

**TOWN OF WINDSOR  
BOARD RESOLUTION 2015-77**

**RESOLUTION AUTHORIZING TOWN TO REQUEST  
DATCP TO ISSUE ORDERS OF COMPLIANCE  
FOR WINDSOR'S FARMLAND PRESERVATION ZONING**

**WHEREAS**, the Town of Windsor (**Windsor**) has worked closely with Dane County regarding blanket rezoning of property within Dane County's zoning jurisdiction in a manner that is consistent with the requirements of Wis. Stat. ch. 91 *Farmland Preservation* in order to clarify which agricultural property in Windsor *is* and *is not* eligible for Farmland Preservation Zoning Tax Credits; and

**WHEREAS**, Dane County is in the final stages of obtaining certification of amendments to the Dane County Farmland Preservation Plan and Ordinance, all in accordance with the requirements set forth by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (**DATCP**) pursuant to Wis. Stat. ch. 91; and

**WHEREAS**, as indicated in **Exhibit A**, which is attached and incorporated by reference, the Dane County Zoning and Land Regulation Committee (**ZLR**) will hold a public hearing on Dane County Zoning Ordinance Amendment #16 (**OA #16**) on September 29, 2015 and Windsor staff recommends that the Town Board recommend Dane County's adoption of same; and

**WHEREAS**, simultaneously, Windsor has been working with the City of Sun Prairie (**Sun Prairie**) on adjustments to the agricultural zoning classifications in the Sun Prairie Extra-Territorial Zoning (**ETZ**) area in order to meet the requirements established by DATCP pursuant to Wis. Stat. ch. 91; and

**WHEREAS**, Windsor residents are only eligible for Farmland Preservation Tax Credits under Wis. Stat. ch. 91 if the agricultural land in question (a) is properly zoned in a qualifying zoning district, and (b) is subject to a certified Farmland Preservation Ordinance; and

**WHEREAS**, Windsor wishes to use its best faith efforts to qualify all potentially eligible lands so that Windsor residents who wish to may elect to receive Farmland Preservation Tax Credits, and for that public purpose resolves as set forth herein.

**NOW, THEREFORE, BE IT RESOLVED** by the Town Board of the Town of Windsor as follows:

1. The Town Board hereby approves OA #16 and directs Town staff to advise Dane County accordingly.
2. The Town Board authorizes Town staff to proceed as prudent and necessary to allow potentially eligible lands located in Windsor to qualify for Farmland Preservation Tax Credits to the full extent reasonably possible, and so that Windsor residents who wish to may elect to receive Farmland Preservation Tax Credits. This authorization includes a requirement that the Town Chairperson and Finance Officer remain apprised as to status and budget throughout the process, and provide regular updates to the Town Board as to status and budget. The cost incurred for the scope of services to be provided by the Town Planner, Town Attorney and Town Planning & Development Coordinator shall not exceed contingency funds available in the 2015 budget without first obtaining further approval by the Town Board as a whole. The authorized scope of work includes the following:

- a. Work with DATCP to prepare and obtain certification of Farmland Preservation Ordinances on or before December 30, 2015, to the full extent possible.
  - b. For agricultural lands currently under Dane County zoning:
    - i. If the Town remains a Town pursuant to the November 3, 2015 referendum: rely on action to be taken by Dane County and assist as possible.
    - ii. If the Town becomes a Village pursuant to the November 3, 2015 referendum: take immediate action to obtain certification of a Village of Windsor Farmland Preservation Ordinance by working closely with DATCP and obtaining Village review and approval of agricultural zoning districts that are consistent with the Dane County Farmland Preservation Ordinance.
  - c. For agricultural lands currently within the Sun Prairie ETZ:
    - i. If the Town remains a Town pursuant to the November 3, 2015 referendum: take immediate action in cooperation with Sun Prairie to adopt agricultural land use districts that are consistent with the Dane County Farmland Preservation Ordinance, initiate rezones as needed and obtain DATCP certification of same.
    - ii. If the Town becomes a Village pursuant to the November 3, 2015 referendum: take immediate action to obtain certification of a Village of Windsor Farmland Preservation Ordinance by working closely with DATCP and obtaining Village review and approval of agricultural zoning districts that are consistent with the Dane County Farmland Preservation Ordinance.
3. The authorization contained in this Resolution is a delegation made in good faith and neither is nor shall be construed as guaranteeing a particular outcome or any person's eligibility as to Farmland Preservation Tax Credits.

The above and foregoing Resolution was duly adopted at a special meeting of the Town Board of the Town of Windsor on the 23rd day of September, 2015, by a vote of 4 in favor and 0 opposed.

**TOWN OF WINDSOR**

Robert E. Wipperfurth  
Robert E. Wipperfurth, Town Chair

Excused Absence  
Donald G. Madelung, Town Supervisor

Bruce Stravinski  
Bruce Stravinski, Town Supervisor

Alan Buchner  
Alan Buchner, Town Supervisor

Monica M. Smith  
Monica M. Smith, Town Supervisor

Attested by:  
Christine Capstran  
Christine Capstran, Town Clerk



# DANE COUNTY PLANNING DEVELOPMENT

Room 116, City-County Building, Madison, Wisconsin 53703  
Fax (608) 267-1540

**TO:** Dane County Board of Supervisors  
Town Supervisors & Planning Commissioners  
County Executive Joseph Parisi  
All Other Interested Parties

**FROM:** Brian Standing, Senior Planner

**DATE:** August 31, 2015

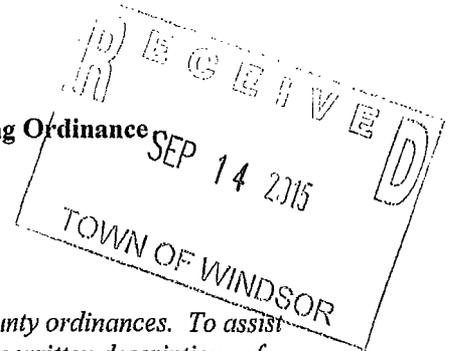
**RE:** Staff Description of 2015 Ordinance Amendment 16  
Certification of Dane County Farmland Preservation Zoning Ordinance

**CC:** Marcia MacKenzie, Corporation Counsel  
Roger Lane, Zoning Administrator  
Karin Thurlow Peterson, County Board Staff

*Planning*  
(608)266-4251, Rm. 116

*Records & Support*  
(608)266-4251, Rm. 116

*Zoning*  
(608)266-4266, Rm. 116



*This memo describes proposed 2015 Ordinance Amendment 16 to the Dane County ordinances. To assist town and county officials in decision making, the Planning Division will prepare written descriptions of each proposed amendment to land use and development related ordinances. This memo was distributed to town clerks, who are asked to copy it for other town officials. You may direct any questions to 267-4115.*

## I. SUMMARY

If adopted, OA # 16 would amend the Dane County Zoning Ordinance (Chapter 10, Dane County Code) to make minor changes to definitions, permitted and conditional uses within the county's certified Farmland Preservation Zoning districts (A-1[ex], A-4 and A-B districts) to bring them into compliance with Chapter 91, Wisconsin Statutes. Wisconsin Department of Agriculture, Trade and Consumer Protection certification order # 14-F-75-13-OTMA.

## II. BACKGROUND

- A. *Ordinance amended:* If adopted, OA # 16 would affect the text of the Zoning Ordinance (Chapter 10, Dane County Code).
- B. *Action required:* The County Board, County Executive, and Town Boards from a majority of affected towns must approve OA # 16 for it to become effective. Town Boards have 30 days from the County Zoning and Land Regulation (ZLR) Committee public hearing date to act on this proposed ordinance amendment.
- C. *ZLR public hearing:* The ZLR Committee advises the County Board on proposed ordinance amendments to Chapter 10. The ZLR Committee public hearing on OA # 16 will be held on **September 29, 2015.**
- D. *Sponsors:* OA # 16 was submitted by Supervisor Kolar on August 14, 2015.

## III. DESCRIPTION

Proposed OA # 16 would make the following changes to Chapter 10, Dane County Code (Dane County Zoning Ordinance):

- A. Article 2 would add amend section 10.01(30a) to change the definition of "livestock" to match the definition contained in state statutes The revised definition of "livestock" would also

specifically exclude domestic fowl in a residential zoning district, which are regulated under a separate section (s.10.195, Dane County Code) of the zoning ordinance.

- B. Article 3 would amend section 10.02 to correctly list all of the county's zoning districts and overlay zoning districts.
- C. Article 4 would amend section 10.123(2) to clarify that certain permitted agricultural accessory uses in the A-1[ex] (exclusive agriculture) zoning district must also meet the requirements of Chapter 91, Wis. Stats.
- D. Article 5 would amend section 10.123(3) to clarify that certain conditional uses in the A-1[ex] (exclusive agriculture) zoning district must also meet the requirements of Chapter 91, Wis. Stats.
- E. Article 6 would amend section 10.129(2) to clarify that certain permitted agricultural accessory uses in the A-4 (small-acreage agriculture) zoning district must also meet the requirements of Chapter 91, Wis. Stats.
- F. Article 7 would clarify that private airstrips in a Farmland Preservation Zoning district must also meet the criteria and definitions of an "agricultural accessory" or "agriculture-related" use, as required by Chapter 91, Wis. Stats.

#### IV. ANALYSIS

- A. 2015 OA 16 is the culmination of Dane County's multi-year effort to recertify its zoning ordinance as a Farmland Preservation Zoning Ordinance to meet revised standards under the Wisconsin Farmland Preservation Law (Chapter 91, Wisconsin Statutes). State certification is necessary to make sure Dane County farmers remain eligible for state farmland preservation income tax credits. A brief timeline of this process is shown below:
  - *12/1/2002: Former WI Land & Water Conservation Board certifies Dane County Farmland Preservation Zoning ordinance, with a recertification date of 12/31/2010.*
  - *2009: Governor signs Working Lands Initiative, revising Chapter 91, Wis. Stats.*
  - *12/10/2009: WI DATCP approves extension for amendment / recertification of Dane County Farmland Preservation Zoning ordinance until 12/31/2012 .*
  - *11/12/2012: WI DATCP temporarily certifies Dane County Farmland Preservation Zoning ordinance until 12/31/2014 (Docket No. 12-F-83-13-OMC), with conditions that the county zoning map is brought into compliance with the certified Dane County Farmland Preservation Plan, and that certain text amendments are adopted.*
  - *12/6/2012: Dane County Board approves 2012-2013 OA 12, OA 13 and OA 14 (eff. 12/18/2012) to amend zoning text, consistent with 11/12/12 DATCP order.*
  - *8/27/2014: Dane County and town boards complete rezones to bring zoning map into consistency with the Dane County Farmland Preservation Plan. Dane County submits revised zoning map to DATCP for certification.*
  - *12/4/2014: WI DATCP certifies the Dane County Farmland Preservation Zoning ordinance through 12/31/2024 (Docket No. 14-F-75-13-OTMA), contingent on additional zoning text amendments being completed by 12/31/2015.*
- B. The amendments proposed in 2015 OA 16 are identical to those identified in the 12/4/2014 DATCP order.

- C. Dane County farmers currently receive over two million dollars annually in farmland preservation tax credits. Participating farmers agree to abide by conservation standards established by the Dane County Land Conservation Committee. Continued certification by the state is essential to maintaining Dane County farmer's eligibility for the program.
- D. None of the proposed changes will have a significant policy impact, and will provide better clarity and consistency with state statutes and with other, similar ordinances in other communities across the state.

**TOWN BOARD ACTION REPORT**  
**FOR CHAPTER 10 ORDINANCE AMENDMENT**

REGARDING ORDINANCE AMENDMENT NO: 16, 2015

DANE COUNTY ZLR PUBLIC HEARING DATE: September 29, 2015

RETURN TO DANE COUNTY ZONING BY: October 29, 2015

PLEASE BE ADVISED: IF THIS ACTION REPORT IS NOT RETURNED TO THE DANE COUNTY ZONING OFFICE WITHIN THIRTY (30) DAYS OF THE ABOVE PUBLIC HEARING DATE YOUR ACTION REPORT WILL NOT BE CONSIDERED.

Whereas, the Town Board of the Town of \_\_\_\_\_, having considered said Ordinance Amendment, be it therefore resolved that said Ordinance Amendment is hereby (check one):

- APPROVED
- DENIED

PLANNING COMMISSION VOTE:      \_\_\_\_\_ In Favor      \_\_\_\_\_ Opposed

TOWN BOARD VOTE:      \_\_\_\_\_ In Favor      \_\_\_\_\_ Opposed

**COMMENTS:**

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I, \_\_\_\_\_, as Town Clerk of the Town of \_\_\_\_\_, County of Dane, hereby certify that the above Ordinance Amendment was acted on in a lawful meeting of the Town Board on \_\_\_\_\_, 2015.

**DATE:** \_\_\_\_\_, 2015      \_\_\_\_\_ Town Clerk

2015 OA-16

AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES,  
REGARDING STATE CERTIFICATION OF THE FARMLAND  
PRESERVATION ZONING ORDINANCE

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Section 10.01(30a) is amended to read as follows:

**(30a) Livestock.** Bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish. ~~Livestock shall include, but is not limited to, cows, sheep, goats, hogs, draft horses, pleasure horses and ponies, mules and poultry.~~

**(a)** For purposes of this ordinance, 100 or more rabbits shall be considered livestock and subject to the regulations pertaining to the keeping of livestock.

**(b)** For the purposes of this ordinance, domestic fowl in single family residential yards under s. 10.195 shall not be considered livestock and shall not be subject to regulations pertaining to the keeping of livestock.

ARTICLE 3. Section 10.02 is amended to read as follows:

**10.02 DISTRICTS.** The following districts are established. The number, shape and area are best suited to carry out the purposes of this ordinance:

R-1 Residence District.

R-1A Residence District.

R-2 Residence District.

R-3 Residence District.

R-3A Residence District.

R-4 Residence District.

RH-1 Rural Homes District.

RH-2 Rural Homes District.

RH-3 Rural Homes District.

RH-4 Rural Homes District.

RE-1 Recreational District.

B-1 Local Business District.

A-1 Agriculture District.

A-1(EX) Exclusive Agriculture District.

A-B Agriculture-Business District.

A-Ba Transitional Agriculture-Business District.

A-2 Agriculture District.

A-2(1) Agriculture District.

A-2(2) Agriculture District.

A-2(4) Agriculture District.

A-2(8) Agriculture District.

- 47 A-3 Agriculture District.
- 48 A-4 Small Lot Agriculture District.
- 49 C-1 Commercial District.
- 50 C-2 Commercial District.
- 51 LC-1 Limited Commercial District.
- 52 EXP-1 Exposition District.
- 53 M-1 Industrial District.
- 54 CO-1 Conservancy District.
- 55 HD Historic Overlay District.
- 56 AED Adult Entertainment Overlay District.
- 57 TDR-S Transfer of Development Rights Sending Area Overlay District.
- 58 TDR-R Transfer of Development Rights Receiving Area Overlay District.
- 59 PUD Planned Unit Development District.

60  
61 ARTICLE 4. Section 10.123(2)(b) is amended and renumbered to read as  
62 follows:

63 (2) *Permitted uses.*

64 (b) Agricultural Accessory Uses, except those uses listed as conditional uses in  
65 s. 10.123(3), and subject to the limitations and standards below.

66 1. Any residence lawfully existing as of February, 20, 2010 shall be considered a  
67 permitted use. Notwithstanding the provisions of secs. 10.21 and 10.23 regarding  
68 nonconforming uses, such structure may be added to, altered, restored, repaired,  
69 replaced or reconstructed, without limitation, provided all of the following criteria  
70 are met:

71 a. the use remains residential,

72 b. the structure complies with all building height, setback, side yard and rear  
73 yard standards of this ordinance; and

74 c. for replacement residences, the structure must be located within 100 feet of  
75 the original residence, unless site-specific limitations or town residential siting  
76 standards in town plans adopted by the county board require a greater distance.  
77 Proposals for a replacement residence that would exceed the 100 foot limitation  
78 must be approved by the relevant town board and county zoning committee.

79 (e) 2. Rental of existing farm or secondary farm residences ~~located on a farm,~~  
80 existing as of December 12, 2012, but no longer utilized in the operation of the  
81 farm.

82 (d) 3. Agricultural entertainment activities, not to exceed 45 days per calendar  
83 year in the aggregate, including incidental preparation and sale of beverages and  
84 food. For any such activities planned or anticipated to have attendance of more  
85 than 200 persons at any one time during a day, an event plan addressing  
86 parking, proposed days of operation, ingress and egress, sanitation and other  
87 public safety issues shall be filed annually with the zoning administrator, town  
88 clerk, servicing fire department, emergency medical service provider, Dane  
89 County Sheriff's Department and any local law enforcement agency for such  
90 agricultural entertainment activities; at least 30 days prior to the start of any  
91 agricultural entertainment activities in each calendar year.

92 ~~(e)~~ 4. Farm related exhibitions, sales or events such as auctions, dairy  
93 breakfasts, exhibitions of farm machinery and technology, agricultural  
94 association meetings and similar activities, occurring on five days in a calendar  
95 year or less.

96 5. Small scale energy systems or electric generating stations, provided energy  
97 produced is used primarily on the farm.

98  
99 ARTICLE 5. Section 10.123(3)(e) and (f) are amended to read as follows:

100 ~~(e)~~ Asphalt plants or ready-mix concrete plants, that comply with s. 91.46(5),  
101 Wis. Stats., for production of material to be used in construction or maintenance  
102 of public roads, to be limited in time to project duration.

103 ~~(f)~~ Small scale electric generating stations, meeting the requirements of s.  
104 91.46(4), Wis. Stats., and not requiring approval under section 196.491, Wis.  
105 Stats. listed as a permitted use in s. 10.123(2).

106  
107 ARTICLE 6. Section 10.129(2) is amended to read as follows:

108 ~~(2)~~ *Permitted uses.* The following are permitted uses in this district:

109 ~~(b)~~ *Agricultural Accessory Uses, except for the following:* subject to the  
110 exceptions and limitations below.

111 1. Exceptions.

112 a. Farm residences.

113 ~~2.~~ b. A business activity, or enterprise, whether or not associated with an  
114 agricultural use, that is conducted by the owner or operator of a farm, that  
115 requires no buildings, structures, or improvements other than those described in  
116 s. 10.01(2b)(a) and (c) that employs no more than 4 full-time employees  
117 annually, and that does not impair or limit the current or future agricultural use of  
118 the farm or of other protected farmland.

119 ~~3.~~ c. Uses listed as conditional uses below in s. 10.129(3).

120 2. Limitations.

121 a. ~~Farm related exhibitions, sales or events such as auctions, dairy breakfasts,~~  
122 ~~exhibition of farm machinery and technology, agricultural association meetings~~  
123 ~~and similar activities, must occur on five or fewer days in a calendar year.~~

124 ~~(c)~~ Undeveloped natural resource and open space areas:

125 ~~(d)~~ A transportation, utility, communication, or other use that is:

126 1. required under state or federal law to be located in a specific place, or;

127 2. is authorized to be located in a specific place under a state or federal law that  
128 specifically preempts the requirement of a conditional use permit.

129 ~~(e)~~ ~~Farm related exhibitions, sales or events such as auctions, dairy breakfasts,~~  
130 ~~exhibition of farm machinery and technology, agricultural association meetings~~  
131 ~~and similar activities, occurring on five or fewer days in a calendar year.~~

132  
133 ARTICLE 7. Section 10.16(1)(d) is amended to read as follows:

134 ~~(1)~~ *Use.*

135 ~~(d)~~ Airports that are listed as "Personal by Owner Only" on an application to the  
136 Wisconsin Department of Transportation, Bureau of Aeronautics, for airport site

137 approval are permitted to locate in the Agriculture and Rural Homes Districts,  
138 subject to the following limitations:

139 1. Such airports in the A-1 (exclusive) and A-4 districts must also meet the  
140 definition of an agricultural accessory use under s. 10.01(2b).

141 2. Such airports in the A-B district must meet either:

142 a. the definition of an agricultural accessory use under s. 10.01(2b) or

143 b. the definition of an agriculture-related use under s. 10.01(2c).

144 3. All other airports are subject to the provisions of either ss. 10.12(2)(f) or  
145 10.126(2)(e) of this ordinance.

10.22 – 10.25(2)(am)

147 ARTICLE 8. Section 10.16(9) is amended to read as follows:

148 **(9) Race events.**

149 **(a)** Notwithstanding any other provision of this chapter, the zoning administrator  
150 is authorized to issue permits allowing snowmobile, ATV and motorcycle races  
151 and rallies in any agriculture district, provided that no permit shall be issued for a  
152 race or rally which is conducted by a commercial enterprise. Club-sponsored  
153 events are eligible for permits under this section.

154 **(b)** Race events in the A-1 (exclusive), A-4 or A-B districts must also meet all  
155 requirements for agricultural entertainment activities under s. 10.123(2)(d).

156  
157 ARTICLE 9. Section 10.23 is amended to read as follows:

158 **10.23 COMPLETION, RESTORATION OR ENLARGEMENT OF EXISTING**  
159 **STRUCTURES.** **(1)** Nothing herein contained shall require any change in the  
160 plans, construction or intended use of a structure or premises for which plans  
161 have been prepared heretofore, and the construction of which shall have been  
162 diligently pursued within three (3) months after the effective date of this  
163 ordinance.

164 **(2)** Nothing herein contained shall prevent the alteration, restoration or repair of  
165 any legal structure occupied by a nonconforming use at the effective date of this  
166 ordinance; provided, however, that the cost of such alteration, restoration or  
167 repairs shall not during the life of the building exceed fifty (50) percent of the  
168 assessed valuation of such structure, such valuation being that in effect for the  
169 year in which such use became nonconforming. No structure used as a  
170 nonconforming use shall be added to or structurally altered so as to increase the  
171 facilities of such nonconforming use.

172 **(3) (a)** Nothing contained in this section shall prevent the restoration of a  
173 nonconforming structure damaged or destroyed by wind, vandalism, fire, flood,  
174 ice, snow, mold, or infestation, if the structure is restored to the size, location,  
175 and use that it had immediately before the damage or destruction occurred. Such  
176 restoration shall occur within 2 years of the damage or destruction.

177 **(b)** A structure to which sub. (a) applies may be larger than the size it was  
178 immediately before the damage or destruction if necessary to comply with  
179 applicable state or federal requirements, but no larger than necessary to comply  
180 with said requirements

181 **(4)** A structure is considered to be demolished and nonexistent if during the  
182 course of restoration, enlargement or other improvement, more than 50% of the

183 pre-existing structure is removed or must be replaced to maintain structural  
184 integrity. Continuation of the construction or repair shall be subject to the entire  
185 structure being in compliance with current zoning regulations based on the  
186 parameters for entirely new construction and disregarding any nonconforming  
187 status. Any variance that may have been issued for said building or structure  
188 shall be null and void and any zoning permits shall be rescinded pending  
189 verification of compliance. Except for the provisions of sub. (3), this section shall  
190 supersede all other pertinent sections of this ordinance including nonconforming  
191 ("grandfathered") use or locational status.

192  
193  
194

195 *[EXPLANATION: This amendment is required by the DATCP certification order of*  
196 *Dane County's Farmland Preservation Zoning Ordinance.*