

**~ SUMMARY ~**

**Proposed Changes  
to  
*Zoning Ordinance*  
for  
Farmland Preservation**

**TOWN OF LYNDON**

**2017**

Prepared August 23, 2017 by  
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## Why is the Town of Lyndon updating its zoning?

Signed into law in 2009, Wisconsin's **Working Lands Initiative (WLI)** is intended to modernize and revitalize what was previously known as the Farmland Preservation Program. The WLI is designed to help local governments and landowners preserve agricultural land, minimize conflicting land uses, and promote soil and water conservation. Owners of farmland who participate in the program receive income tax credits as incentives.

Towns in Sheboygan County with landowners who wish to participate in the new program must update their zoning ordinance text and map in order to be certified by Wisconsin's Department of Agriculture, Trade and Consumer Protection as complying with the new state standards.

In the process of updating its zoning map, the Town of Lyndon has decided to also take the opportunity to correct long-standing issues with errors and non-conforming properties. An error could be something like a zoning district line that doesn't correctly follow a property line. A non-conforming property might be one that is too small to meet the minimum lot size requirement for the district in which it is zoned. Or, a property might be being *used* in a way that is not allowed in the district in which it is zoned.

Although non-conforming properties that were in existence prior to the Town's Zoning Ordinance or specific provisions of the Ordinance are "grandfathered" and considered to be legal non-conforming properties, there are advantages to being a conforming property, including the opportunity to expand the uses and structures on the property without a variance. This update to the Ordinance and map will make many non-conforming properties conforming without cost to these property owners.

Throughout this process, as lands are proposed to change to new zoning classifications, the goal of Town officials has been and will continue to be to preserve the property rights held by property owners under their current zoning.

Wisconsin's updated Farmland Preservation Program is overseen by the state's Department of Agriculture, Trade and Consumer Protection (DATCP) but administered at the county and town level.

## ZONING DISTRICTS

Three new districts will be added (A-PR, A-1-RZ, A-1-S, and A-2-HD), and the A-6 district will be retired (existing lots may remain A-6, but no new A-6 parcels will be allowed).

	A-1	Exclusive Agricultural District
<b>NEW</b>	A-1-RZ	Exclusive Agricultural District (Rezoned from A-2)
<b>NEW</b>	A-1-S	Exclusive Agricultural District (Small-Scale)
<b>NEW</b>	A-PR	Agricultural Parcel Remnants District
	A-2	Agricultural Land District — (5-Acre residential density)
<b>NEW</b>	A-2-HD	Agricultural Land District — (Higher Density: 3 Acres)
	A-3	Agricultural Land Transitional District
	A-4	Agricultural Related Manufacturing, Warehousing, and Marketing District
	A-5	Agricultural Living District
	A-6	Agricultural Estate Land District
	B-1	Light Industrial Business District
	B-2	Heavy Industrial Business District
	B-3	Highway Commercial Business District
	B-4	Neighborhood Business District
	C-1	Lowland Conservancy District
	C-2	Upland Conservancy District
	M-3	Mineral Extraction District
	M-4	Resource Disposal District
	P-1	Recreational Park District
	R-1	Single-Family Residence District (unsewered)
	R-2	Single-Family Residence District (sewered)
	R-3	Multiple-Family Residence District (sewered or unsewered), prior to Jan. 1, 2017
	R-4	Planned Residential Development District
	R-5	Lakeshore Residential District
	R-6	Planned Mobile Home Park Residence District
	PUD	Planned Unit Development Overlay District

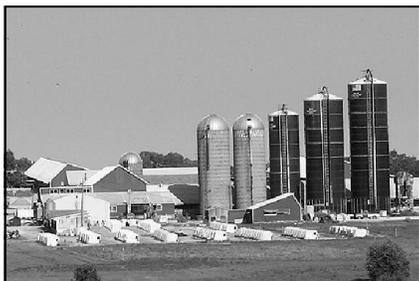
## FARMLAND PRESERVATION ZONING DISTRICT (FPZ)

**Four districts will make up the FPZ and will be eligible for the tax credit: A-1, A-1-RZ, A-1-S, and A-PR.** Special statutory provisions are part of the requirements for these districts, particularly that most uses must be agriculturally related\*, and four criteria listed in 91.48(1), Wis. Stats., must be met in order to rezone out of the FPZ.

Further, all new residences constructed in the FPZ will have to obtain a one-time conditional use permit to ensure the siting of any new residence avoids impairing agricultural operations, if possible.

\* Home occupations on farms will not need to be agriculturally related.





## **A-1 EXCLUSIVE AGRICULTURAL DISTRICT (in FPZ)**

The previous A-1 district conformed to former state farmland preservation program standards. DATCP's Working Lands Initiative has since changed the standards for state certification of a farmland preservation zoning district. (Only land in a certified district is eligible for a tax credit.)

Town officials made an effort to make the A-1 district compatible with the new state standards; however, some state provisions were deemed to be difficult to administer and/or not in the best interests of the Town. Fortunately, DATCP allows a town to craft some of its own provisions and be certified if the town can show its ordinance will not convert any more farmland or create any more non-farm residences than would have occurred under adherence to DATCP's standards. Working with UW-Extension, the Town's Agricultural Zoning Committee has created a customized alternative very similar to one DATCP recently approved for several other towns in Sheboygan County.

The major differences between the previous A-1 and the proposed A-1 are 1) almost all permitted and conditional uses must be agriculturally related, 2) all new homes will require conditional use permits to ensure proper siting, 3) rezoning out of farmland preservation must meet four statutory criteria, and 4) the minimum lot size will decrease to 20 acres.

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## **A-1-S EXCLUSIVE AGRICULTURAL DISTRICT (Small-Scale) (in FPZ)**

This new district will be a "mini" A-1 and is part of the FPZ. All of the same uses will be allowed, except for the number of animal units, which will be fewer in A-1-S. The minimum lot size will be 3.0 acres, since this district is intended for small farms or future rezonings out of A-1 for hobby farms or similar uses.

Numerous existing small A-1 properties that were non-conforming lots can now be rezoned to A-1-S, become conforming, and still remain in farmland preservation.

To discourage a high density of residential development in agricultural areas, the following provision has been added: "Only one residence is allowed on an A-1-S lot, and an A-1-S lot may not be divided unless a rezoning to A-PR occurs for all lots in excess of one lot."

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## **A-PR AGRICULTURAL PARCEL REMNANTS DISTRICT (in FPZ)**

A-PR will not allow any residential development. It will be a simple way to ensure the residential density of a farm tract does not exceed one residence for every 20 acres. If, for example, a landowner has a total of 40 contiguous vacant acres and decides to divide off one 5-acre lot for a hobby farm/residence, 15 acres would be simultaneously rezoned to A-PR, leaving 20 acres of A-1 to indicate that there is still one future residence available for development if so desired.

The A-PR can be located anywhere on the original tract that the landowner wishes. Rezoning out of A-PR can only be done by a super-majority vote of the Town Board. (For more about A-PR zoning, see pages 7-8.)

## **A-1-RZ EXCLUSIVE AGRICULTURAL DISTRICT (Rezoned from A-2) (in FPZ)**

This new district has the same uses as A-1, but the labeling difference on the Zoning Map will indicate that this land was voluntarily converted from A-2, and the owner at that time received a density bonus. The A-1-RZ designation will prevent this land from being rezoned back to A-2 at some point in the future, which would defeat the original purpose.

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## **A-2 AGRICULTURAL LAND DISTRICT**

Although agricultural in character, the 5-acre density of this district is too high to allow into the FPZ—while the distance of many of the properties from built-up areas prevents it from being transitional. Therefore, there are few changes to the text or map for A-2.

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## **A-3 AGRICULTURAL LAND TRANSITIONAL DISTRICT**

The minimum lot size for a residence in A-3 will decrease from 35 acres to 20. A-3 land without a residence will be allowed as small as 2 acres. This is to discourage the creation of new residential lots adjacent to a village in the 2 - 6 acre range that are difficult to divide further or provide services to. At the same time, it will encourage rezonings to more appropriate "R" and "B" districts and divisions into small lots.

Although A-3 properties will not be eligible for the farmland preservation tax credit, the trade-off is that the rezoning of A-3 property will be easier because the four DATCP requirements for rezoning that apply to A-1 will not apply to A-3.

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## **A-4 DISTRICT UPDATED**

Some archaic uses will be eliminated (e.g., cotton ginning), and "compost production" will be added. Up until now all uses in this district have been conditional. Since a state court has ruled that all districts must have at least one permitted use, "veterinarian services" will be added as a permitted use.

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## **A-6 AGRICULTURAL ESTATE LAND DISTRICT**

Since the original purpose of this district will now be handled by A-1-S and A-PR, no property within the Town may be rezoned to A-6 after January 1, 2018. Existing A-6 properties can remain A-6 indefinitely and will continue to be considered conforming as long as they meet the standards of the A-6 district.

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## **M-3 MINERAL EXTRACTION & M-4 RESOURCES DISPOSAL DISTRICTS**

Like A-4, these districts will now each have a permitted use, which they previously lacked. In M-3 the use will be "processing of topsoil" and in M-4 it will be "grazing of livestock."

## **R-5 LAKESHORE RESIDENCE DISTRICT**

Minimum lot size and building setback requirements, missing from the existing Ordinance, will be added to conform with the standards of the Sheboygan County Shoreland Ordinance. A “grandfather” clause, as well as the County Ordinance’s allowances for substandard lots, if legally created, will also be added.

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## **DEFINITIONS**

The update will add 12 terms to the Definitions section and revise 5 other terms to correct errors or bring them up to date with the latest administrative rules from DATCP.

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## **ZONING MAP REVISIONS - SUMMARY**

### **A-1 Exclusive Agricultural District**

- ◆ There are 18 A-1 properties within the proposed Farmland Preservation Zoning (FPZ) that are too small to be A-1 and are therefore non-conforming. These properties will be rezoned to A-1-S, A-5, A-PR, or C-1, as appropriate. An additional 16 non-conforming A-1 properties outside the FPZ will become A-2, A-5, A-6, or R-1, depending on their size and use.
- ◆ Of the 3 A-1 properties in “potential growth areas” (typically near Waldo or Cascade), all 3 will become transitional A-3. Agricultural uses may be continued as long as the owner wishes; a future rezoning request for development is more likely to be approved than if a property stays A-1.
- ◆ 12 A-1 properties that have little or no agricultural use will become C-1 or C-2, depending on whether they are mostly upland or mostly lowland natural areas.
- ◆ 3 A-1 properties and 1 A-2 property that are occupied by cemeteries or utility facilities will become P-1.

### **A-3 Agricultural Land Transitional District**

- ◆ 7 sewered subdivision lots zoned A-3 that are each much smaller than the minimum lot size in A-3 and have little or no agricultural use will be rezoned to R-2.

### **M-4 Resource Disposal District**

- ◆ 1 property zoned M-4 will become R-1 to reflect its current use as a residential property rather than a disposal site.

### **Other Districts**

- ◆ There are no proposed map changes for properties currently zoned entirely A-4, B-1, B-2, B-3, M-3, P-1, R-1, R-2, R-5, or R-6.

## A-PR ZONING and DEVELOPMENT RIGHTS

**Q: How many of the parcels in the Town of Lyndon are proposed to be rezoned to “A-PR Prime Agricultural Parcel Remnants” District?**

A: There are approximately 1,400 parcels in Lyndon. 7 of these (0.5%) are proposed to become A-PR. The land area of Lyndon is 21,950 acres, and 43 acres (0.2%) would become A-PR.

**Q: Are residences allowed in A-PR zoning?**

A: No. This is why only properties in farmland preservation zoning that are less than 20 acres and do not already have a residence are proposed to change to A-PR. These non-conforming properties were not able to have a house built on them anyway, due to lacking the minimum lot size.

**Q: Are accessory buildings (e.g., sheds) allowed in A-PR?**

A: Existing accessory buildings are allowed in A-PR. *New* accessory buildings are allowed if they are agriculturally related.

**Q: Is A-PR zoning required in state statutes for farmland preservation zoning?**

A: No. The state instead uses a cumbersome mechanism called the Base Farm Tract to limit non-farm residential development. Many towns and counties complained about it, so the state has encouraged communities to develop alternatives if the alternatives are equally effective at preserving large tracts of farmland. A-PR is one alternative that has been certified by the state.

**Q: Where did the A-PR zoning concept come from?**

A: The landowners on the Town of Sherman Plan Commission and Citizen Advisory Committee came up with the A-PR zoning concept and asked UW-Extension to help add it to Sherman’s zoning ordinance in 2014. Town representatives in Plymouth, Mosel, Holland, Lima – and Lyndon – learned about the Sherman concept and contacted UW-Extension, and now all six are using A-PR zoning or are proposing to use it.

**Q: What is the purpose of A-PR zoning?**

A: A-PR zoning is only used for existing parcels that lack the minimum lot size to be buildable *or* for remnants under 20 acres that are left over after a property’s current development capacity has been reached. In this way the zoning map can be used to easily track where residential development capacity remains and where it has been used. Ultimately, A-PR zoning helps to promote a balance (hopefully) between land preservation and land development.

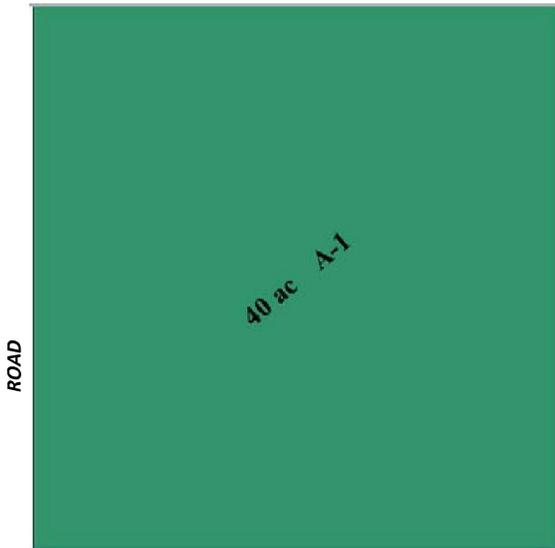
**Q: Will there be fewer new homes in Lyndon because of A-PR zoning than there would’ve been under the state’s standard farmland preservation zoning?**

A: In some situations A-PR zoning is more restrictive for development than the state’s Base Farm Tract concept, and in other situations it is less restrictive. In Lyndon, vacant tracts of 100 acres or larger will have *more* residential development capacity under the A-PR concept than under the state’s Base Farm Tract concept. On the other hand, vacant tracts of less than 100 contiguous acres will have an equal or *lesser* residential development capacity under A-PR than the Base Farm Tract concept.

## HOW A-PR ZONING WORKS

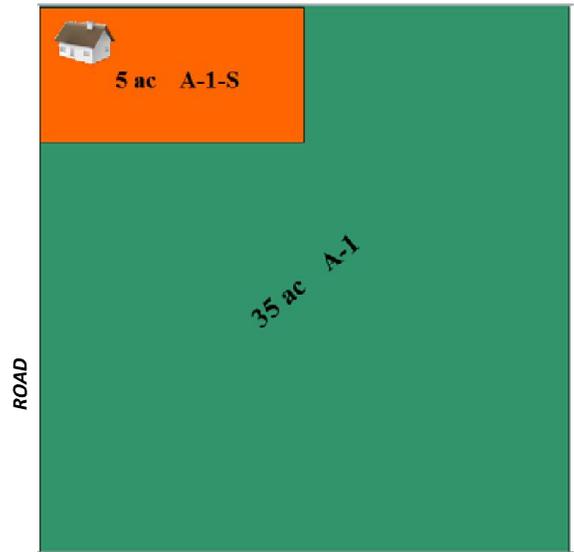
Divide contiguous, commonly-owned A-1 property by the 20-acre minimum lot size in A-1 to determine the potential residential yield. (Subtract 1 for each existing residence.)

1



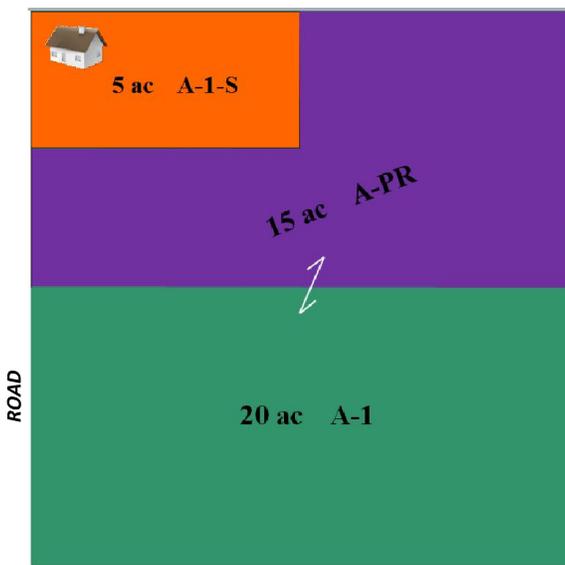
Landowner has 40 acres of A-1 land, and owns no adjacent A-1 land. Yield = 2 residences.

2



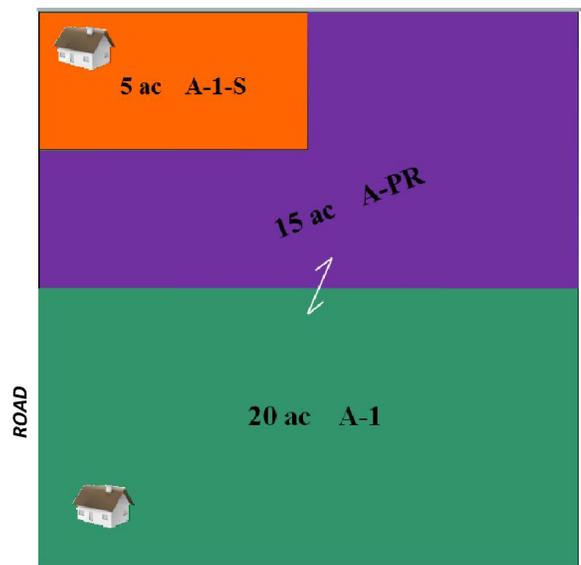
Landowner decides to sell off 5 acres as A-1-S. 1 residence is subtracted from the yield (whether or not a house is built immediately).

3



As part of the rezoning to A-1-S in Step #2, enough of the A-1 remnant must also be rezoned to leave the multiple of 20 acres of A-1 that indicates how many future houses are still available.

4



The A-PR land and the A-1 land are one lot with two zonings. The landowner can either build a house on the 20 acres of A-1 or split off another A-1-S lot . . . or not build at all.