

## Chapter ATCP 49

### FARMLAND PRESERVATION

#### Subchapter I — Definitions and General Provisions

ATCP 49.01 Definitions.

#### Subchapter II — Farmland Preservation Plans

ATCP 49.10 Farmland preservation plan certification.

ATCP 49.12 Certification standards.

ATCP 49.14 Applying for certification of a plan or a plan amendment.

#### Subchapter III — Farmland Preservation Zoning

ATCP 49.20 General.

ATCP 49.22 Permitted uses.

ATCP 49.23 Conditional uses.

ATCP 49.24 Zoning ordinance certification expiration.

ATCP 49.25 Certification standards.

ATCP 49.26 Applying for ordinance certification.

ATCP 49.27 Applying for certification of an ordinance amendment.

ATCP 49.29 Withdrawal of certification.

#### Subchapter IV — Farmland Preservation Agreements

ATCP 49.30 Farmland preservation agreements; denial of application.

**Note:** This chapter implements Wisconsin's farmland preservation program under ch. 91, Stats. The purposes of the farmland preservation program are to preserve agricultural lands, to promote soil and water conservation, to promote orderly land use planning and development, and to provide tax credits for owners of farmland covered by the program. This chapter is adopted under ss. 91.02 and 93.07 (1), Stats.

#### Subchapter I — Definitions and General Provisions

##### ATCP 49.01 Definitions. In this chapter:

(1) "Accessory use" has the meaning given in s. 91.01 (1), Stats.

**Note:** A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use under s. 91.01 (1) (a) includes facilities *on the farm* used to store or process raw agricultural commodities primarily produced on the farm, keep livestock, keep or service vehicles or equipment primarily used on the farm, provide veterinary services to livestock on the farm, or store or process inputs for agricultural uses primarily on the farm. Such buildings and structures may also include greenhouses, roadside stands, and agricultural research facilities selling or utilizing agricultural products produced primarily on the farm, as well as facilities to produce energy primarily from the farm's products, or primarily for use on the farm, such as wind turbines, solar energy structures, manure digesters, or bio-fuel facilities. A waste storage or processing facility to store or process animal waste produced on the farm may also be considered an accessory use.

**Note:** An activity or business operation that is an integral part of, or incidental to, an agricultural use under s. 91.01 (1) (b), Stats., could include activities such as: direct sales from farm to customer, "you-pick" operations, crop mazes, and agricultural tourism operations.

(2) "Agriculture-related use" means any of the following:

(a) An agriculture-related use as defined in s. 91.01 (3), Stats.

(b) A facility integral to an agricultural use, regardless of whether the facility is located on a farm, that relies on agricultural uses conducted primarily off-site.

**Note:** These "agriculture-related uses" may include facilities to: provide agricultural supplies, equipment, fertilizers, pesticides, or other agricultural inputs or services to farms; store, process, handle, or market raw agricultural commodities; slaughter or process livestock that were primarily kept off-site; or process agricultural by-products or wastes produced primarily off-site. A manure digester, bio-fuel facility, or other facility that produces energy for use primarily off-site may also be considered an agriculture-related use.

(c) A facility used for providing veterinary services primarily to livestock, including the sale of supplies and pharmaceuticals related to animal husbandry.

(3) "Base farm tract" means one of the following:

(a) A tract of land as defined in s. 91.01 (5) (a), Stats.

(b) All land, whether or not the parcels are contiguous, that is in a farmland preservation zoning district under the same zoning ordinance and that is part of a single farm on the date that the owner of the farm first creates a new lot or parcel from that farm, regardless of any subsequent changes in the size of the farm. All land, at the time of the creation of the new lot or parcel by the owner, is considered part of the same base farm tract, including the newly created lot or parcel.

**Note:** Under this provision, the political subdivision may now choose to define "base farm tract" in any of the following ways: 1) all contiguous parcels in single ownership under the same zoning ordinance, *on the date the department first certifies the ordinance*, 2) all contiguous parcels in single ownership under the same zoning ordinance *on a date, specified in the ordinance, which occurred before the department first certifies the ordinance*, or 3) all parcels in single ownership under the same zoning ordinance *on the date the owner first creates a new lot or parcel*, which occurs *after* the department first certifies the ordinance. The political subdivision must

choose one of these ways of defining "base farm tract" in its ordinance, and any further subdividing or ownership transfers does not affect that determination.

(4) "Communications use," as used in s. 91.46 (1) (f), Stats., includes transmission lines, cell towers, antennae, and broadcast towers.

(5) "Consistent with" means furthers or does not contradict objectives, goals, and policies in a relevant document.

**Note:** This definition is similar to that found in s. 66.1001 (1) (am), Stats., for the comprehensive planning program. Under s. 91.10 (2), Stats., the farmland preservation plan is required to be "consistent with" the county's comprehensive plan.

(6) "Contiguous" means adjacent to or sharing a common boundary.

**Note:** A political subdivision may choose to define "contiguous" lands as including lands separated by a road, stream, or section line, or as not including those separate lands. Contiguity is defined under s. 91.84 (1) (e) 3., Stats., specifically for the agricultural enterprise area program.

(7) "Crop" means a cultivated plant that includes any of the following:

(a) Field crops, including corn, wheat, oats, rye, barley, hay, potatoes, and dry beans.

(b) Fruits, including apples, grapes, cranberries, cherries, and berries.

(c) Vegetables, including tomatoes, carrots, sweet corn, and squash.

(d) Plants raised for culinary, medicinal, or aesthetic purposes, including herbs and spices, ginseng, and ornamental shrubs and trees.

(e) Plants raised for energy production, including switchgrass, or textile use, including cotton or bamboo.

(8) "Department" means the state of Wisconsin department of agriculture, trade and consumer protection.

(9) "Drainage use," as used in s. 91.46 (1) (f), Stats., includes drainage ditches and drains, as defined in s. 88.01 (8), Stats.

(10) "Electric transmission use," as used in s. 91.46 (1) (f), Stats., includes high voltage lines and electric substations.

(11) "Farm family business" means a business operated by the owner or operator, or resident family member of the owner or operator, of a farm, that is not associated with an agricultural use, that requires no buildings, structures, or improvements other than those described in s. 91.01 (1) (a) or (c), Stats., that employs no more than 4 full-time non-family employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

(12) "Forest management," as used in s. 91.01 (2) (a) 7., Stats., means private forest lands and woodlands managed in accordance with any type of written management plan, including a plan prepared under the state's managed forest law.

**Note:** This includes land that is designated as managed forest land under a forest tax program established in ss. 77.80 to 77.91, Stats. Though active agricultural land may not qualify for the managed forest law program under ss. 77.82 (1) (b) 1. and 77.875, Stats., land covered by the managed forest law program can qualify as an agricultural use for the purposes of the farmland preservation program. A wooded lot that is not actively managed under a written management plan may be included in a farmland preservation zoning district as an open space or natural resource area

but may not be included as an agricultural use. Government–owned woodlands may also be included as an open space or natural resource area.

(13) “Governmental use,” as used in s. 91.46 (1) (g), Stats., includes community centers, police and fire facilities, public parks, and town halls.

(14) “Pipeline use,” as used in s. 91.46 (1) (f), Stats., includes oil and gas pipelines.

(15) “Political subdivision” has the meaning given in s. 91.01 (24), Stats.

(16) “Secretary” means the secretary of the department of agriculture, trade and consumer protection.

(17) “Spatial location data” means data referenced to a specific coordinate system that identifies the boundaries and spatial extent of parcels of land included in a farmland preservation area or a farmland preservation zoning district.

(18) “Transportation use,” as used in s. 91.46 (1) (f), Stats., includes roads and rail facilities.

(19) “Utility use,” as used in s. 91.46 (1) (f), Stats., includes facilities for the generation of electricity from sunlight, wind, coal, or natural gas.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

## Subchapter II — Farmland Preservation Plans

**ATCP 49.10 Farmland preservation plan certification.** (1) **CERTIFICATION EXPIRATION.** The certification of a farmland preservation plan expires on the date provided in the most recent certification of the plan or its amendment, or, if the certification does not provide an expiration date, on the date provided under s. 91.14, Stats. If a county with an expired plan does not obtain certification of a farmland preservation plan by December 31 of the year following the certification expiration date of the plan, the department may withdraw certification of any zoning ordinances within the county under the procedures in s. ATCP 49.29, effective on December 31 of the year following the year of plan expiration.

**Note:** If a county plan expires on December 31, 2014, the county has until December 31, 2015, to obtain certification of the plan by the department. If the plan is not certified by the department by December 31, 2015, the department may withdraw certification of any zoning ordinances in the county, effective December 31, 2015. Under s. 71.613 (1) (h) 2., Stats., the landowners with land in these farmland preservation zoning districts could not claim tax credits on those lands for the tax year 2015, since certification must be in effect on the last day of the calendar year in order for a plan to be considered certified. The county is not precluded from seeking future certification of its farmland preservation plan.

(2) **CERTIFICATION EXPIRATION EXTENSION.** The secretary may delay the expiration date of the certification of a county’s farmland preservation plan for up to 2 years upon a written request from the county demonstrating to the secretary’s satisfaction that a delay would allow the county to coordinate the farmland preservation planning process with other planning or zoning efforts in the county.

(3) **AMENDMENTS AND CERTIFICATION.** If, after July 1, 2009, a county amends a farmland preservation plan in accordance with s. 66.1001 (4), Stats., the amendment shall be submitted to the department for certification.

**Note:** Under s. 91.16 (8), Stats., amendments are not effective unless certified by the department.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.12 Certification standards.** The department may certify a county’s farmland preservation plan under s. 91.16, Stats., if that plan complies with the requirements in s. 91.10 (1) and (2), Stats., and all of the following:

(1) **RATIONALE.** (a) The farmland preservation plan shall describe the rationale used to determine which areas the county plans to preserve for agricultural use and agriculture–related use. The rationale shall be based on objective criteria related to the characteristics of the land parcels themselves, including consideration of all of the following criteria:

1. Whether the soils are suitable for agricultural production.

2. Whether the land has historically been used for agricultural use or agriculture–related use.

3. Whether the land is in close proximity to agricultural infrastructure.

4. Whether the land is in undeveloped natural resource or open space areas that connect other farmland parcels to create a large, uninterrupted block of preserved area.

5. Whether the land may be under some development pressure but the land is not located in an area the county plans for development in the next 15 years.

**Note:** The criteria listed above are all land–based considerations that may or may not be relevant in the county. Other factors may also be considered such as availability of supporting infrastructure or presence of protected land.

(b) The rationale shall exclude from a farmland preservation area any parcels planned, within 15 years, for nonagricultural development or other incompatible uses in the town or county comprehensive plans.

(c) The rationale may not be based primarily on landowner preferences.

(d) The rationale shall be applied consistently across the county to the extent applicable and practicable.

(e) The farmland preservation plan map shall accurately reflect the rationale utilized by the county.

**Note:** Utilizing objective criteria means that the criteria must be applied impartially and not favor some landowners over other landowners. The criteria should be based on characteristics associated with the land itself or existing pressures that may affect the future use of the land instead of focusing solely on the preferences of individual landowners.

(2) **RELATIONSHIP TO THE COUNTY COMPREHENSIVE PLAN.** (a) The farmland preservation plan shall be consistent with any county comprehensive plan.

**Note:** To be “consistent with” does not mean that the farmland preservation plan and the comprehensive plan must be identical; however, for the department to find that the plans are consistent there should not be any significant difference between elements of the plans. For example, not every area that is shown as an agricultural area in the comprehensive plan future land use map must be included as a farmland preservation area in the farmland preservation plan map; however, lands planned for residential or non–agricultural commercial use in the comprehensive plan should not be planned for farmland preservation in the farmland preservation plan within the next 15 years.

(b) The farmland preservation plan shall be included in any county comprehensive plan.

**Note:** Under s. 91.10 (2), Stats., the county is required to include the farmland preservation plan in any county comprehensive plan it adopts. Under s. 91.18, Stats., the farmland preservation plan is not qualified for certification by the department if pars. (a) and (b) are not met.

(3) **PLAN INELIGIBLE FOR CERTIFICATION.** The department may not certify a farmland preservation plan that does not meet the requirements of ch. 91, Stats., and this subchapter.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.14 Applying for certification of a plan or a plan amendment.** (1) **GENERAL.** A county seeking certification of its farmland preservation plan or a plan amendment shall submit an application to the department as provided in this section.

(2) **REQUIRED INFORMATION.** The application for certification shall include all of the following in order to be considered complete and to be evaluated for compliance with s. 91.16, Stats.:

(a) An application on a form developed by the department that includes the information required under s. 91.20 (2) and (3), Stats.

**Note:** You may obtain a copy of the form by contacting the department at the following address:

Department of Agriculture, Trade and Consumer Protection  
Attn: Bureau of Land and Water Resource Management

P. O. Box 8911

Madison, WI 53708–8911

Website: [http://datcp.wi.gov/Environment/Working\\_Lands\\_Initiative/Farmland\\_Preservation\\_Planning/index.aspx](http://datcp.wi.gov/Environment/Working_Lands_Initiative/Farmland_Preservation_Planning/index.aspx)

(b) All parts of the plan for which the county is seeking certification. A county seeking certification of a full plan shall submit the text and map of the plan along with the spatial location data used to create the farmland preservation plan map. A county seek-

ing certification of an amendment to a certified plan shall submit all parts of the plan affected by the amendment.

**Note:** A county seeking certification of a plan amendment only needs to submit those parts of the plan that are affected by the amendment. If a county wishes to amend the text of its farmland preservation plan, then the county may submit just the plan text. If a county wishes to amend the plan map, then the county may submit just the plan map. If the amendment makes changes to both the plan map and text, then the county should submit both the map and the text.

(c) All spatial location data used to delineate the farmland preservation areas proposed for certification, submitted in accordance with department requirements on format.

(3) **PLAN TEXT.** The plan text shall comply with the requirements in s. 91.10 (1) and (2), Stats., and this subchapter.

(4) **PLAN MAP.** A farmland preservation plan shall include a map that clearly delineates all areas in the county identified as a farmland preservation area so that a reader can determine whether a parcel is within an identified area. The farmland preservation plan map shall:

(a) Be comprised of one county map or a series of town, village, and city maps.

(b) Be titled “Farmland Preservation Plan Map” followed by the name of the political subdivision depicted on the map.

(c) Specify the county in which the farmland preservation plan area is located.

(d) Clearly delineate areas designated for farmland preservation, designating parcels as included or excluded from the district and following parcel boundaries where possible.

(e) Display environmental or other overlay areas, if any, in a manner that does not obscure or confuse the boundaries of an underlying farmland preservation area.

(f) Be drawn at a scale no greater than one inch to 2,000 feet (1:24,000).

**Note:** The county may fulfill this requirement by submitting maps at that required scale only for the towns which are to include farmland preservation areas.

(g) Show political boundaries, parcel boundaries, section lines, section numbers, roads, and water bodies.

(h) Include a map legend with corresponding symbols or colors for all data represented on the map.

(i) Identify farmland preservation areas and non-farmland preservation areas with corresponding symbols in the legend and with titles that correspond to the titles in the plan text that apply to those areas.

(j) Specify map scale, north arrow direction, map date, and map producer.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

### Subchapter III — Farmland Preservation Zoning

**ATCP 49.20 General.** A political subdivision may adopt a farmland preservation zoning ordinance. In order for the ordinance to be certified by the department under s. 91.36, Stats., the ordinance must meet the requirements of s. 91.38, Stats., and this subchapter.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.22 Permitted uses.** In addition to the uses listed under s. 91.44 (1), Stats., the following uses may be allowed as permitted uses in a certified district:

(1) **Existing residences.** Residences, regardless of occupancy, existing as of January 1, 2014, or an earlier date specified by the ordinance, may be permitted.

**Note:** Residences, which may or may not be associated with a farm, that are constructed as of a date specified in the zoning ordinance text may be allowed as permitted uses in the district. These residences need not receive a conditional use permit unless the local government decides to require it and they need not follow the prior nonconforming use provisions found under s. 59.69 (1), 60.61 (5), or 62.23 (7) (h), Stats., unless mandated by the local government.

(2) **Farm family businesses.**

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.23 Conditional uses.** In addition to the uses listed in s. 91.46, Stats., and s. ATCP 49.22, a proposed new single-family or duplex nonfarm dwelling may be allowed as a conditional use in a certified farmland preservation district. The new nonfarm dwelling is subject to legal restrictions established by the political subdivision which demonstrate to the department’s satisfaction that the restrictions will be as restrictive as the density standards for nonfarm residences set forth in s. 91.46 (2), Stats.

**Note:** A political subdivision that chooses to allow limited nonfarm residences within the certified farmland preservation district may choose to implement the base farm tract concept defined in s. 91.01 (5), Stats., and applied through s. 91.46 (2) (c) 1. and 2., Stats., or may utilize an alternative provision developed at the local level. The political subdivision must demonstrate to the Secretary that the local provision limits nonfarm development to the same extent or more as the state statutes so that the alternative policy would not allow for both additional nonfarm residences to be built and more nonfarm residential acreage to be introduced into the farmland preservation district. The political subdivision may choose to apply a density restriction to all parcels in the district regardless of whether the parcels qualify as farms under the definition of farm in the ordinance. The conditional use permit for a nonfarm residence is an optional provision that a political subdivision may choose to include in a farmland preservation zoning ordinance.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.24 Zoning ordinance certification expiration.** (1) **CERTIFICATION EXPIRATION.** The certification of a farmland preservation zoning ordinance expires on the date provided in the most recent certification of the ordinance or its amendment,

or, if the certification does not provide an expiration date, on the date provided under s. 91.34, Stats. If a local government with an expired ordinance does not obtain certification of a farmland preservation zoning ordinance by December 31 of the year following the expiration date, landowners covered by the zoning ordinance are not eligible to claim farmland preservation tax credits beginning in the year following the year of the expiration date.

**Note:** If a farmland preservation zoning ordinance expires on December 31, 2014, the political subdivision has until December 31, 2015, to obtain certification of its ordinance by the department. If the political subdivision’s ordinance is not certified by the department by December 31, 2015, all landowners with land located in the farmland preservation zoning district may not claim tax credits for tax year 2015. The political subdivision is not precluded from seeking future certification of its farmland preservation zoning ordinance.

(2) **CERTIFICATION EXPIRATION EXTENSION.** The secretary may delay the expiration date of the certification of a farmland preservation zoning ordinance for up to 2 years upon a written request from the political subdivision demonstrating to the secretary’s satisfaction that a delay would allow the political subdivision to coordinate updating the farmland preservation zoning ordinance with other planning efforts in the political subdivision.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.25 Certification standards.** (1) **QUALIFYING FOR CERTIFICATION.** The department may certify a farmland preservation zoning ordinance under s. 91.36, Stats., if that ordinance complies with the requirements in ss. 91.38 and 91.40, Stats., and this subchapter.

(2) **CONSISTENCY WITH FARMLAND PRESERVATION PLAN.** At least 80% of the area planned for farmland preservation in each town, city, or village covered by a certified farmland preservation plan shall be included in the farmland preservation district or a district that imposes land use restrictions as restrictive as or more restrictive than the farmland preservation zoning district. The department may consider certifying a farmland preservation zoning ordinance that is between 70% and 80% consistent with a farmland preservation plan if the political subdivision can demonstrate to the secretary’s satisfaction a reasonable, objective justification for the lower level of consistency.

**Note:** If an area is planned for farmland preservation but is not zoned for farmland preservation, it may be zoned as open space or conservancy. Such a zoning designation would be consistent with farmland preservation. Areas that are zoned for non-agricultural residential, commercial, or industrial use, however, would not be consistent with farmland preservation.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.26 Applying for ordinance certification.**

(1) **GENERAL.** Except as provided under s. 91.36 (8), Stats., and s. ATCP 49.27, a political subdivision seeking certification of its



farmland preservation ordinance shall submit an application to the department as provided in this section.

**(2) REQUIRED INFORMATION.** The application for certification shall include all of the following in order to be considered complete and evaluated for compliance with s. 91.36, Stats.:

(a) An application on a form developed by the department that includes the information required under s. 91.40 (2), Stats.

**Note:** You may obtain a copy of the form by contacting the department at the following address:

Department of Agriculture, Trade and Consumer Protection  
Attn: Bureau of Land and Water Resource Management  
P. O. Box 8911  
Madison, WI 53708–8911  
Website: [http://datcp.wi.gov/Environment/Working\\_Lands\\_Initiative/Farmland\\_Preservation\\_Zoning/index.aspx](http://datcp.wi.gov/Environment/Working_Lands_Initiative/Farmland_Preservation_Zoning/index.aspx)

(b) All parts of the zoning ordinance affected by the farmland preservation district for which the political subdivision is seeking certification.

(c) All spatial location data used to delineate the farmland preservation zoning districts proposed for certification, submitted in accordance with department requirements on format.

**(3) ORDINANCE TEXT.** The ordinance text shall comply with the requirements in s. 91.38 (1), Stats.

**(4) ORDINANCE MAP.** A farmland preservation zoning ordinance shall include a map that clearly delineates each farmland preservation zoning district so that a reader can determine whether a parcel is within a farmland preservation district. The farmland preservation zoning ordinance map shall do all of the following:

(a) Be comprised of one county map or a series of town maps for a county ordinance, or one map for a city, town, or village ordinance.

(b) Be titled “Zoning Ordinance Map” preceded or followed by the name of the political subdivision depicted on the map.

(c) Specify the county in which the farmland preservation zoning district is located, if the map covers only one town, city, or village.

(d) Clearly delineate areas zoned for farmland preservation, designating parcels as included in the farmland preservation district or included in another zoning district and following parcel boundaries to the extent possible.

**Note:** The zoning district does not need to follow parcel boundaries, although the department prefers that districts follow parcel boundaries. For purposes of the tax credit, landowners covered by the farmland preservation zoning district are responsible for claiming the correct number of acres of land they own that are covered by the farmland preservation district, regardless of whether the political subdivision follows parcel boundaries.

(e) Display environmental or other overlay areas in a way that does not obscure or confuse the boundaries of an underlying farmland preservation zoning district.

(f) Be drawn at a map scale no greater than one inch to 2,000 feet (1:24,000).

**Note:** For submission of a county ordinance, the county may fulfill this requirement by submitting maps at the required scale only for the towns which are to include farmland preservation districts.

(g) Show political boundaries, parcel boundaries, section lines, section numbers, roads, and water bodies.

(h) Include a map legend that includes corresponding symbols or colors for all data represented on the map.

(i) Identify all mapped farmland preservation districts with titles that correspond to the titles in the zoning ordinance text that apply to those districts.

(j) Specify map scale, north arrow direction, map date, and map producer.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14; CR 14–047: am. (2) (c) Register May 2015 No. 713, eff. 6–1–15.

**ATCP 49.27 Applying for certification of an ordinance amendment. (1)** An amendment to a certified farmland

preservation zoning ordinance is automatically considered to be certified as part of the certified farmland preservation zoning ordinance, except as provided in sub. (2).

**Note:** A political subdivision may submit to the department, at any time, an amendment to a certified farmland preservation zoning ordinance, and request a written determination from the department as to whether the amendment requires certification by the department.

**(2)** An amendment to a certified farmland preservation zoning ordinance shall be submitted to the department for certification review under s. 91.36, Stats., and s. ATCP 49.26, and is not considered to be automatically certified, if the amendment does any of the following:

(a) Adds uses not previously allowed in the farmland preservation district.

(b) Eliminates findings or conditions that must be met before approving a use for a location in the farmland preservation district.

(c) Increases the number of nonfarm residences or the number of nonfarm acres allowed in the farmland preservation district.

(d) Changes the findings required for allowing a rezone out of a farmland preservation district.

(e) Results in a farmland preservation zoning ordinance map that no longer meets the requirements of s. ATCP 49.25 (2).

**Note:** Changing the numbering or formatting of the ordinance, changing the minimum lot size, rezoning land out of a farmland preservation district unless the rezone would result in a farmland preservation zoning map that no longer meets the specified consistency requirements with the currently certified farmland preservation plan map, or making changes that only affect districts outside of the farmland preservation zoning district do not require certification by the department.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

**ATCP 49.29 Withdrawal of certification. (1)** Pursuant to s. 91.36 (8) (c), Stats., the department may by written notice, without prior notice or hearing, withdraw certification of a farmland preservation zoning ordinance under this section. The withdrawal is a summary special order under ch. ATCP 1.

**(2)** The secretary may withdraw certification under sub. (1) if any of the following occur:

(a) The certification of a county farmland preservation plan for the lands under the certified farmland preservation zoning ordinance has expired.

(b) An amendment, adopted after July 1, 2009, to a certified farmland preservation zoning ordinance fails to comply with the requirements of s. 91.38, Stats.

**(3)** The notice under sub. (1) shall state the reason for the withdrawal of certification.

**Note:** The department may withdraw certification of an ordinance under this section regardless of the date the ordinance was certified, and regardless of whether the ordinance was developed under the provisions of s. 91.06, 2007 Stats., or ch. 91, Stats., (see s. 91.36 (8) (c), Stats.).

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.

## Subchapter IV – Farmland Preservation Agreements

**ATCP 49.30 Farmland preservation agreements; denial of application.** The department may deny an application to enter into a farmland preservation agreement if any of the following apply:

**(1)** The department determines that lands to be excluded from the proposed agreement are being withheld for purposes that conflict with the goals of the agricultural enterprise area program under s. 91.84, Stats.

**(2)** The department determines that lands to be excluded from the agreement are being withheld for purposes that will likely impair or limit agricultural use on other lands in the agricultural enterprise area or lands proposed for inclusion under a farmland preservation agreement.

**History:** CR 13–003: cr. Register December 2013 No. 696, eff. 1–1–14.