

## *Appendix A*

Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP)  
Farmland Preservation Program  
Chapter 91, Wis. Stats.

### **MODEL FARMLAND PRESERVATION ZONING ORDINANCE TEXT**

*[NOTE: Farmers covered by a county, town or municipal farmland preservation (FP) zoning ordinance may qualify for tax credits if DATCP certifies that the ordinance meets minimum FP standards under ch. 91, Wis. Stats. The following MODEL ZONING ORDINANCE TEXT meets minimum FP standards and addresses a number of interpretive issues that have arisen to date. However, county and local governments are free to take other approaches that are consistent with ch. 91. A certified ordinance may include standards that are more restrictive, but not less restrictive, than the minimum standards in ch. 91.]*

*A complete FP ordinance includes the zoning text (like the MODEL ZONING ORDINANCE TEXT shown here) as well as maps of the FP zoning districts. Mapped FP zoning districts must be reasonably consistent with the county's certified FP plan. Land may not be included in a certified FP zoning district unless it is located in a FP area identified in the certified county FP plan.*

*This MODEL ZONING ORDINANCE TEXT allows compatible nonfarm uses (including nonfarm residential uses) within a certified FP zoning district, pursuant to a conditional use permit. If a nonfarm use is allowed under a conditional use permit, there is no need to rezone the affected parcel out of the farmland preservation zoning district (and hence no rezoning "conversion fee").*

*If a county or local government already has a certified FP zoning ordinance, it may adopt this MODEL ZONING ORDINANCE TEXT as an amendment to that certified ordinance (substitute for current text without changing current ordinance maps). DATCP can certify the text amendment, for the remainder of the current ordinance certification term, without having to re-certify the current ordinance maps. The text amendment should be certified before it is adopted, to ensure that the current ordinance certification remains in effect.*

*To apply for DATCP certification of a proposed FP ordinance or ordinance amendment, please complete and submit the form shown at [www.datcp.state.wi.us/workinglands/forms.jsp](http://www.datcp.state.wi.us/workinglands/forms.jsp). If applying for certification of a text amendment only, please complete those portions of the form that are relevant to the text amendment.*

## MODEL ZONING ORDINANCE TEXT

### 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*.

*[NOTE: The facilities listed above are examples of facilities that may qualify as "accessory uses" because they are an integral part of or incidental to an "agricultural use."]*

- (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 appurtenances.
- (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 annually [*ordinance may specify a smaller number of employees*].
4. It does not impair or limit the current or future *agricultural use* of the *farm* or other *protected farmland*.

***[NOTE: Under this MODEL ZONING ORDINANCE TEXT, "accessory uses" are normally allowed in a FP zoning district without a conditional use permit. However, the ordinance may identify certain agricultural or accessory uses (such as livestock facilities over 500 animal units, riding stables and boarding facilities, farmstead food processing facilities, farmstead retail outlets, manure storage systems, large on-farm fuel or agrichemical storage facilities, etc.) for which a conditional use permit is required. See section C(1).]***

- (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.

***[NOTE: Under this MODEL ZONING ORDINANCE TEXT, "agricultural uses" are normally allowed in a FP zoning district without a conditional use permit. However, the ordinance may identify certain agricultural or accessory uses (such as livestock facilities over 500 animal units, riding stables and boarding facilities, farmstead food processing facilities, farmstead retail***

*outlets, manure storage systems, large on-farm fuel or agrichemical storage facilities, etc.) for which a conditional use permit is required. See section C(1).]*

- (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.

*[NOTE: This MODEL ORDINANCE TEXT clarifies the statutory definition of “agriculture-related use” under s. 91.01(3), Wis. Stats. Under this MODEL ORDINANCE TEXT, an “agriculture-related use” must be primarily (not just incidentally) related to agriculture, and must have a direct connection to agricultural uses in the FP zoning district. For example, a general retail store does not qualify as an “agriculture-related use” just because it sells hoes and pitchforks.*

*Under s. 91.44(1)(c) and 91.46(1)(c), Wis. Stats., an ordinance may allow “agriculture-related uses” in an FP zoning district with or without a conditional use permit (local choice). An ordinance may, for example, require permits for some kinds of “agriculture-related uses” but not others.*

*This MODEL ORDINANCE TEXT requires a conditional use permit for ALL “agriculture-related uses” EXCEPT those that also qualify as on-farm “accessory uses” (“accessory uses” may be allowed without a permit under section C(1)). This permit requirement helps ensure that “agriculture-related uses” will be appropriate for the FP zoning district. In order to qualify for a conditional use permit, an “agriculture-related use” must meet standards specified in section D(5).]*

- (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* on *[enter date on which DATCP first certifies section D(2) of this MODEL ORDINANCE TEXT, or an earlier date chosen by the zoning authority]*, regardless of any subsequent changes in the size of the *farm*.

*[NOTE: “Base farm tracts” are defined ONLY for the purpose of calculating residential densities under section D(2)(a) in connection with conditional use permit applications. They have no other legal or ownership implications, and are not used for any other purpose. A “base farm tract” is a fixed geographical reference area that (once determined) remains constant over time. A “base farm tract” is not necessarily synonymous with a “farm,” except on the date that it is determined.]*

- (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.

*[NOTE: 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*.

*[NOTE: In determining whether land is in agricultural use for purposes of par. (b), a zoning authority may consider how the land is classified for property tax purposes. See ch. TAX 18, Wis. Adm. Code.]*

- (8) “Farm acreage” means, for purposes of section D(2)(a), 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 [*ordinance may specify a different number*].

*[NOTE: “Farm acreage” is defined ONLY for the purpose of calculating residential densities under section D(2)(a) in connection with conditional use permit applications. Paragraph (b) of*

*this definition allows a permit authority to count certain "open space" parcels as "farm acreage" for that limited purpose, without having to make a specific determination that those parcels qualify as "farms." If the zoning authority wishes to adopt a stricter standard, it may eliminate par. (b).]*

- (9) "Farm residence" means any of the following structures located on a *farm*:
- (a) A single-family *[or duplex]* residence that is the only residential structure on the *farm*.
  - (b) A single-family *[or duplex]* 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.

*[NOTE: This MODEL ORDINANCE TEXT allows "farm residences" in an FP zoning district without a conditional use permit. However, an ordinance MAY require conditional use permits for "farm residences" as well as for "nonfarm residences," if that is the local preference.*

*To qualify as a "farm residence," a residence must be located on a "farm." If a farm owner deeds off a residential parcel to another person (even if that person is the farm owner's parent, child or employee), the separately-owned parcel is no longer part of the original "farm." A residence built on that parcel does not qualify as a "farm residence" unless the parcel qualifies as a "farm" in its own right.*

*A zoning authority may omit pars. (b) and (c) if it wishes to restrict the number of residences that may qualify as "farm residences," or wishes to avoid potential issues related to occupancy status.]*

- (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, camelids, ratites and farm-raised fish.
- (12) "Nonfarm residence" means any residence other than a *farm residence*.

*[NOTE: This MODEL ZONING ORDINANCE TEXT requires conditional use permits for "nonfarm residences" in an FP zoning district (per the FP law). Conditional use permits must meet the criteria specified in section D(2) or, in the case of "residential cluster" permits,*

*section D(3). An ordinance MAY also require conditional use permits for “farm residences” if that is the local preference.]*

- (13) “Nonfarm residential acreage” means, for purposes of section D(2)(a), the combined total acreage of all parcels on which *nonfarm residences* are located, all parcels on which [the permit authority] has approved *nonfarm residences*, all parcels of 10 acres or less [ordinance may specify a different number] 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 [ordinance may specify a different number].

[NOTE: “Nonfarm residential acreage” is defined ONLY for the purpose of calculating residential densities under section D(2)(a) in connection with conditional use permit applications.

*This MODEL ORDINANCE TEXT counts, as “nonfarm residential acreage,” parcels on which residences have been approved but not yet built, as well as “open space” parcels under 10 acres. Larger “open space parcels” may be counted as “farm acreage” (see definitions of “farm acreage” and “open space parcel).”*

*For example, suppose that the owner of a 210-acre “farm” (used to determine a “base farm tract”) sells off a 40-acre parcel, a 4-acre parcel, and three 2-acre parcels (no buildings on any of the parcels). The seller continues to farm the remaining 160 acres. The zoning authority issues conditional use permits for construction of non-farm residences on two of the 2-acre parcels (one of the approved residences has been built, the other is awaiting construction).*

*The owner of the third 2-acre parcel subsequently applies for a conditional use permit to build a residence on that parcel. Under section D(2)(a), as part of its review of the permit application, the zoning authority calculates that the ratio of “nonfarm residential acreage” (4+2+2+2=10 acres) to “farm acreage” (160+40=200 acres) in the 210-acre “base farm tract” is 1:20.]*

- (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... [choose s. 59.69(10), 60.61(5) or 62.23(7)(h), Wis. Stats., as applicable].

*[NOTE: Section B does not apply to land that is rezoned out of a certified FP zoning district. However, a rezoning "conversion fee" applies to that rezoned land unless the rezoning makes the FP zoning map more consistent with the certified county FP plan map. See SECTION E.]*

**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, except that a conditional use permit is required under section D(4) 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.

*[NOTE: Paragraph (a) is optional but recommended to ensure permit review of large livestock facilities. See s. 93.90, Wis. Stats., and ch. ATCP 51, Wis. Adm. Code. Note that par. (a) applies only to facilities that are used to keep cattle, swine, poultry, sheep or goats (facilities covered by s. 93.90, Wis. Stats., and ch. ATCP 51). It does NOT apply to facilities used to keep equines, farm-raised deer, farm-raised game*

*birds, camelids, ratites, farm-raised fish or mink. However, an ordinance MAY add conditional use permit requirements under this subsection (and permit standards under section D(4)) for facilities used to keep the latter types of livestock. ]*

(b) .... *[Ordinance may identify other specific agricultural or accessory uses on farms for which a conditional use permit is required under section D(4). For example, an ordinance might require a conditional use permit for on-farm riding stables and boarding facilities, farmstead food processing facilities, farmstead retail outlets, manure storage systems, large on-farm fuel or agrichemical storage facilities, etc. Permits for manure storage systems are subject to s. ATCP 50.56 and ch. ATCP 51, Wis. Adm. Code.]*

(2) *Nonfarm residences* constructed in a rural residential cluster according to a conditional use permit issued under section D(3) for that cluster.

*[NOTE: A zoning ordinance MAY include a provision, like the provision in section D(3), which authorizes the permit authority to issue a conditional permit to the developer of a nonfarm residential "cluster" in a farmland preservation district. If a "cluster" permit is issued, purchasers of residential parcels within that "cluster" may construct residences on those parcels according to the terms of the "cluster" permit, without having to get another conditional use permit.]*

(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.

*[NOTE: Subsection (4) acknowledges that state or federal law may sometimes preempt local authority to restrict the siting of certain facilities. It does not purport to determine which state or federal actions are preemptive. It merely says that IF state or federal action is preemptive, no local permit is required and there is no need to rezone the site out of the farmland preservation district. Uses covered by sub. (4) might include, for example, state and federal highways, federally-mandated pipelines, and energy generation and transmission facilities whose location and design are specifically mandated by the Wisconsin Public Service Commission pursuant to a certificate of convenience and necessity.]*

#### D. CONDITIONAL USES.

##### (1) General.

(a) The *[permit authority]* 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. The *[permit authority]* shall follow the procedures described in *[refer to ordinance provisions describing general procedures for conditional use permits]*.

(b) Before issuing a conditional use permit under par. (a), the *[permit authority]* shall determine in writing that the proposed use meets applicable conditions under this section. The *[permit authority]* may issue the permit subject to any additional conditions which the *[permit authority]* deems necessary to carry out the purposes of this ordinance.

(2) **Nonfarm residences.** The *[permit authority]* may issue a conditional use permit for a proposed *nonfarm residence* if all of the following standards will be met when the approved *nonfarm residence* comes into existence:

(a) If the *nonfarm residence* will be located in a *base farm tract*:

1. The ratio of *nonfarm residential acreage* to *farm acreage* in the *base farm tract* will not exceed 1:20 *[the ordinance may specify a more restrictive ratio, such as 1:40]*.
2. There will be no more than 4 dwelling units in *nonfarm residences*, nor more than 5 dwelling units in residences of any kind, in the *base farm tract* *[the ordinance may specify smaller maximum numbers]*.

*[NOTE: A certified FP zoning district will often include some "outlier" parcels that are not located in any "base farm tract" (because they were not part of a "farm" when the ordinance was certified). Those "outlier" parcels are NOT subject to the density standards in par. (a), but ARE subject to the siting standards in par. (b). An ordinance MAY include, but is not required to include, supplementary density standards for "outlier" parcels.]*

(b) Neither the *nonfarm residence*, nor the parcel on which the *nonfarm residence* is located, will do any of the following:

1. Convert *prime farmland*, or cropland other than a woodlot, from *agricultural use* if there is a reasonable alternative available to the permit applicant.
2. Significantly impair or limit the current or future *agricultural use* of any other *protected farmland*.

*[NOTE: Paragraph (b) applies, regardless of whether the nonfarm residence will be located within a "base farm tract."]*

(3) **Nonfarm residential clusters.** The *[permit authority]* may issue a single conditional use permit authorizing 2 or more proposed *nonfarm residences* if all of the following apply:

(a) The conditional use permit includes all of the following information:

1. The total number of *nonfarm residences* authorized by the permit.
  2. A legal or survey description of each parcel on which a *nonfarm residence* is authorized.
  3. The number of *nonfarm residences* authorized on each parcel under subd. 2., if more than one.
  4. The number of dwelling units authorized in each authorized *nonfarm residence*, if more than one [*does the permit authorize any duplex or multi-family residences?*].
- (b) Each of the parcels described under par. (a)2. shares a boundary with at least one other parcel described under par. (a)2.
- (c) Each of the proposed *nonfarm residences* will meet all of the standards under sub. (2) when all of the proposed *nonfarm residences* have come into existence.
- (d) The conditional use permit prohibits all of the following:
1. Any further division of any parcel described in par. (a)2.
  2. Any *nonfarm residence* or dwelling unit on a parcel identified in par. (a)2., other than a *nonfarm residence* or dwelling unit identified in the permit.

[NOTE: Subsection (3) is **OPTIONAL**.]

- (4) Agricultural and accessory uses on farms.** The [permit authority] 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) ....

[List other agricultural or accessory uses, if any, for which a conditional use permit is required under section C(1). For each use, identify the conditions that must be met in order for the permit authority to issue a conditional use permit.]

- (5) Agriculture-related uses.** The [permit authority] may issue a conditional use permit for an *agriculture-related use* if all of the following apply:

- (a) 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.

**[NOTE: The term “agriculture-related use” may encompass many different types and sizes of non-farm facilities. This MODEL ORDINANCE TEXT clarifies the statutory definition of “agriculture-related use” (see section A(3)).**

***This MODEL ORDINANCE TEXT requires a conditional use permit for ALL “agriculture-related uses” EXCEPT those that also qualify as on-farm “accessory uses” (“accessory uses” may be allowed without a conditional use permit under section C(1)). This permit requirement helps ensure that “agriculture-related uses” will be appropriate for the FP zoning district. However, an ordinance may allow some “agriculture-related uses” as permitted uses, without a conditional use permit, if that is the local preference. See ss. 91.44(1)(c) and 91.46(1)(c), Wis. Stats.***

***Subsection (5) provides suggested conditional use permit criteria for “agriculture-related uses.” An ordinance may add to, delete, or modify the suggested criteria. The permit authority may also issue individual permits subject to additional conditions which the permit authority deems necessary for that particular facility.***

***A conditional use permit under sub. (5) could authorize non-farm facilities such as the following, if those facilities fall within the definition of an “agriculture-related use” and meet the criteria listed in sub. (5):***

- ***A grain warehouse, potato warehouse, or other warehouse that stores raw agricultural commodities received from farms.***
- ***A dairy plant that processes or handles milk from farms.***
- ***A meat slaughter establishment.***

- *A food processing plant that processes raw agricultural commodities received from farms.*
- *A feed mill or rendering plant that processes raw agricultural commodities or agricultural by-products received directly from farms, or supplies animal feed directly to farms.*
- *An ethanol plant, bio-diesel plant, communal manure digester, pelletizing plant or other facility that processes raw agricultural commodities, agricultural by-products or agricultural wastes (received directly from farms) to produce fuel or other products.*
- *A sawmill or other facility that processes wood or other forest products received directly from farms.*
- *A facility that provides farm inputs such as fertilizer, pesticides, seed or feed directly to farms.*
- *A facility that is primarily engaged in sale and servicing of farm vehicles or other farm equipment.*
- *A facility that is primarily engaged in providing agronomic or veterinary services to farms.]*

**(6) Compatible infrastructure.**

(a) The *[permit authority]* 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.
6. Solar power generation facilities.
7. Drainage facilities.

*[NOTE: Within the limits of s. 91.46(1)(f), Wis. Stats., and subject to other applicable laws, an ordinance may add, modify or delete items under par. (a).]*

- (b) The *[permit authority]* 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.

*[NOTE: See s. 91.46(4), Wis. Stats. A wind turbine that complies with Wisconsin Public Service Commission siting rules under (proposed) PSC 128, Wis. Adm. Code, is presumed to comply with par. (b).]*

**(7) Government and nonprofit community uses.** The *[permit authority]* may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the *[permit authority]* 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.

*[NOTE: See s. 91.46(5), Wis. Stats.]*

**(8) Nonmetallic mineral extraction.** The *[permit authority]* 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 *[cite applicable county and local ordinances adopted under ss. 295.13 and 295.14, Wis. Stats.]*.
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.

*[NOTE: See s. 91.46(6), Wis. Stats.]*

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

(1) Except as provided in sub. (2), the *[zoning authority]* may not rezone land out of a farmland preservation zoning district unless the *[zoning authority]* does all of the following prior to the rezoning:

(a) Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

1. The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
  2. The rezoning is consistent with any comprehensive plan, adopted by the *[zoning authority]*, which is in effect at the time of the rezoning.
  3. The rezoning is substantially consistent with the *[county]* farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
  4. The rezoning will not substantially impair or limit current or future agricultural use of other *protected farmland*.
- (b) Collects from the person requesting the rezoning, including any governmental entity requesting the rezoning, a conversion fee for each rezoned acre or portion thereof that is equal to 3 times the per acre value, for the year in which the land is rezoned, of the highest value category of tillable cropland in the city, village or town in which the rezoned land is located, as specified by the Wisconsin Department of Revenue under s. 73.03(2a), Wis. Stats.

*[NOTE: The ordinance may require a supplementary conversion fee in addition to the "basic" conversion fee required under par. (b). By March 1 of each year, the zoning authority must:*

- *Report to DATCP the total acres rezoned during the preceding year.*
- *Remit to DATCP the total amount of "basic" conversion fees collected. DATCP deposits those fee revenues to the state Working Lands Trust Fund, to support county FP planning and other FP activities.*

*The zoning authority may keep any interest earned on the "basic" conversion fees prior to the March 1 annual remittance date, plus the full amount of any supplementary conversion fees imposed under the ordinance. Revenues accruing to the zoning authority must be used for FP planning, zoning, or compliance monitoring. See s. 91.49, Wis. Stats.*

(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 the *[county]* farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.