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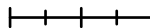
This map is intended for advisory purposes only. This information has been obtained from sources believed to be reliable based on plats, surveys, and deeds.

In areas where discrepancies occur between equivalent legal records, the discrepancy is allowed to remain until such time as it is addressed. Sheboygan County distributes this data on an 'as is' basis; no warranties are implied.



ArcGIS Web Map

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**SECTION 7.14 FARMLAND PRESERVATION****7.14.1 FP Farmland Preservation Zoning District**

The purpose of this district is to promote areas for uses of a generally exclusive agricultural nature in order to protect farmland and to allow participation in the state's farmland preservation program. In support of this intent, all new non-farm residences must be zoned out of Farmland Preservation. Land zoned under this district must comply with the following:

**(1) Permitted Uses**

- A. Agricultural uses. See Section 7.14.4 for agricultural use definitions.
- B. Not including the specified accessory uses identified in Subsection (2), other accessory uses including the farm residence. See Section 7.14.4 for accessory use definition.
- C. Upon notification to the Town Board) of any 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 those uses.

[Subsection (C) 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 subsection (C) 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. Undeveloped natural resource and open space areas.
- E. Non-Farm residences built prior to January 1, 2014.
- F. Solar energy Systems, small scale.

**(2) Conditional Uses**

- A. Reserved.
- B. Agriculture-related uses. (See Section 7.14.4 for agricultural related use definition.)
- C. Upon Notification of the Town Board, transportation, communication, pipeline, electric transmission, utility, or drainage uses, facilities for the generation from sunlight, wind, coal, or natural gas, if all 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 surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  5. Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.
- D. Governmental, institutional, religious, or nonprofit community uses, 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 the 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 surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.
- E. Nonmetallic mineral extraction if all of the following apply:
1. The operation complies with Subchapter I of Chapter 295, Wisconsin Statutes, and rules promulgated under that subchapter, with applicable provisions of local ordinances under Wis. Stat. §295.14 (including all applicable provisions of this ordinance), and with any applicable requirements of the Wisconsin Department of Natural Resources concerning the restoration of nonmetallic mining sites.

2. The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
  3. 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.
  4. The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.
  5. The operation does not substantially impair or limit the current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  6. The owner agrees to restore the land to agricultural use, consistent with any required reclamation plan, when extraction is completed.
  7. Compliance with Section 7.4.5 of this ordinance.
- F. Oil and gas exploration or production that is licensed by the Department of Natural Resources under Subchapter II of Chapter 295, Wisconsin Statutes.
- G. Private airport or air strip qualifying as an accessory use under s. 91.01(1)
- H. Dog kennels qualifying as an accessory use under s. 91.01(1)
- I. Game farms/shooting preserves qualifying as an accessory use under s. 91.01(1) (b). To meet the definition of agricultural use, the game birds or cervids must be raised on the farm for release for hunting.
- J. Shooting Ranges meeting the requirements in s. 91.01(1)(d).
- K. Manure storage systems. (Please note that permits for manure storage systems are subject to S. ATCP 50.56 and Ch. ATCP 51, Wis Adm. Code.
- L. Slaughtering of livestock from the FP District.
- M. Processing agricultural by-products or wastes received directly from farms, including farms in the FP District.
- N. Solar energy systems, large-and mid-scale.

Upon a recommendation from the Plan Commission, the Town Board 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. Before issuing a Conditional Use Permit, the Town Board shall determine in writing, that the proposed use meets applicable

conditions under this section. The Town Board may issue the permit subject to any additional conditions beyond which the Plan Commission recommended to carry out the purposes of this ordinance.

(3) Area, Height and Yard Requirements:

- A. All Principal Structures shall be on a lot consistent with the principal use permitted on such lot by the regulations of the district in which it is located.
- B. No Zoning Permit shall be issued for a lot which abuts a public road dedicated to only a portion of its proposed width and located on that site thereof from which the required dedication has not been secured.
- C. Dimensions of Building Sites:
  - 1. Minimum Area and Width: Except as otherwise specifically required or permitted, the minimum lot area shall be 5.0 acre and a minimum lot width of 250 feet at the building line, 250 feet at the water's edge and 250 feet of road frontage.
  - 2. Side and Rear Yards: There shall be a twenty (20) foot minimum side and rear yard setback for structures such as farmhouses, sheds for farm machines, crop storage facilities and other accessory structures. However, barns for livestock, shall have a fifty (50) foot minimum side and rear yard setback unless subject to more restrictive provisions of a livestock siting ordinance.
  - 3. Height Limitations: The maximum height for all farm related residential and residential accessory structures shall be thirty-five (35) feet. The maximum height for all farm buildings shall be sixty (60) feet. Feed storage structures such as silos and grain storage units (including elevators) are exempt from height restrictions. Height limitations are further regulated per Section 6.1 of this Ordinance.
  - 4. Yard and Other Limitations: Per Sections 7.6.2, 7.6.3 and 7.6.4 of this Ordinance.
  - 5. Setbacks: All new structures shall be regulated in accordance with Section 7.5 of this Ordinance.
  - 6. Street Grade: Every building hereafter erected, structurally altered, or relocated shall be at a grade approved by the Zoning Administrator as being in satisfactory relationship with the existing street grade, with particular consideration for proper drainage and safe vehicular access.
  - 7. Preservation of Topography: In order to protect the property owner from possible damage due to change in the existing grade of adjoining land, and to aid in preserving and protecting the natural beauty and character of the landscape, no change in the existing topography of any land shall be made which would result in increasing any portion of the slope within the zoning setback distance except with the written consent of the abutting property owner and with the recommendation of the Plan Commission, or which would alter the existing drainage or topography in any way as to adversely affect the adjoining property. In no case shall

any slope exceed the normal angle of slippage of material involved, and all slopes shall be protected against erosion.

#### **7.14.2 Rezoning Land out of the FP Farmland Preservation Zoning District**

Land may be rezoned out of the FP Farmland Preservation Zoning District if the Plan Commission through their review and recommendation, and Town Board, after a public hearing, finds that all of the following apply:

- (1) The land is better suited for a use not allowed in the FP Farmland Preservation Zoning District.
- (2) The rezoning is consistent with the Town of Herman Comprehensive Plan.
- (3) The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wis. Stats., which is in effect at the time of zoning.
- (4) The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.

The above Section 7.14.2 (1-4) does not apply to any of the following situations:

- (5) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
- (6) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Sheboygan County farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

#### **7.14.3 Certification of Ordinance and Amendments by DATCP**

- (1) This Zoning Ordinance must be certified by the State of Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP) in order for owners of land that is zoned FP Farmland Preservation in the Town of Herman to be eligible to claim tax credits under the State of Wisconsin's Farmland Preservation Program.
- (2) The Town of Herman shall notify DATCP of any amendments as required by Wis. Stats. 91.36(8).
- (3) The Town of Herman shall notify DATCP and the Sheboygan County Planning and Conservation Department, by March 1 annually, of any acres rezoned out of a farmland preservation zoning district during the previous year and a map that clearly shows the location of those acres as required by Wis. Stats. 91.48(2) and 91.48(3).

#### **7.14.4 Farmland Preservation Definitions**

For the purposes of Section 7.14 of this Ordinance, the following definitions shall be used. Please see Section 7.13 for conventional zoning district definitions.

Accessory Use: With the FP Zoning District means any of the following land uses on a farm:

- (1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
  - A. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
  - B. A facility used to keep livestock on the farm.
  - C. A facility used to store or process inputs primarily for agricultural uses on the farm.
  - D. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
  - E. 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.
  - F. 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.
  - G. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
- (2) An activity or business operation that is an integral part of or incidental to, an agricultural use.
- (3) A farm residence, including normal residential appurtenances.
- (4) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
  - A. It is conducted on a farm by an owner or operator of that farm.
  - B. It requires no buildings, structures, or improvements other than those described in par. (1) or (3).
  - C. It employs no more than 4 full-time employees annually.
  - D. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- (5) Any other use that DATCP, by rule, identifies as an accessory use.

Agricultural Use:

Any of the following activities conducted for the purpose of producing an income or livelihood:

- (1) Crop or forage production.
- (2) Keeping livestock.
- (3) Beekeeping.
- (4) Nursery, sod, or Christmas tree production.
- (5) Floriculture.
- (6) Aquaculture.
- (7) Fur farming.
- (8) Forest management.
- (9) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (10) Any other use that the Department of Agriculture, Trade and Consumer Protection, by rule, identifies as an agricultural use.

Agriculture-related use:

An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes. In addition, any use that the Department of Agriculture, Trade and Consumer Protection identifies by rule as an agriculture-related use. An “agriculture related use” must be primary (not just incidentally) related to agriculture and must have a direct connection to agriculture uses in the FP zoning district.

**Animal Confinement Facility:** Any animal, livestock, or poultry operation with 500 or more animal units that are used in the production of food, fiber, or other animal products or that will be fed, confined, maintained, or stabled for a total of 45 days or more in any 12-month period.

**Animal Unit:**

Animal Unit has the following meaning that was given in s. NR 243.03 (3) Wisconsin Administrative Code as of April 27, 2004: “Animal Unit” means a unit of measure used to determine the total number of single animal types or combination of animal types, as specified in s. NR 243.11, Wisconsin Administrative Code, which are fed, confined, maintained, or stabled in an animal feeding operation. The total number of animal units for a given type of animal shall be calculated by multiplying the number of animals for each animal type by the appropriate equivalency factor from the following table and summing the products. The number of combined animal units shall be the sum of the number of animal units for each animal type. For animal types not listed in the following table, the equivalency to animal units shall be based on live animal weights. In these cases, 1,000 pounds of live weight is equivalent to one animal unit.

| <b>Animal Unit Calculation Table</b><br>Number Equivalent to 500 Animal Units |                                     |                              |
|-------------------------------------------------------------------------------|-------------------------------------|------------------------------|
| Number<br>Equivalent to 500<br>Animal Units                                   | Animal Type                         | Animal Equivalency<br>Factor |
|                                                                               | <b>Dairy Cattle:</b>                |                              |
| 350                                                                           | Milking and Dry Cows                | 1.4                          |
| 455                                                                           | Heifers (800 to 1200 lbs)           | 1.1                          |
| 835                                                                           | Heifers (400 to 800 lbs)            | 0.6                          |
| 2500                                                                          | Calves (under 400 lbs)              | 0.2                          |
|                                                                               | <b>Beef Cattle:</b>                 |                              |
| 500                                                                           | Steers or Cows<br>(600 lbs to Mkt.) | 1.0                          |
| 1000                                                                          | Calves (under 600 lbs)              | 0.5                          |
| 350                                                                           | Bulls                               | 1.4                          |
|                                                                               | <b>Swine:</b>                       |                              |
| 1250                                                                          | Pigs (55 lbs to Mkt.)               | 0.4                          |
| 5000                                                                          | Pigs (up to 55 lbs)                 | 0.1                          |
| 1250                                                                          | Sows                                | 0.4                          |
| 1000                                                                          | Boars                               | 0.5                          |
|                                                                               | <b>Sheep:</b>                       |                              |
| 5000                                                                          | Per Animal                          | 0.1                          |
|                                                                               | <b>Horses:</b>                      |                              |
| 250                                                                           | Per Animal                          | 2.0                          |
|                                                                               | <b>Ducks:</b>                       |                              |
| 2500                                                                          | Per Bird (Wet Lot)                  | 0.2                          |
| 50000                                                                         | Per Bird (Dry Lot)                  | 0.01                         |
|                                                                               | <b>Chickens:</b>                    |                              |
| 50000                                                                         | Layers                              | 0.01                         |
| 100000                                                                        | Broilers                            | 0.005                        |

|       |                                           |       |
|-------|-------------------------------------------|-------|
| 50000 | Broilers (continuous overflow watering)   | 0.01  |
| 15000 | Layers or Broilers (Liquid Manure System) | 0.033 |
|       | <b>Turkeys:</b>                           |       |
| 27500 | Per Bird                                  | 0.018 |
|       | <b>Combined Animal Units:</b>             |       |
| 500   | Calculated Total                          |       |

**Certified Farmland Preservation Plan:**

A farmland preservation plan that is certified as determined under Wis. Stats. 91.12.

**Certified Farmland Preservation Zoning Ordinance:**

A zoning ordinance that is certified as determined under Wis. Stats. 91.32.

**Common Ownership:**

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, and 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.

**Contiguous:**

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.

**Conditional Uses:**

Uses of a special nature as to make impractical their predetermination as a permitted use in a district. Conditional uses as used in the FP Farmland Preservation Zoning District must meet the requirements of Wis. Stats. 91.46.

**Density:**

The number of dwelling units per acre allowable under the schedule of district regulations.

**Farm:**

All land under common ownership that is primarily devoted to agricultural use. For the purpose of this definition, land is deemed to be primarily devoted to agricultural use if the following apply:

- (1) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether on a majority of the land area is in agricultural use; or,
- (2) A majority (greater than 50%) of the land is in agricultural use.

In determining whether land is in agricultural use for purposes of par. (2), a zoning authority may consider how the land is classified for property tax purposes. See ch. TAX 18, Wis. Adm. Code.

Farm Residence:

A single-family or two-family residence that is the only residential structure on the farm or 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.

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.

Gross Farm Revenues:

Means gross receipts from agricultural use of a farm, excluding rent receipts, 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 landowner.

Livestock:

Includes bovine animals, equine animals, goats, poultry, sheep, swine, farm raised deer, farm raised game birds, camelids, ratites and farm raised fish.

Livestock Facilities with More Than 500 Animal Units: Means facilities covered by Wis. Adm. Code ch. ATCP 51.

Nonfarm Residence: Any residence other than a farm residence.

Nonfarm Residential Acreage:

Nonfarm residential acreage" means the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which Plan Commission 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

Nonfarm residential acreage is defined ONLY for the purpose of calculating residential densities in connection with Conditional Use Permit applications in the FP zoning district.

This ordinance counts, as "nonfarm residential acreage," parcels on which residences have been approved but not yet built, as well as "open space" parcels less than 10 acres. Larger "open space parcels" may be counted as "farm acreage" (see definitions of "farm acreage" and "open space parcel)."

Nonconforming Uses or Structures: Any structure, land, or water lawfully used, occupied, or erected at the time of the effective date of this Ordinance which does not conform to the regulations of this Ordinance. Any such structure conforming in respect to use, but not in respect to

frontage, width, height, area, yard, parking, loading, or distance requirements shall be considered a nonconforming structure and not a nonconforming use.

Open Space Parcel:

A parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.

Person:

An individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.

Prime Farmland:

An area with a class I or II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture or land that is identified as prime farmland in a certified farmland preservation plan. Prime farmland soils are not necessarily associated with the boundaries of the FP Farmland Preservation Zoning District.

Protected Farmland:

Land that is any of following:

- (1) Land that is located in the FP Farmland Preservation Zoning District certified under ch. 91, Wis Stats.
- (2) Covered by a farmland preservation agreement under ch. 91, Wis Stats.
- (3) Covered by an agricultural conservation easement under s. 93.73, Wis Stats.
- (4) Otherwise legally protected from nonagricultural development