



~ **SUMMARY** ~

**Proposed Changes**  
to  
***Zoning Ordinance***

**TOWN OF SHEBOYGAN FALLS**

**2019**

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## Why is the Town of Sheboygan Falls 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 Sheboygan Falls has decided to also take the opportunity to correct long-standing issues with errors and properties that are no longer consistent with one or more standards of their zoning district. An error could be something in the text or it could be a zoning district line that doesn't correctly follow a property line. A property that is inconsistent with district standards 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 *used* in a way that is not allowed in the district in which it is zoned.

This is also a good time to fix non-conforming properties that were in existence prior to the Town's Zoning Ordinance or subsequent changes to the ordinance. Although these properties 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 Plan Commission and Town Board's goal 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

Two districts (A-1-S and C-1) are proposed to be added.

	A-1	Exclusive Agricultural Use District
<b>NEW</b>	A-1-S	Exclusive Agricultural Use District (Small-Scale)
	A-2	Agricultural Land District
	A-3	Agricultural Land Holding District
	A-4	Limited Development Agricultural District
	B-1	Local Business and Industrial District
<b>NEW</b>	C-1	Natural Resource Conservation District
	R-1	Single-Family Residence District (unsewered)
	R-2	Single-Family Residence District (sewered)
	R-3	Multiple-Family Residence District (sewered and unsewered)

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## FARMLAND PRESERVATION ZONING DISTRICT (FPZ)

**Two districts make up the FPZ and are eligible for the farmland preservation tax credit: A-1 and A-1-S.** Special statutory provisions are part of the requirements for these districts, particularly that uses do not conflict with agricultural uses, and four criteria\* listed in 91.48(1), Wis. Stats., must be met in order to rezone out of the FPZ.

Any new residence within A-1 or A-1-S must be the only residential structure on the farm or it must be occupied by any of the following:

- (a) An owner or operator of a farm.
- (b) A parent or child of an owner or operator of the farm.
- (c) An individual who earns more than 50% of his or her gross income from the farm.



\*The four criteria for rezoning are:

1. The rezoned land is better suited for a use not allowed in Farmland Preservation.
2. The rezoning is consistent with any comprehensive plan adopted by the Town that is in effect at the time of the rezoning.
3. The rezoning is substantially consistent with the Sheboygan County Farmland Preservation Plan, certified under ch. 91, Wisconsin Statutes, which is in effect at the time of the rezoning.
4. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.



## A-1 EXCLUSIVE AGRICULTURAL USE DISTRICT

The previous A-1 district conformed to former state farmland preservation program standards. DATCP's Working Lands Initiative has slightly changed the standards for state certification of a farmland preservation zoning district.

The major difference between the previous A-1 and the proposed A-1 is that a conditional use permit (CUP) is no longer required for commercial feed lots—unless the Town adopts the state's Livestock Facility Siting Law, which mandates certain standards.

Although the Town cannot require a CUP for a large livestock facility in A-1, the proposed ordinance will add the ability to require a conditional use permit for mink and other farm-raised animals like bison, horses, deer, captive game birds, etc. that are not considered livestock per ATCP 51.01. The permit requirement would kick in when the operation exceeds 1 animal unit per acre.

The minimum lot size for a residence will remain at 35 acres.

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## A-1-S EXCLUSIVE AGRICULTURAL USE DISTRICT (Small-Scale)

This new district will be a "mini" A-1 and it will also be part of the farmland preservation district. All of the same uses are allowed in A-1-S as in A-1, except that livestock numbers exceeding 1 animal unit per acre will require a conditional use permit. The minimum lot size will be 3 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 technically "illegal" lots can now be rezoned to A-1-S, become consistent with the ordinance, and still remain in farmland preservation.

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## A-2 AGRICULTURAL LAND DISTRICT

The allowable uses and minimum lot size will remain the same. There is a proposed change to the rear yard setback for a residence, from 100 feet decreasing to 50 feet. The 100 foot rear yard setback was copied from A-1 where it was appropriate for lots that were 35 acres or larger. In A-2, however, where lots can be much smaller, a lesser setback is a better fit.

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

The allowable uses will remain the same, except that livestock raising that exceeds 1 animal unit per acre will require a conditional use permit.

There is a proposed change to the minimum lot size from 35 acres to 3 acres. This will be a better fit in transitional areas near cities or subdivisions where agricultural parcels are typically fragmented. However, the density in A-3 will remain at 35 acres, which means 35 acres will still be required for a new house. Those wishing to build in A-3 who have less than 35 acres are encouraged to apply for a rezoning.

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### **A-4 LIMITED DEVELOPMENT AGRICULTURAL DISTRICT**

The allowable agricultural uses will remain the same. Lands included will now include open space remnants.

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### **B-1 LOCAL BUSINESS & INDUSTRIAL DISTRICT**

No changes are currently proposed for this district.

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### **C-1 NATURAL RESOURCE CONSERVATION DISTRICT**

The primary purpose of this new district is to protect the water based recreation and open space resources of the Town. Some wetlands, floodplains, and woodlands may be included in this district. Typical uses include forestry and game management, hiking trails, hunting, fishing, trapping, park and recreation areas, and wild crop harvesting.

There is no minimum lot size. Buildings will be allowed under certain conditions.

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### **R-1, R-2, and R-3 RESIDENTIAL DISTRICTS**

No changes are currently proposed for these districts.

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### **NONCONFORMING USES, STRUCTURES, AND LOTS**

The Zoning Ordinance is being made consistent with a change in state law regarding the repair, reconstruction, or improvement of nonconforming structures. Previously, the restoration of such structures was limited to 50% of their equalized value. The new law has removed that limit; structures damaged by fire, explosion, flood, or other calamity may now be fully restored. The Zoning Ordinance will reflect that change.

## DEFINITIONS

The update will add or update about a dozen terms in the Definitions section to make them consistent with the latest state statutes and administrative rules.

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## PROPOSED ZONING MAP REVISIONS (landowners notified by letter)

### Properties currently zoned A-1 Exclusive Agricultural Use District:

- ◆ 31 properties with significant agricultural use are too small to remain A-1. These properties will be rezoned to **A-1-S** since a residence exists on the property. The smaller minimum lot size in A-1-S will make these properties consistent with the ordinance. The farmland preservation tax credit is still an option.
- ◆ 121 additional properties with some agricultural use are also too small to remain A-1. These properties will be rezoned to **A-2**. The smaller minimum lot size in A-2 will make these properties consistent with the ordinance. The farmland preservation tax credit is not an option for these properties.
- ◆ 3 properties that are still somewhat agricultural but are near the City, a subdivision, or a sanitary district, will become **A-3**. Agricultural uses are still allowed, but the farmland preservation tax credit is not an option for these properties.
- ◆ 6 properties with land that still has some agricultural character but is not appropriate for a residence will become **A-4**. Agricultural uses are still allowed but the farmland preservation tax credit is not an option in A-4.
- ◆ 65 properties are currently much too small to remain A-1 and are not appropriate for farmland preservation due to their size and use. Since these properties are entirely residential, with no room for agricultural uses, they will become **R-1 or R-2**.
- ◆ 7 properties that are businesses or utility properties, with no agricultural use, will become **B-1**, which is more appropriate.
- ◆ 41 properties that are natural resource/woodland in character, with no agricultural uses, will become **C-1**, which is more appropriate. These properties are too small to remain A-1 and are not a part of any farm.
- ◆ 88 properties, all of them without residences, and consisting mostly of cultivated land, **will remain A-1** despite being less than 35 acres. Rezoning them to another district would enable the building of a house where no house is currently allowed, so for the sake of preserving rural character the decision was made to keep them A-1.

### Other Districts:

- ◆ 23 lots zoned R-1 will become **R-2** due to their location within a Sanitary District.