

## Counties Have Options to Manage Farms

Agriculture is vital to Wisconsin's economy, and to most of our counties. Conflicting interests can sometimes put county officials in the middle of farm-nonfarm issues, but you can use ordinances to manage agriculture within your boundaries.

While farmland preservation and land and water conservation planning are required, you can choose what ordinances you want to adopt – subject to some state restrictions.

As a starting point, counties can do nothing; you are not required to zone for agriculture or to regulate farm operations. If they choose to zone, counties usually focus on livestock operations, but they can also manage land use on crop farms via the conservation compliance requirements of farmland preservation zoning.

You can add requirements to existing ordinances. You can use referendums to adopt ordinances with more stringent provisions. You can regulate construction site erosion and storm water management. You can restrict highway access points and impose road weight limits, seasonally or year-round, on roads that you maintain.

Here is a rundown of what counties can and cannot do to manage agricultural activities:

### Manure and Runoff Management

#### Counties *can*:

- Adopt or update manure storage ordinances that require permits for new or modified facilities, using USDA design and construction standards.
- Include nutrient management requirements in manure storage ordinances.
- Expand manure storage ordinances to require proper closure of unused facilities.
- Add provisions to control runoff from barnyards and feed storage.
- Require permits for manure irrigation based on recent recommendations.

#### Counties *cannot*:

- Require existing farms to comply with state standards and conservation practices, unless they provide cost-sharing. *They can, however, require farmers to complete nutrient management plans as part of manure storage permitting.*
- Adopt livestock siting standards that exceed state water quality standards, with Department of Natural Resources or Department of Agriculture, Trade and Consumer Protection approval.

### Zoning and Livestock Facility Siting

#### Counties *can*:

- Adopt agricultural zoning ordinances that establish one or more agricultural zoning districts. These may be farmland preservation zones that make landowners eligible to claim tax credits. (See below)

The legal provisions listed here are covered by three statutes and their accompanying administrative rules:

#### Soil and Water Conservation and Animal Waste Management

- Wisconsin Statutes Chapter 92  
<https://docs.legis.wisconsin.gov/statutes/statutes/92>
- ATCP 50  
[https://docs.legis.wisconsin.gov/code/admin\\_code/atcp/020/50](https://docs.legis.wisconsin.gov/code/admin_code/atcp/020/50)

#### Livestock siting

- Wisconsin Statutes 93.90  
<https://docs.legis.wisconsin.gov/statutes/statutes/93/90>
- ATCP 51  
[https://docs.legis.wisconsin.gov/code/admin\\_code/atcp/020/51](https://docs.legis.wisconsin.gov/code/admin_code/atcp/020/51)

#### Farmland Preservation

- Wisconsin Statutes Chapter 91  
<https://docs.legis.wisconsin.gov/statutes/statutes/91>
- ATCP 49  
[https://docs.legis.wisconsin.gov/code/admin\\_code/atcp/020/49](https://docs.legis.wisconsin.gov/code/admin_code/atcp/020/49)

- Prohibit new or expanding livestock facilities within a particular agriculture zone.  
*However, within agricultural zones, they can prohibit or limit these operations only for scientifically justifiable health and safety reasons. The county must offer at least one other zone that allows operations of any size.*
- Rezone agricultural districts to non-agricultural use, making existing farms non-conforming uses, and allowing the county to restrict their future expansion.
- Impose a temporary moratorium on new livestock operations to study and adopt new ordinances.
- Adopt a zoning or licensing ordinance to require local approval for new or expanding livestock operations with 500 or more animal units, and charge a fee up to \$1000 to offset costs of reviewing and processing applications.
- Use siting permits or licenses to enforce state water quality standards for manure storage, runoff and nutrient management, and to enforce an odor management standard.
- Use siting permits or licenses to enforce local standards based on public health and safety.
- Include an ordinance provision to inspect livestock premises, with written notice and owner's consent to enter, and charge an inspection fee.
- Address violations of livestock facility permits or licenses, including failure to add animals or begin building within two years of receiving local approval.
- Establish property line and road setbacks for farm structures, subject to limits in the state livestock siting law.

**Counties cannot:**

- Require permits for new and expanding livestock operations without adopting the state livestock siting law requirements.
- Exclude livestock operations from agricultural zoning districts without following state requirements.
- Monitor and regulate air quality, although the livestock siting law requires farms to comply with an odor standard.
- Adopt livestock siting standards that exceed state water quality standards without approval of DNR or DATCP.
- Adopt new siting ordinances to require permits for livestock facilities under 500 animal units.
- Permit or restrict groundwater withdrawals.

## **Farmland Preservation**

**Counties can:**

- Adopt farmland preservation zoning ordinances, consistent with their farmland preservation plan, to promote agricultural growth, restrict non-agricultural uses, and limit land-use conflicts. *To make landowners eligible to claim farmland preservation tax credits, these ordinances must be certified by DATCP. Counties must also monitor participating farmers' conservation compliance.*
- Issue a notice of non-compliance for farmers who fail to meet conservation requirements, and secure compliance without offering cost-sharing.
- Add provisions to manage land use, including restrictions on residential development.

**Counties cannot:**

- Implement farmland preservation zoning without a DATCP-approved farmland preservation plan.
- Require compliance with conservation requirements other than those adopted by the state.

For more information, visit these DATCP web pages:

- [https://datcp.wi.gov/Pages/Programs\\_Services/ManureStorageOrdinances.aspx](https://datcp.wi.gov/Pages/Programs_Services/ManureStorageOrdinances.aspx)
- <http://livestocksiting.wi.gov>
- [https://datcp.wi.gov/Pages/Programs\\_Services/FPZoning.aspx](https://datcp.wi.gov/Pages/Programs_Services/FPZoning.aspx)

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