of Nepeuskun

The zoning office received a copy of the Town of Nepeuskun's adopted zoning ordinance amendments which include text and a new map. The amendments are related to farmland preservation and have been certified by DATCP. The adopted zoning ordinance amendments for the Town of Nepeuskun must be approved by the County Board. There does not appear to be any conflicts with county zoning jurisdiction or regulatory authority.

RECOMMENDATION: Forward adopted zoning ordinance amendments to County Board for action.

TE, B-D₂ Approved 4-0

Resolution NO 01-2022-01

TOWN OF NEPEUSKUN

WINNEBAGO COUNTY, WISCONSIN

Text Amendments to the Town of Nepeuskun Municipal Code

WHEREAS, the Town of Nepeuskun Town Board has deemed it is in its best interest and that of its citizens to amend the Town of Nepeuskun Municipal Code that would address the needs of the Town of Nepeuskun, and;

WHEREAS, the Town of Nepeuskun Town Board directed the Town of Nepeuskun Plan Commission, with the assistance of Cedar Corporation to review and recommend text amendments to the Town of Nepeuskun Municipal Code, and;

WHEREAS, the Town of Nepeuskun Plan Commission held a Public Hearing on proposed text amendments to the Town of Nepeuskun Municipal Code on January 10, 2022 for the purpose of collecting comments and public input, and;

WHEREAS, the Town of Nepeuskun Plan Commission following the January 10, 2022 Public Hearing on proposed text amendments to the Town of Nepeuskun Municipal Code, recommended adoption of the text amendments by the Town Board, and;

NOW, THEREFORE BE IT RESOLVED the Town of Nepeuskun Town Board adopts the text amendments to the Town of Nepeuskun Municipal Code.

The amended Town of Nepeuskun Municipal Code shall take effect upon passage by the Winnebago County Board of Supervisors and posting (or publication) as required by law.

The amended Town of Nepeuskun Municipal Code is hereby adopted as the general code of ordinances in and for the Town of Nepeuskun, Winnebago County, Wisconsin

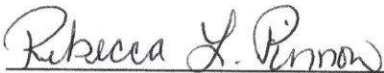
Dated this 17th day of January, 2022.

TOWN OF NEPEUSKUN

By:


Town Chairperson

Attest:


Town Clerk

Town Clerk

PUBLIC HEARING NOTICE
Before the Town of Nepeuskun Plan Commission

PLEASE TAKE NOTICE that on Monday, January 10, 2022 at 7:00 p.m. at the Nepeuskun Town Hall, 1475 County Road "E", Ripon, Wisconsin, the Town of Nepeuskun Plan Commission will hold a public hearing for the purpose of amending the Town of Nepeuskun Municipal Code, commonly referred to as the "Nepeuskun Zoning Ordinance". The town will use this public hearing to accept comments on amending text within the Municipal Code and the zoning map. The amendment is required by DATCP (Wisconsin Department of Agriculture, Trade and Consumer Protection) which administers the State's Farmland Preservation Program so the town can maintain certification for land owners who are interested in obtaining farmland preservation tax credits. Text changes include establishing conformance with Winnebago County Farmland Preservation Plan. A summary of the proposed text changes from the previously adopted Municipal Code include the following:

1. Chapter 5: Section 5.4.2, addition of a Farmland Preservation Overlay (FPO) District and dimensional standards.
2. Chapter 5: Exhibit 2 Matrix, changes of uses within certain zoning districts.
3. Chapter 6: Section 6.10, establishment of exceptions to minimum road frontage requirements.
4. Chapter 14: Farmland Preservation (DATCP certified). Proposed revisions include;
 - Removal of the base farm tract provisions from the A1 Zoning District
 - Removal of allowing new non-farm residences in the A1 Zoning District
 - Allowance for two-family residences as farm residences
 - Minor provision edits to rezoning land out of farmland preservation
5. Zoning Map: Placement of FPO Zoning District Overlay and other zoning district amendments as requested

The hearing is open to the public and all interested parties are encouraged to attend. Telephone access to the meeting can be obtained by dialing 408-418-9388 using Access Code 622 869 456. A copy of the proposed changes can be viewed on the Town's web site at: www.townofnepeuskun.org Contact Ron Bahn, Plan Commission Chairman at 1-920-570-3296 for more information.

Published December 27, 2021 and January 3, 2022.

STATE OF WISCONSIN }
Green Lake County } ss.

Scott Mundro _____ being duly

sworn, doth depose and say that he (she) is an authorized representative of the Berlin Journal, a newspaper published at Berlin, a representative of government of said State, and that an advertisement is a true copy, taken from said paper, was

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Publish: December 23, 30, 2021

December 23, 2021

December 30, 2021

Scott Mundro

(Title)

before me this 30th day of

Tracy S. Kallas

Notary Public,

August 23, 2023

No. Times	<u>2</u>	Notary Fees \$	<u>1.00</u>
		Printers Fees	<u>305.00</u>
		Extra Copies	<u> </u>
		Total \$	<u>306.00</u>

Filed

PROOF OF PUBLICATION

IN THE MATTER OF

GREEN LAKE COUNTY

STATE OF WISCONSIN

MUNICIPAL CODE

Town of Nepeuskun

Winnebago County, Wisconsin

**Approved Amendments
January 17, 2022**

**Article 4.
Zoning Districts**

5.4.1 Districts.

The Town is divided into the zoning districts as listed in this section. The district boundaries are shown on the following maps which are a part of this code: (1) the official zoning map, which is on file in the office of the Town Clerk; and (2) the general floodplain overlay(s) on the official zoning map of Winnebago County on file in the office of the Winnebago County zoning administrator.

5.4.2 Purpose and Intent of Districts.

1. Residential District R-1.

The purpose of the R-1 Residential District is to preserve rural landscape character, natural resource areas, and open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide

privacy for dwellings. This district is intended to provide a quiet, pleasant, and relatively spacious living area, protected from traffic hazards and the intrusion of incompatible land uses. Basic district standards are designed to provide reliable single and two-family home sites where all other uses, facilities, and services are of secondary significance to the location of the home site and living area itself.

District Name	Designation
Residential District	R-1
Shoreland Residential District	R-2
Farmland Preservation District (Chapter 14)	A-1
Agricultural District	A-2
Existing Commercial District	C-1
Community Commercial District	C-2
Public Lands Institutional	PLI
Farm Preservation Overlay	FPO

2. Shoreland Residential District R-2. The purpose of the R-2 Shoreland Residential District is to accommodate in-fill residential development on existing lots adjacent to Rush Lake, consistent with Winnebago County shoreland zoning standards and the Island Aire subdivision covenant (Exhibit 1)

3. Farmland Preservation District A-1. See Chapter 14.

4. Agricultural District A-2. The purpose of the A-2 Agricultural District is to conserve productive farming areas, assure a proper economic and physical environment for continued agricultural use of land, maintain an open rural character; assure compatible types and densities of development on lands that are useable for agricultural pursuits; minimize other land uses incompatible with farming, and prevent the uncontrolled spread of residential development. Persons and entities not engaged in agricultural pursuits in the Agricultural Zone should be aware that the primary intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of occurrences and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive.

5. Existing Commercial District - C-1. This district is intended to recognize those commercial enterprises on single parcels that existed on the effective date of this code. This designation is not intended to be applied to surrounding parcels through the rezoning process. Those enterprises that existed on the effective date of this code are allowed to continue and exist. Future land uses shall conform to those uses allowed in the C-2 district.

6. Community Commercial District – C-2. This district is designed to accommodate those retail and customer service establishments which are characteristic of a small town.

7. Public Lands Institutional – (PLI). This district is intended to include public facilities and lands and institutional uses.

8. Farm Preservation Overlay – (FPO).

(1) Purpose. The district provides for the conservation and protection of lands planned for farmland preservation in the Winnebago County Farmland Preservation Plan for the Town of Nepeuskun. This district is an overlay district applying the provisions of the A-1 district (Chapter 14). This overlay will only be applied within areas planned for farmland preservation in the Winnebago County Farmland Preservation Plan for the Town of Nepeuskun zoned Agricultural (A-1) and Agriculture (A-2) in the Town of Nepeuskun Municipal Code.

(2) Permitted Uses.

- (a) Any permitted use authorized in the Farmland Preservation District (A-1). See Chapter 14.

(3) Conditional Uses.

- (a) Any conditional use authorized in the Farmland Preservation District (A-1). See Chapter 14.

(4) Standards.

- (a) Permitted and Conditional Uses: As authorized and regulated in the Farmland Preservation District (A-1).
- (b) Standards for Rezoning Lands out of the Farm Preservation Overlay: As authorized and regulated in the Farmland Preservation District (A-1). See Chapter 14.

5.4.3 Land Use within Districts.

1. **Generally.** All uses within each district shall conform to the standards for each district as provided for in Exhibit 2 and this part. Because the list cannot include every conceivable type of land use, the listed uses shall be interpreted to include other uses that have similar impacts to the listed uses. Those uses that are not listed and which cannot be interpreted to be similar to any listed use are prohibited.
2. **Non-conforming uses.** Those uses which were lawfully created prior to the effective date of this code, and which according to Exhibit 2 and this part are now prohibited, shall be considered a non-conforming use and shall be subject to the provisions contained in this chapter.

Exhibit 2. Land Uses by District

Agricultural Uses	***				C-1	
	A-1	A-2	R-1	R-2	C-2	PLI
Agriculture, animal ¹	P	P	C	-	C	-
Agricultural use (Chapter 14 defined)	P	P	P	-	P	P
Agri-Tourism	C*	C	-	-	C	-
Animal processing plant (not an accessory use)	C	C	-	-	-	-
Animal rendering plant	C	C	-	-	-	-
Food processing facility (not an accessory use)	C	C	-	-	C	-
Game farm (Does not include outdoor/indoor shooting range activities)	C*	C	-	-	-	-
Intensive animal production	C	C	-	-	-	-
Agricultural-related use. (Chapter 14 defined)	C	C	-	-	P	-
Resource-Based Uses						
Aggregate and soil extraction operation Must meet Wis. Stats 91.46 (6)	C	C	-	-	-	-
Forestry	P	P	P	-	P	P
Hunting and fishing preserve (Private)	C*	P	-	-	-	-
Hunting and fishing preserve (Government or Non-Profit Under Wis. Stats 91.46(5))	C	P	-	-	-	-
Sludge disposal - Municipal - per Wis. Stats 91.46(5)	C	C	-	-	-	-
Undeveloped natural space areas	P	P	P	P	P	P
Residential Uses						
Residence, single or two-family built prior Jan. 1, 2014	P	P	P	P	P	-
Residence, two-family	-	-	P	P	C	-
Residence, multi-family	-	-	C	C	C	-
Retirement home	-	-	C	C	C	-
Manufactured home park	-	-	C	C	C	-
Farm Residence, single-family/two-family	P	P	-	-	C	-
Non-Farm Residence, single-family/two-family	-	P	P	P	C	-
Special Care Facilities						
Adult family home	-	-	P	P	-	-
Community living arrangement, Type I	-	-	P	P	-	-
Community living arrangement, Type II	-	-	C	C	-	-
Community living arrangement, Type III	-	-	C	C	-	-
Day care center	-	-	C	C	-	-
Family day care home	P*	P	P	P	-	-
Foster home (per Wis. Stats 48.62)	C	C	P	P	-	-
Foster home (treatment)	-	-	P	P	-	-
Group home for children	-	-	C	C	-	-
Nursing home	-	-	-	-	C	-
Overnight Accommodations						
Bed and breakfast & short-term rentals	C*	P	P	P	-	-
Campground	-	C	-	-	-	P
Group camp	-	C	-	-	-	-
Hotel/motel	-	-	-	-	C	-
Sales & Service						
Auction Facility	C*	C	-	-	C	C
Contractor yard, type I	C*	C	-	-	P	-
Contractor yard, type II	C*	-	-	-	C	-
Eating establishment	-	-	-	-	P	-
Kennel, commercial	-	C	-	-	C	-
Outfitter service	-	C	-	-	-	-
Sales, agriculture	C*	C	-	-	P	-
Sales, construction materials	-	-	-	-	P	-
Sales, convenience	-	-	-	-	P	-

Public/Semi-Public Infrastructure & Utilities

- Airport
- Cemetery
- Commercial antennae - must meet Wis. Stats
- Public safety facility
- Recycling center
- Solid waste container site
- Solid waste transfer station
- Utility installation, major - must meet Wis. Sta
- Utility installation, minor - must meet Wis. Sta
- Wind turbine must meet Wis. Stats 91.46(4)
- Solar Energy Systems ** - must meet Wis. St
- Mobile & radio broadcast facilities ** must meet Wis. Stats 91.46(4)
- Transportation, utility, communication, or other that are required under state or federal law located in a specific place, or that are auth to be located in a specific place under a sta federal law that preempts the requirement conditional use permit for that use.

Community Services/Uses

- Administrative governmental center
- Community center
- Educational facility
- Instructional facility
- Worship facility
- Instructional facility-agriculture (Government or Non-Profit under Wis. Stats 91.46(5))

Recreation / Sports / Entertainment

- Agri- Tourism
- Golf course/driving range
- Indoor entertainment
- Indoor sports and recreation
- Miniature golf
- Outdoor entertainment
- Outdoor/Indoor shooting range
- Park
- Stable, commercial
- Trail

Accessory Use

- Accessory buildings, commercial
- Accessory buildings, residential
- Accessory structures
- Boathouse
- Home occupation, Type I
- Home occupation, Type II
- Home occupation, Type III
- Home occupation, Type IV
- Kennel, private
- Stable, private

Chapter 6
Land Division and Consolidation

.....

6.10 Lots.

- a. The size, shape, and orientation of new lots shall be appropriate for the location of the land division and for the type of development and use contemplated. The lots should be designed to provide an aesthetically pleasing building site, and a proper architectural setting for the buildings contemplated.
- b. Lot lines shall follow municipal boundary lines rather than cross them.
- c. New residential lots should be located away from productive farmland and sensitive environmental features.
- d. Exception to Minimum Road Frontage Requirements.
 - (1) A-1 and A-2 parcels or lots greater than or equal to five (5) acres in size, and not intended for building or construction purposes, may be created without the road frontage requirements, provided a non-buildability statement is included on the face of the CSM or plat and access is provided by an ingress/egress driveway easement. The ingress/egress driveway easement shall meet the following requirements:
 - (a) Be a minimum of 30 feet in width.
 - (b) Provide ingress/egress driveway access from the parcel or lot to a public road.
 - (c) Driveway access within the easement area to the public road shall be approved by the appropriate governmental jurisdiction prior to approval of the CSM

Chapter 14
Town of Nepeuskun Ordinance # 2012-001
Farmland Preservation Ordinance
A-1 Farmland Preservation Regulations
.....

~~Whereas, the State of Wisconsin has recently modified its "Farmland Preservation" program, and~~

~~Whereas, the Town of Nepeuskun under their Zoning Code did reserve the right to create an A-1 Agricultural Farmland Preservation District/Classification.~~

~~Now Therefore, The Town Board on the recommendation of the Planning Commission and after holding a public hearing on the proposed creation of a Farmland Preservation Ordinance does hereby ordain as follows:~~

- ~~1. Section 5.4.2 is amended to remove reference to "Reserved" in the designation of the A-1 district/classification.~~
- ~~2. Section 5.4.2.3 is created to read A-1 Farmland Preservation- Purpose. The purpose of the A-1 Agricultural District is qualify lands in the district or under this classification for eligibility under the Wisconsin State Farmland Preservation program and to conserve productive farming areas, assure a proper economic and physical environment for continued agricultural use of land, maintain an open rural character; assure compatible types and densities of development on lands that are useable for agricultural pursuits; minimize other land uses incompatible with farming, and prevent the uncontrolled spread of residential development. Intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of occurrences and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive.~~
- ~~3. Chapter 5 Article7 shall be created to read:~~

Article 7

A. DEFINITIONS. In this farmland preservation ordinance:

- (1) "Accessory use" means any of the following land uses on a *farm*:
 - (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 1. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 2. A facility used to keep livestock on the farm.
 3. A facility used to store or process inputs primarily for agricultural uses on the farm.
 4. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 5. A wind turbine or solar energy facility that collects wind or solar energy on the farm and uses or transforms it to provide energy primarily for use on the farm.
 6. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 7. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - (b) An activity or business operation that is an integral part of or incidental to an agricultural use.
 - (c) A farm residence, including normal residential accessories.
 - (d) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 1. It is conducted on a farm by an owner or operator of that farm.
 2. It requires no buildings, structures, or improvements other than those described in par. (a) or (c).
 3. It employs no more than 4 full-time employees at any given time.
 4. It does not impair or limit the current or future agricultural use of the farm or other protected farmland in any significant way or substantive part.
- (2) "Agricultural use" means any of the following activities conducted for the purpose of producing an income or livelihood:
 - (a) Crop or forage production.
 - (b) Keeping livestock.
 - (c) Beekeeping.
 - (d) Nursery, sod, or Christmas tree production.
 - (e) Floriculture.
 - (f) Aquaculture.
 - (g) Fur farming.

- (h) Forest management.
 - (i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (3) "Agriculture-related use" means a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
- (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
 - (b) Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
 - (c) Slaughtering livestock, including livestock from farms in the farmland preservation zoning district.
 - (d) Marketing livestock to or from farms, including farms in the farmland preservation zoning district.
 - (e) Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation zoning district.
- ~~(4) "Base farm tract" means all land, whether one parcel or 2 or more contiguous parcels, which is in a farmland preservation zoning district and is part of a single farm regardless of any subsequent changes in the size of the farm. The Town of Nepeuskun has established base farm tracts as of 12-21-2010 that are of this same definition.~~
- (5) "Common ownership" means ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple. Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance but not necessarily for other purposes.
- (6) "Contiguous" means adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.
- (7) "Farm" means all land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:
- (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
 - (b) A majority of the land area is in agricultural use.
- ~~(8) "Farm acreage" means, for purposes of section D (2) the combined total acreage of all of the following in the "base farm tract:"~~
- ~~(a) Farms.~~
 - ~~(b) Open space parcels of more than 10 acres.~~
- (9) "Farm residence" means any of the following structures located on a farm:
- (a) A single-family or duplex (two-family) residence that is the only residential structure on the farm.
 - (b) A single-family or duplex (two-family) residence that is occupied by any of the following:
 - 1. An owner or operator of the farm.
 - 2. A parent or child of an owner or operator of the farm
 - 3. An individual who earns more than 50 percent of his or her gross income from the farm.
 - (c) A migrant labor camp that is certified under s. 103.92, Wis. Stats.
- (10) "Gross farm revenue" means gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Gross farm revenue" includes receipts accruing to a renter but does not include rent paid to the land owner.
- (11) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, llamas, ostrich/emus, and farm-raised fish.
- (12) "Nonfarm residence" means any residence other than a farm residence.
- ~~(13) "Nonfarm residential acreage" means, for purposes of section D(2), the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Nepeuskun has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the conditional use permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres.~~

- (14) "Open space parcel" means a parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.
- (15) "Person" means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.
- (16) "Prime farmland" means all of the following:
- (a) An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
 - (b) Land, other than land described in par. (a), which is identified as **prime** farmland in the county's certified farmland preservation plan.
- (17) "Prior nonconforming use" means a land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.
- (18) "Protected farmland" means land that is any of the following:
- (a) Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
 - (b) Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
 - (c) Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
 - (d) Otherwise legally protected from nonagricultural development.

B. LAND USE IN FARMLAND PRESERVATION ZONING DISTRICT; GENERAL. Only the following land uses are allowed in a farmland preservation zoning district:

- (1) Uses allowed under section C without a conditional use permit.
- (2) Uses allowed under section D with a conditional use permit.
- (3) Prior nonconforming uses, subject to 59.69(10) Wis. Stats.

C. PERMITTED USES. The following land uses are allowed without a conditional use permit in a farmland preservation zoning district:

- (1) Agricultural uses and accessory uses on farms (including farm residences), except that a conditional use permit is required under section D(32) for the following agricultural uses and accessory uses on farms:
 - (a) A new or expanded facility used to keep cattle, swine, poultry, sheep, or goats, if that facility will have more than 500 animal units if the proposed facility meets the standards, procedures and application prescribed in ch. ATCP 51, Wis. Admin. Code, Wis. Stats 93.90 and NR 243.
 - (b) ~~On-farm riding stables and boarding facilities, farmstead food processing facilities, and farmstead retail outlets.~~ See Chapter 5, Exhibit 2, Land Uses by District for other conditional uses.
- (2) Non-farm residential structures built prior to January 1, 2014
- (3) Undeveloped natural resource and open space areas.
- (4) Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

D. CONDITIONAL USES.

(1) General.

- (a) The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section.
- (b) Before issuing a conditional use permit under par. (a), the Town Board on recommendation of the Plan Commission shall determine in writing that the proposed use meets applicable conditions under this section. The Town Board on recommendation of the Plan Commission may issue the permit subject to any additional conditions which the Town Board on recommendation of the Plan Commission deems necessary to carry out the purposes of this ordinance.

~~(c) On-farm riding stables and boarding facilities, farmstead food processing facilities, and farmstead retail outlets. See Chapter 5, Exhibit 2, Land Uses by District for other conditional uses.~~

~~(2) Nonfarm residences. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed nonfarm residence if built after January 1, 2014 if all of the conditions of the Town's ordinance for the granting of a permit for a nonfarm residence are met. (Sec. 5.5.1). In every case to be eligible:~~

~~(a) Neither the nonfarm residence, nor the parcel on which the nonfarm residence is located can result in the conversion of prime farmland, or cropland other than a woodlot, from agricultural use if there is a reasonable alternative available to the permit applicant for location of the residence; nor can there be a significant impairment or limitation on the current or future agricultural use of any other protected farmland.~~

~~(b) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located cannot be greater than 1 to 20 after the residence is constructed or converted to a non-farm residence.~~

~~(c) There cannot be more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.~~

(3) Agricultural and accessory uses on farms. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for any of the following agricultural uses or accessory uses for which a permit is required under section C(1):

(a) A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats, and that will have more than 500 animal units, if the proposed facility meets the standards prescribed in ch. ATCP 51, Wis. Adm. Code.

~~(b) On-farm riding stables and boarding facilities, farmstead food processing facilities, and farmstead retail outlets. Also see Chapters 5, Exhibit 2, Land Use by District for other conditional uses.~~

(4) Agriculture-related uses. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for an agriculture-related use if all of the following apply:

(a) Unless required by State or Federal, the use supports agricultural uses in the farmland preservation zoning district in direct and significant ways and is more suited to a farmland preservation zoning district than to an industrial or commercial zoning district.

(b) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(c) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(d) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.

(e) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.

(f) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(5) Compatible infrastructure.

(a) Unless required by State or Federal law, the Town Board on recommendation of the Plan Commission may issue a conditional use permit for any of the following uses if that use meets applicable conditions under par. (b):

1. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.
2. Communication uses, including transmission lines, cell towers, antennae, and broadcast towers.
3. Oil, gas and other pipelines.
4. Electrical transmission lines.

5. Wind turbines (when not an accessory use on a farm which is permitted).
6. Solar power generation facilities (when not an accessory use on a farm which is permitted).
7. Drainage facilities.

(b) The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed use under par. (a) if all of the following apply:

1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
3. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
4. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(6) Government and nonprofit community uses. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the Town Board on recommendation of the Plan Commission determines that all of the following apply:

- (a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(7) Nonmetallic mineral extraction. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a nonmetallic mineral extraction operation if all of the following apply:

- (a) The operation complies with all of the following:
 1. Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter.
 2. Applicable provisions of the Town of Nepeuskun Ordinances.
 3. Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- (b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
- (d) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.

- (e) The operation does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (f) The conditional use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for agricultural use, according to a written restoration plan included with the permit.

E. REZONING LAND OUT OF A FARMLAND PRESERVATION ZONING DISTRICT.

- (1) Except as provided in sub. (2), the Town Board on recommendation of the Plan Commission may not rezone land out of a farmland preservation zoning district unless the Town Board on recommendation of the Plan Commission finds all of the following in writing, after public hearing, as part of the official record of rezoning:
 - (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district. *Rezone decisions and actions shall follow DATCP guidelines if available. Note: No rezone is required for residences built prior to January 1, 2014.*
 - (b) The rezoning is consistent with any comprehensive plan, adopted by the Town Board on recommendation of the Plan Commission which is in effect at the time of the rezoning.
 - (c) The rezoning is substantially consistent with the Winnebago County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
 - (d) *The rezoning will not substantially impair or limit current or future agricultural use surrounding parcels of land that are zoned for or legally restricted to agricultural use.*
- (2) Subsection (1) does not apply to any of the following:
 - (a) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
 - (b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Winnebago County farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

End of Restated Ordinance

Attestation of Action ~~regarding Ordinance 2012-001~~

Description	Date
Adopted	January 21, 2013
Amended	August 6, 2015
Amended	_____, 2021

.....
End of Chapter



State of Wisconsin
Governor Tony Evers

Department of Agriculture, Trade and Consumer Protection
Secretary Randy Romanski

Ken Jaworski
Cedar Corporation
1695 Bellevue St.
Green Bay, WI 54311

December 13, 2021

Re: Certification of the Town of Nepeuskun, Winnebago County Farmland Preservation Zoning Ordinance

Dear Ken:

Attached is a department order certifying the Town of Nepeuskun, Winnebago County, Farmland Preservation Zoning Ordinance under s. 91.36, Wis. Stats. The final step in the certification process will be to provide us with proof of adoption of the ordinance before June 30th, 2022. The ordinance is now certified through December 31, 2031.

We look forward to working with you in the future on farmland preservation in the Town of Nepeuskun. If you have any questions, feel free to contact me.

Sincerely,

Tim Jackson
Farmland Preservation Program
608-224-4630

Wisconsin - America's Dairyland

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**STATE OF WISCONSIN
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

TOWN OF NEPEUSKUN, WINNEBAGO COUNTY FARMLAND PRESERVATION ZONING ORDINANCE (TEXT AND MAP).	DARM Docket No. 139-56100-O-21 F-1221 ORDER CERTIFYING ORDINANCE THROUGH DECEMBER 31, 2031
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INTRODUCTION

The Town of Nepeuskun in Winnebago County has asked the Department of Agriculture, Trade and Consumer Protection (“DATCP”) to certify a farmland preservation ordinance, pursuant to s. 91.36, Wis. Stats. DATCP has considered the request and adopts the following decision:

FINDINGS OF FACT

(1) DATCP is an agency of the State of Wisconsin, and is responsible for administering Wisconsin’s farmland preservation law under ch. 91, Wis. Stats., as repealed and recreated by 2009 Wis. Act 28.

(2) The Town of Nepeuskun is a Town in the State of Wisconsin. The Town of Nepeuskun is a political subdivision that is authorized to adopt a farmland preservation zoning ordinance under s. 91.30, Wis. Stats.

(3) Under s. 91.36, Wis. Stats., DATCP may certify a farmland preservation zoning ordinance or ordinance amendment for compliance with statutory standards. Certification allows farmers covered by the ordinance to claim farmland preservation tax credits under subch. IX of ch. 71, Wis. Stats.

(4) A political subdivision may ask DATCP to certify a farmland preservation zoning ordinance or ordinance amendment. The political subdivision must submit an application under s. 91.40, Wis. Stats. As part of the application, the political subdivision must certify that the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. Among other things, the ordinance or amendment must be consistent with the *county’s* certified farmland preservation *plan*.

(5) DATCP may certify a farmland preservation zoning ordinance or amendment if the ordinance or amendment meets applicable statutory standards under s. 91.38, Wis. Stats. DATCP may certify based on the representations contained in the political subdivision’s application, but DATCP may conduct its own review and verification as it deems appropriate.

(6) DATCP may make its certification contingent upon the political subdivision’s adoption of the certified ordinance or amendment, in the form certified. DATCP may also withdraw its certification at any time if, as a result of subsequent changes to the ordinance or the county’s certified farmland preservation plan, the ordinance no longer meets minimum certification standards under s. 91.38, Wis. Stats.

(7) Winnebago County has a certified farmland preservation plan. This plan is currently

certified through December 31, 2030.

(8) On December 9, 2021, DATCP received an application from the Town of Nepeuskun, in which the Town asked DATCP to certify the Town's farmland preservation ordinance. The Town of Nepeuskun submitted the application in the form required under s. 91.40, Wis. Stats. The application included the representations required under ss. 91.40(3) and (4), Wis. Stats.

(9) The farmland preservation zoning ordinance is part of the Town of Nepeuskun Zoning Ordinance, and is intertwined with other provisions of that zoning code. The ordinance includes an ordinance text, together with an ordinance map.

(10) On December 10, 2021, DATCP confirmed by letter that the Town of Nepeuskun certification application was complete, and that DATCP would proceed to review the complete application.

(11) DATCP may certify a farmland preservation ordinance for a period of time specified in the certification order. Certification of an ordinance may not exceed 10 years. See s. 91.36(2)(b), Wis. Stats.

CONCLUSIONS OF LAW

(1) Based on the representations made by the Town of Nepeuskun in its application for certification of a farmland preservation ordinance, DATCP concludes as follows:

(a) The proposed Town of Nepeuskun farmland preservation ordinance, consisting of a proposed ordinance text dated December 9, 2021, and map dated December 2, 2021, meet certification requirements under s. 91.38, Wis. Stats.

(b) DATCP may certify the proposed ordinance pursuant to s. 91.36, Wis. Stats.

(2) Pursuant to s. 91.36(2)(b), Wis. Stats., DATCP should certify the proposed ordinance through December 31, 2031.

(3) Pursuant to s. 91.36(7), Wis. Stats., the effective date of the certification should be the date on which the order is signed.

ORDER

NOW, THEREFORE, IT IS ORDERED THAT:

(1) The proposed Town of Nepeuskun farmland preservation ordinance, consisting of the proposed ordinance text dated December 9, 2021, and map dated December 2, 2021, are hereby certified under s. 91.36, Wis. Stats.

(2) The certified farmland preservation zoning districts for the Town of Nepeuskun are the A-1 Farmland Preservation District and the FPO Farmland Preservation Overlay District.

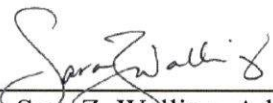
(3) This certification is contingent upon the Town of Nepeuskun adopting the ordinance, in the form certified, before June 30, 2022.

(4) This certification takes effect on the date on which the order is signed.

(5) This certification expires at the end of the day on December 31, 2031.

Dated this 13th day of December, 2021

STATE OF WISCONSIN,
DEPARTMENT OF AGRICULTURE,
TRADE AND CONSUMER PROTECTION

By 

Sara Z. Walling, Administrator
Division of Agricultural Resource Management

Parties for purposes of review under s. 227.53, Wis. Stats.:

Town of Nepeuskun

Copies to:

Ken Jaworski
Cedar Corporation
1695 Bellevue St.
Green Bay, WI 54311