

**STATE OF WISCONSIN  
DEPARTMENT OF AGRICULTURE, TRADE AND CONSUMER PROTECTION**

**WAUKESHA COUNTY FARMLAND  
PRESERVATION PLAN TEXT AND  
PLAN MAPS FOR THREE TOWNS  
(EAGLE, OCONOMOWOC, AND  
OTTAWA)**

**DOCKET NO. 11-F-10-67-PTM  
(ARM Division Docket No. 11-22-67-000-P)**

**ORDER CERTIFYING PLAN TEXT AND  
THREE MAPS THROUGH DECEMBER  
31, 2021 AND ORDER WITHDRAWING  
CERTIFICATION ON OTHER MAPS.**

**INTRODUCTION**

Waukesha County has asked the Department of Agriculture, Trade and Consumer Protection ("DATCP") to certify a proposed comprehensively revised county farmland preservation plan text and farmland preservation plan map for the Towns of Eagle, Oconomowoc, and Ottawa pursuant to s. 91.16, Wis. Stats. DATCP has considered the request and adopts the following decision:

**FINDINGS OF FACT**

- (1) DATCP is an agency of the State of Wisconsin, and is responsible for administering Wisconsin's farmland preservation law under ch. 91, Wis. Stats., as repealed and recreated by 2009 Wis. Act 28.
- (2) Waukesha County is a county of the State of Wisconsin.
- (3) In order for a county and its residents to participate in the farmland preservation program, a county must have a state-certified farmland preservation plan. Among other things, the certified plan must clearly designate farmland preservation areas that the county plans to preserve for agricultural use.
- (4) Waukesha County has a state-certified farmland preservation plan that expires on December 31, 2011.
- (5) Under s. 91.16(8), Wis. Stats., the certification of a farmland preservation plan does not cover any subsequent plan revision (adopted after July 1, 2009) unless DATCP certifies that plan revision.
- (6) On April 11, 2011, DATCP received from Waukesha County a request to certify a comprehensively revised county farmland preservation plan under s. 91.16, Wis. Stats. The county submitted the application in the form required under s. 91.20, Wis. Stats. The application included the certifications required under s. 91.20(3), Wis. Stats.
- (7) Waukesha County submitted a plan text (preface and Table of Contents-Appendix D dated February 9, 2011; Appendix D Chapters 1 and 2 dated April 5, 2011; Chapter 3, Exhibit A dated July 20, 2011; and Exhibit B with maps for the Town of Eagle and Town of Ottawa dated March 25, 2011 and a map for the Town of Oconomowoc dated July 20, 2011) for certification by the department.
- (8) Waukesha County's comprehensively revised Farmland Preservation Plan did not include farmland preservation areas in maps for the Towns of Delafield, Genesee, Lisbon, Merton, Mukwonago, Muskego, Pewaukee, Summit, Vernon, and Waukesha, and the City of Muskego. These local governments have parcels mapped for farmland preservation under the previously certified plan and so certification must be withdrawn based on this new farmland preservation plan if no areas are included in the new plan.
- (9) Under s. 91.16(3)(a), Wis. Stats., DATCP may certify a county plan based on the county's certification under s. 91.20(3), Wis. Stats., that the plan meets applicable certification standards under s. 91.18, Wis. Stats.

(10) DATCP may certify a farmland preservation plan if the plan meets applicable statutory standards under s. 91.18, Wis. Stats. DATCP may certify based on the representations contained in the county's application, but may conduct its own review and verification as it deems appropriate.

(11) Under s. 91.10(2), Wis. Stats., the farmland preservation plan must be consistent with the Waukesha County Comprehensive Development Plan, and the County must include the farmland preservation plan in the County Comprehensive Plan.

(12) Under s. 91.16(2)(a), Wis. Stats., DATCP may certify a county farmland preservation plan for a specified period of up to 10 years. Under s. 91.16(6), Wis. Stats., DATCP may make its certification contingent upon the county adoption of the certified plan text and maps, in the form certified.

(13) Under s. 91.16(9), Wis. Stats., DATCP may withdraw its certification at any time if DATCP finds that the certified plan materially fails to meet applicable certification standards under s. 91.18, Stats.

### CONCLUSIONS OF LAW

(1) Based on Waukesha County's certification that the attached county farmland preservation plan text and maps for the Towns of Eagle, Oconomowoc, and Ottawa meets applicable certification requirements under s. 91.18, Wis. Stats., DATCP may certify that plan for up to 10 years.

(2) Based on the representations made by Waukesha County in its application for certification of a revised farmland preservation plan, DATCP concludes that the proposed plan text submitted by Waukesha County (preface and Table of Contents-Appendix D dated February 9, 2011; Appendix D Chapters 1 and 2 dated April 5, 2011; Chapter 3, Exhibit A dated July 20, 2011); and the plan maps submitted by Waukesha County (Exhibit B with maps for the Town of Eagle and Town of Ottawa dated March 25, 2011 and a map for the Town of Oconomowoc dated July 20, 2011), meet certification requirements under s. 91.18, Stats.

(3) Based on the representation made by Waukesha County in its application for certification of a revised farmland preservation plan, DATCP concludes that for towns that did not include mapped Farmland Preservation Areas (the Towns of Delafield, Genesee, Lisbon, Merton, Mukwonago, Muskego, Pewaukee, Summit, Vernon, and Waukesha, and the City of Muskego), the certification of the Farmland Preservation Plan maps for these towns must be withdrawn (under s. 91.16(4), Stats.) effective the date of this order takes effect since the maps would no longer be in effect.

(4) DATCP may certify the proposed plan pursuant to s. 91.18, Stats.

(5) DATCP should make its certification contingent upon the county adoption of the certified plan text and maps, in the form certified, and contingent upon its adoption as part of the County comprehensive plan.

(6) Pursuant to s. 91.16(2), Stats.; DATCP should certify the proposed plan through December 31, 2021.

(7) Certification does not apply to plan amendments made after the certification date, unless DATCP certifies those amendments.

(8) Pursuant to s. 91.16(7), Stats., the effective date of the certification should be the date on which the certified and adopted plan takes effect.

(9) DATCP may withdraw its certification at any time if DATCP finds that the certified plan text and maps materially fail to meet applicable certification standards under s. 91.18, Wis. Stats.

**ORDER**

NOW, THEREFORE, IT IS ORDERED THAT:

(1) The attached Waukesha County Farmland Preservation Plan text (preface and Table of Contents- Appendix D dated February 9, 2011; Appendix D Chapters 1 and 2 dated April 5, 2011; Chapter 3, Exhibit A dated July 20, 2011), and maps (Exhibit B with maps for the Town of Eagle and Town of Ottawa dated March 25, 2011 and a map for the Town of Oconomowoc dated July 20, 2011); are hereby certified under s. 91.16, Wis. Stats., contingent upon county adoption of this plan text and these maps, in the form submitted, as part of the County comprehensive plan, before December 31, 2011.

(2) The current certification of the Farmland Preservation Plan maps is hereby withdrawn (under s. 91.16(4), Stats.), effective the date this order takes effect for the Towns of Delafield, Genesee, Lisbon, Merton, Mukwonago, Muskego, Pewaukee, Summit, Vernon, and Waukesha, and the City of Muskego, since these jurisdictions have no farmland preservation areas mapped under the new plan.

(3) The certified farmland preservation plan area for Waukesha County is titled "Farmland Preservation Area."

(4) This order takes effect on the date on which the county adoption of the plan text and maps, in the form submitted, takes effect.

(5) This certification expires at the end of the day on December 31, 2021.

Dated this 8<sup>th</sup> day of Aug, 2011.

STATE OF WISCONSIN,  
DEPARTMENT OF AGRICULTURE,  
TRADE AND CONSUMER PROTECTION

By Ben Brancel  
Ben Brancel, Secretary

Parties for Purposes of Review Under s. 227.53, Wis. Stats.:

Copies to:

**Waukesha County**

Perry Lindquist, Land Resources Manager  
Waukesha County Department of Parks and Land Use  
515 W. Moreland Blvd., Room AC-230  
Waukesha, WI 53188

Jason Fruth, Planning and Zoning Manager  
Waukesha County Department of Parks and Land Use  
515 W. Moreland Blvd., Room AC-230  
Waukesha, WI 53188

**DATCP Agricultural Resource Management Division:**

Kathy F. Pielsticker, Director, Land & Water Resources Bureau  
Keith Foye, Farmland Preservation Section Chief