

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 ~~**(c) 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.

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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).

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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.~~

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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)

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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).

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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.

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