
MUNICIPAL CODE

Town of Nepeuskun

Winnebago County, Wisconsin

**Proposed Amendments
For June 14, 2021
Public Informational Meeting**

**Article 4.
Zoning Districts**

5.4.1 Districts.

The Town is divided into the zoning districts as listed in this section. The district boundaries are shown on the following maps which are a part of this code: (1) the official zoning map, which is on file in the office of the Town Clerk; and (2) the general floodplain overlay(s) on the official zoning map of Winnebago County on file in the office of the Winnebago County zoning administrator.

5.4.2 Purpose and Intent of Districts.

1. Residential District R-1.

The purpose of the R-1 Residential District is to preserve rural landscape character, natural resource areas, and open land, while permitting residential development at low, rural densities, in an open space setting, located and designed to reduce the perceived intensity of development and provide

District Name	Designation
Residential District	R-1
Shoreland Residential District	R-2
Farmland Preservation District (Chapter 14)	A-1
Agricultural District	A-2
Existing Commercial District	C-1
Community Commercial District	C-2
Public Lands Institutional	PLI
Farm Preservation Overlay	FPO

privacy for dwellings. This district is intended to provide a quiet, pleasant, and relatively spacious living area, protected from traffic hazards and the intrusion of incompatible land uses. Basic district standards are designed to provide reliable single and two-family home sites where all other uses, facilities, and services are of secondary significance to the location of the home site and living area itself.

2. Shoreland Residential District R-2. The purpose of the R-2 Shoreland Residential District is to accommodate in-fill residential development on existing lots adjacent to Rush Lake, consistent with Winnebago County shoreland zoning standards and the Island Aire subdivision covenant (Exhibit 1)

3. Farmland Preservation District A-1. See Chapter 14.

4. Agricultural District A-2. The purpose of the A-2 Agricultural District is to conserve productive farming areas, assure a proper economic and physical environment for continued agricultural use of land, maintain an open rural character; assure compatible types and densities of development on lands that are useable for agricultural pursuits; minimize other land uses incompatible with farming, and prevent the uncontrolled spread of residential development. Persons and entities not engaged in agricultural pursuits in the Agricultural Zone should be aware that the primary intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of occurrences and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive.

5. Existing Commercial District - C-1. This district is intended to recognize those commercial enterprises on single parcels that existed on the effective date of this code. This designation is not intended to be applied to surrounding parcels through the rezoning process. Those enterprises that existed on the effective date of this code are allowed to continue and exist. Future land uses shall conform to those uses allowed in the C-2 district.

6. Community Commercial District – C-2. This district is designed to accommodate those retail and customer service establishments which are characteristic of a small town.

7. Public Lands Institutional – (PLI). This district is intended to include public facilities and lands and institutional uses.

8. Farm Preservation Overlay – (FPO).

(1) Purpose. The district provides for the conservation and protection of lands planned for farmland preservation in the Winnebago County Farmland Preservation Plan for the Town of Nepeuskun. This district is an overlay district applying the provisions of the A-1 district (Chapter 14). This overlay will only be applied within areas planned for farmland preservation in the Winnebago County Farmland Preservation Plan for the Town of Nepeuskun zoned Agricultural (A-1) and Agriculture (A-2) in the Town of Nepeuskun Municipal Code.

(2) Permitted Uses.

- (a) Any permitted use authorized in the Farmland Preservation District (A-1). See Chapter 14.

(3) Conditional Uses.

- (a) Any conditional use authorized in the Farmland Preservation District (A-1). See Chapter 14.

(4) Standards.

- (a) Permitted and Conditional Uses: As authorized and regulated in the Exclusive Agricultural District (A-1).
- (b) Standards for Rezoning Lands out of the Farm Preservation Overlay: As authorized and regulated in the Farmland Preservation District (A-1). See Chapter 14.

5.4.3 Land Use within Districts.

1. **Generally.** All uses within each district shall conform to the standards for each district as provided for in Exhibit 2 and this part. Because the list cannot include every conceivable type of land use, the listed uses shall be interpreted to include other uses that have similar impacts to the listed uses. Those uses that are not listed and which cannot be interpreted to be similar to any listed use are prohibited.
2. **Non-conforming uses.** Those uses which were lawfully created prior to the effective date of this code, and which according to Exhibit 2 and this part are now prohibited, shall be considered a non-conforming use and shall be subject to the provisions contained in this chapter.

Exhibit 2. Land Uses by District

Agricultural Uses	***			C-1			Public/Semi-Public Infrastructure & Utilities	***			C-1		
	A-1	A-2	R-1	R-2	C-2	PLI		A-1	A-2	R-1	R-2	C-2	PLI
Agriculture, animal ¹	P	P	C	-	C	-	C*	C	-	-	-	P	
Agricultural use (Chapter 14 defined)	P	P	P	-	P	P	-	C	-	-	C	P	
Agri-Tourism	C*	C	-	-	C	-	C	C	-	-	C	P	
Animal processing plant (not an accessory use)	C	C	-	-	-	-	-	C	C	C	C	P	
Animal rendering plant	C	C	-	-	-	-	-	-	-	-	C	P	
Food processing facility (not an accessory use)	C	C	-	-	C	-	-	C	-	-	C	P	
Game farm (Does not include outdoor/indoor shooting range activities)	C*	C	-	-	-	-	-	C	C	C	C	P	
Intensive animal production	C	C	-	-	-	-	-	C	C	C	C	C	
Agricultural-related use. (Chapter 14 defined)	C	C	-	-	P	-	C	C	C	C	C	C	
Resource-Based Uses							Community Services/Uses						
Aggregate and soil extraction operation Must meet Wis. Stats 91.46 (6)	C	C	-	-	-	-	-	C	-	-	P	P	
Forestry	P	P	P	-	P	P	-	-	-	-	P	P	
Hunting and fishing preserve (Private)	C*	P	-	-	-	-	-	-	-	-	P	-	
Hunting and fishing preserve (Government or Non-Profit Under Wis. Stats 91.46(5))	C	P	-	-	-	-	-	-	-	C	C	-	
Sludge disposal - Municipal - per Wis. Stats 91.46(5)	C	C	-	-	-	-	-	-	-	C	C	-	
Undeveloped natural space areas	P	P	P	P	P	P	-	-	-	-	-	-	
Residential Uses							Recreation / Sports / Entertainment						
Residence, single or two-family built prior Jan. 1, 2014	P	P	P	P	P	-	Agri- Tourism	C*	C	-	-	C	-
Residence, two-family	-	-	P	P	G	-	Golf course/driving range	-	C	-	-	C	-
Residence, multi-family	-	-	C	C	C	-	Indoor entertainment	-	-	-	-	C	-
Retirement home	-	-	C	C	C	-	Indoor sports and recreation	-	-	-	-	C	-
Manufactured home park	-	-	C	C	C	-	Miniature golf	-	-	-	-	P	-
Farm Residence, single-family/two-family	P	P	-	-	C	-	Outdoor entertainment	-	-	-	-	C	-
Non-Farm Residence, single-family/two-family	-	P	P	P	C	-	Outdoor/Indoor shooting range	-	C	-	-	-	-
Special Care Facilities							Accessory Use						
Adult family home	-	-	P	P	-	-	Accessory buildings, commercial	C*	-	-	-	P	-
Community living arrangement, Type I	-	-	P	P	-	-	Accessory buildings, residential	P	P	P	P	-	-
Community living arrangement, Type II	-	-	C	C	-	-	Accessory structures	P	P	P	P	P	P
Community living arrangement, Type III	-	-	C	C	-	-	Boathouse	-	P	P	P	-	-
Day care center	-	-	C	C	-	-	Home occupation, Type I	P*	P	P	P	-	-
Family day care home	P*	P	P	P	-	-	Home occupation, Type II	C*	C	C	C	-	-
Foster home (per Wis. Stats 48.62)	C	C	P	P	-	-	Home occupation, Type III	C*	C	C	C	-	-
Foster home (treatment)	-	-	P	P	-	-	Home occupation, Type IV	P*	P	P	P	-	-
Group home for children	-	-	C	C	-	-	Kennel, private	-	P	C	-	-	-
Nursing home	-	-	-	-	C	-	Stable, private	P	P	-	-	-	-
Overnight Accommodations							Storage Facilities						
Bed and breakfast & short-term rentals	C*	P	P	P	-	-	Mini-storage facility	-	-	-	-	C	-
Campground	-	C	-	-	-	P	Truck terminal	-	-	-	-	C	-
Group camp	-	C	-	-	-	-	Warehouse	-	-	-	-	C	-
Hotel/motel	-	-	-	-	C	-	Notations:						
Sales & Service							* Use must meet requirements of WI States 91.01 (b) or (d) for farmland preservation designated parcels or be rezoned out of farmland preservation.						
Auction Facility	C*	C	-	-	C	C	** Town may be limited to the use of a Conditional Use Permit or waive the requirement altogether based on Wisconsin Statutes.						
Contractor yard, type I	C*	C	-	-	P	-	*** A-2 uses maybe subject to farm preservation overlay district requirements						
Contractor yard, type II	C*	-	-	-	C	-	-	-	-	-	-	-	-
Eating establishment	-	-	-	-	P	-	-	-	-	-	-	-	-
Kennel, commercial	-	C	-	-	C	-	-	-	-	-	-	-	-
Outfitter service	-	C	-	-	-	-	-	-	-	-	-	-	-
Sales, agriculture	C*	C	-	-	P	-	-	-	-	-	-	-	-
Sales, construction materials	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, convenience	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, general	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, manufactured housing	-	-	-	-	C	-	-	-	-	-	-	-	-
Sales, liquor off-site	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, liquor on-site	-	-	-	-	C	-	-	-	-	-	-	-	-
Sales, roadside stand	P	P	C	-	C	-	-	-	-	-	-	-	-
Sales, secondhand	-	-	-	-	C	-	-	-	-	-	-	-	-
Sales, shopping center	-	-	-	-	C	-	-	-	-	-	-	-	-
Sales, specialty	-	-	-	-	P	-	-	-	-	-	-	-	-
Sales, temporary	-	C	C	-	C	-	-	-	-	-	-	-	-
Service, agricultural	C*	C	-	-	P	-	-	-	-	-	-	-	-
Service, financial	-	-	-	-	P	-	-	-	-	-	-	-	-
Service, funeral home	-	-	-	-	P	-	-	-	-	-	-	-	-
Service, general	-	-	-	-	P	-	-	-	-	-	-	-	-
Service, medical	-	-	-	-	P	-	-	-	-	-	-	-	-
Service, professional/administrative	-	-	-	-	P	-	-	-	-	-	-	-	-
Vehicle cleaning	-	-	-	-	P	-	-	-	-	-	-	-	-
Vehicle fuel sales	-	-	-	-	P	-	-	-	-	-	-	-	-
Vehicle sales and rental	-	-	-	-	C	-	-	-	-	-	-	-	-
Vehicle service/repair	-	-	-	-	C	-	-	-	-	-	-	-	-
Veterinary clinic (serving livestock)	C	C	-	-	P	-	-	-	-	-	-	-	-
Veterinary clinic (serving small pets exclusively)	-	C	-	-	P	-	-	-	-	-	-	-	-

Key:	- = Not permitted
	C = Conditional use
	P = Permitted by right

¹ In the A2 and A-1 zone, farm animals (as defined in the Agricultural, animal use definition) are not permitted on lots less than 2 acres unless the parcel is part of a tract of land in common contiguous ownership that is at least 2 acres in size. ² See Sec. 5.10.13, must meet provisions of Wis. Stats 178.03.

5.4.5 Land Use Definitions.

For the purpose of this chapter certain land uses are defined below and shall have the meaning ascribed to them. Terms and definitions contained in this part correspond to those listed in Exhibit 2.

AGRICULTURAL USES

Agricultural use, agricultural accessory use, agricultural related use and Farm residence – see Chapter 14 definitions.

Agriculture, animal means a parcel and/or building, or portion thereof, which is used or is intended for animal-based agricultural purposes, including dairying, pasturage, aquaculture and animal and poultry husbandry. The term does not include intensive animal production operations as herein defined.

Agriculture, non-animal means a place and/or building, or portion thereof, that is used or is intended for agricultural purposes, including farming, agriculture, horticulture, floriculture, and viticulture. The term does not include any type of animal-based agriculture.

Agri-Tourism means a use that personifies the coming together of the continual agricultural use of lands and the opens character of the town with the desire of tourists (visitors) to experience the outdoors, the leisure pace of life and to enjoy the nutrition of locally sourced foods and products. Activities could include local sourced food processing and serving on site. Within the definition of qualifying as an agri-tourism use, 60% of all sales must include locally sourced produce or products. Locally sourced is defined as produce and/or products grown, processed or prepared in the State of Wisconsin.

Animal processing plant means a place and/or building, or portion thereof, that is used or is intended for the slaughter of livestock or poultry or the preparation of meat food products on a commercial basis.

Animal rendering plant means a place and/or building, or portion thereof, that is used or is intended for the collection or handling of the bodies or parts of bodies of dead animals or fowl not for human consumption.

Food processing facility means a place and/or building, or portion thereof, that is used or is intended for processing agricultural products produced in the area. Examples include creameries, milk condenseries, cheese factories, canneries, and grain elevators.

Game farm means a place and/or building, or portion thereof, which is used or is intended for purposes of obtaining, rearing in captivity, keeping, raising, and selling game farm animals/livestock ~~or parts thereof~~ as authorized by state law.

Intensive animal production means a tract, or portion thereof, that is used or is intended for raising animals where the number of specified animals exceeds 500 animal units.

RESOURCE-BASED USES

Aggregate and soil extraction operation means a place that is used or is intended to remove any aggregate or soil resource from the ground in any manner, or to stockpile or process any aggregate or soil resource for sale as an industrial or commercial product by either retail, wholesale, contract purchase or other considerations, including uses by a governmental agency. *Aggregate and soil extraction operation require a conditional use permit and parcels designated as Farmland Preservation must also meet Wisconsin Statute 91.46(45) - and/or 91.46(6).* The term does not include on-site leveling, grading, filling, or removing of earth materials in conjunction with a farm use, road construction, or for on-site construction projects.

Forestry means the practice of harvesting, thinning, and planting of trees including all associated forest management activities. The term includes temporary skidding yards necessary to store and sort logs harvested on the premises. The term does not include processing, permanent skidding yards, and the like.

Hunting and fishing preserve means a place that is used or is intended primarily for hunting and/or fishing and may or may not be open to the public for a fee. The term includes shooting preserves and duck clubs. The term does not include lands that are leased for private individual use. *Hunting and fishing preserve shall be maintained as natural resource/open space use.*

Sludge disposal means the surface or subsurface application of municipal sludge to land. *Sludge disposal does not include the spreading of septage Sludge disposal shall meet the requirements of Wisconsin Statute 91.46(5).*

RESIDENTIAL USES

Dwelling unit means the State of Wisconsin Uniform Dwelling Code definition.

Residence, single-family means a building containing one (1) dwelling unit, and not attached to any other dwelling unit by any means. This includes manufactured homes that are placed on a permanent foundation.

Residence, two-family means a single building containing two (2) separate dwelling units. *Dwelling units separated by a permanent firewall.*

Residence, multi-family means a single building containing three (3) or more separate dwelling units.

Farm residence means any of the following structures located on a farm:

- (a) A single-family residence that is the only residential structure on the farm.
- (b) A single-family residence that is occupied by any of the following:
 - 1. An owner or operator of the farm.
 - 2. A parent or child of an owner or operator of the farm
 - 3. An individual who earns more than 50 percent of his or her gross income from the farm.
- (c) A migrant labor camp that is certified under s. 103.92, Wis. Stats.

Nonfarm residence" means any residence other than a farm residence.

Retirement home means a place and/or building, or portion thereof, that is used or is intended to provide independent living quarters, either owned or rented, to persons generally 62 years of age or older. Limited commercial and medical facilities constructed and used for the exclusive use of residents shall be an accessory use of the retirement home.

Manufactured home park means a place providing two (2) or more lots for lease or rent to the general public for the purpose of accommodating manufactured homes.

SPECIAL CARE FACILITIES

Adult family home means a facility licensed by the state under §50.032 (lm)(b), Wis. Stats.

Community living arrangement means any one of the following facilities: (1) residential care centers for children and youth, as defined in §48.02(15d), Wis. Stats., operated by a child welfare agency licensed under §48.60, Wis. Stats.; (2) group homes for children, as defined in §48.02(7); and (3) community-based residential facilities, as defined in §50.01(lg), Wis. Stats.

Community living arrangement, Type I means a community living arrangement with 8 or fewer individuals.

Community living arrangement, Type II means a community living arrangement with 9 to 15 individuals.

Community living arrangement, Type III means a community living arrangement with more than sixteen (16) individuals.

Day care center means a facility providing day care for four (4) or more children under the age of seven (7) for less than 24 hours per day as licensed under §48.65, Wis. Stats.

Family day care home means a private residence licensed as a day care center by the Wisconsin Department of Health and Family Services where care is provided for not more than eight (8) children. (See §66.1017, Wis. Stats.)

Foster home means a facility licensed under by the state for the care and maintenance of children and youth. (See §48.62, Wis. Stats.)

Foster home (treatment) means a foster home, which also provides structured professional treatment. (See §48.62, Wis. Stats.)

Group home for children means any facility providing care to 5 to 8 children for which state licensing is required under §48.625, Wis. Stats.

Nursing home means a place where five (5) or more persons who are not related to the operator or administrator reside, receive care or treatment and, because of their mental or physical condition, require 24-hour nursing services, including limited nursing care, intermediate level nursing care, and skilled nursing services. The term does not include (1) a convent or facility owned or operated exclusively by and for members of a religious order

that provides reception and care or treatment of an individual; (2) a hospice as defined in state law; or (3) a residential care complex. (See §50.01(3), Wis. Stats.)

OVERNIGHT ACCOMMODATIONS

Bed and breakfast means a single-family residence that offers overnight accommodations and a meal for a daily charge and which also serves as a primary residence of the operator or owner. **Short term rentals (STR's) are included in this definition.**

Campground means a place and/or buildings or portions thereof, which is used or is intended for public camping, where persons can camp, secure tents or cabins, or park trailers, camping trailers, pickup campers, automobiles, and recreational vehicles for camping and sleeping purposes. The term includes accessory buildings such as a laundromat, retail sales, and recreational amenities for the enjoyment and convenience of campground guests.

Group camp means a place and/or building, or portion thereof, or tents or other structures (permanent or mobile) maintained as living quarters that is used or is intended to be used by a group of individuals for recreational or educational purposes. The term includes youth camps and church camps.

Hotel/motel means a building that is used, intended, kept, maintained as, advertised as, or held out to the public to be a hotel, motel, inn, motor court, tourist court, public lodging house, or place where sleeping accommodations are furnished for a fee to transient guests with or without meals.

SALES AND SERVICE

Contractor yard means a place and/or building, or portion thereof, that is used or is intended to be used by a contractor/builder with one (1) or more of the following: construction material storage, machinery storage or repair, including trucks and heavy equipment, shops, and office space.

Contractor yard, Type I means a contractor yard that would be compatible in size and scope in a rural residential setting as defined by performance standards herein described or as may be adopted **and shall meet requirements with in Farmland Preservation designated parcels shall comply with Wis. Statue 91.01(1)(d) or be rezoned out of Farmland Preservation.**

Contractor yard, Type II means a contractor yard that would be compatible in size and scope with industrial and commercial activities as defined by performance standards herein described or as may be adopted.

Eating establishment means a place and/or buildings or portions thereof, that is used or is intended for the preparation and sale of food and beverages for immediate consumption on the premises, and where consumption of beer, wine, or other liquors, if any, is clearly secondary and subordinate to the sale of food and beverages. The term does not include a grocery store with a food service section.

Kennel, commercial means a place and/or building, or portion thereof, that is used or is intended for housing four (4) or more dogs over six (6) months of age which are kept for boarding, breeding, training, or sale, **and shall meet requirements with in Farmland Preservation designated parcels shall comply with Wis. 91.01(1)(d) or be rezoned out of Farmland Preservation. The term includes boarding kennels, dog motels, and dog training centers.** The term does not include animal hospitals, animal grooming parlors, or pet shops.

Outfitter service means a place and/or building, or portion thereof, which is used or is intended to provide services, materials, supplies, equipment, and limited overnight accommodations for guided trips for hunting, fishing, rafting, or any other outdoor recreational activity. The term does not include retail sales of any kind.

Sales, agriculture means a place and/or building, or portion thereof, which is used or is intended to be used for retail sale of a product(s) unique to and directly related to farm and ranch operations. The term includes structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations. **In the Farm Preservation Overlay District, must meet requirement of Chapter 91 Wis. Stats.**

Sales, construction materials means a place and/or building, or portion thereof, used or is intended for wholesale or retail sales of bulk construction materials such as roofing, lumber, bricks, component parts (trusses) and the like. The term does not include hardware stores, concrete plants, asphalt mixing plants or any facility that manufactures building materials and offers them for retail sale on the premises.

Sales, convenience means a place and/or building, or portion thereof, that is used or is intended for personal services or retail sale of a limited product line of frequently needed personal items. The term includes convenience stores, small grocery stores, and the like.

Sales, general means a place and/or building, or portion thereof, that is used or is intended for retail sale of a diverse product line. The term includes grocery stores, warehouse retail outlets, comparison shopping stores, full-line department stores, and the like.

Sales, manufactured housing means a place and/or building or portions thereof, which is used or is intended for on-site display and sales of mobile homes, modular homes, or other forms of manufactured housing.

Sales, on-site liquor means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for on-site consumption and where food consumption, if any, is clearly secondary to the sale of alcoholic beverages. The term includes bars, lounges, or taverns.

Sales, off-site liquor means a place and/or building, or portion thereof, that is used or is intended for retail sales of alcoholic beverages for off-site consumption. The term includes package liquor stores.

Sales, roadside stand means a place and/or building, or portion thereof, not exceeding 240 square feet that is used or is intended for the retail sale of agricultural products, produce, baked goods and handicraft items.

Sales, secondhand means a place and/or building, or portion thereof, that is used or is intended for retail sale of goods and merchandise which are not being sold for the first time. The term includes secondhand stores, thrift stores, consignment shops, and the like.

Sales, shopping center means more than one sales or service use built on a single site, which is planned, developed, owned, and managed as an operating unit.

Sales, specialty means a place and/or building, or portion thereof, that is used or is intended for retail sale of a limited product line. The term includes antique shops, furniture stores, auto parts stores, bookstores, drug stores, clothing boutiques, pet stores, and the like.

Sales, temporary means a place and/or building, or portion thereof, that is used or is intended for retail sales over a limited duration. The term includes firework sales, flea markets, consignment sales and the like. The term does not include private yard or garage sales or the sale of agricultural products produced on the premises.

Service, agricultural means a place and/or building, or portion thereof, which is used or is intended to be used for maintenance, service, and repair of agricultural vehicles and equipment. The term does not include vehicle and equipment repairs that are part of an on-site farm operation.

Agricultural Commerce means a retail or wholesale enterprise operated as an accessory use to an active farm on the same premises providing services or products principally utilized in agricultural production, including buildings, structures, agricultural equipment and agricultural equipment parts, batteries and tires, livestock, feed, seed, fertilizer and equipment repairs, or providing for wholesale or retail sale of grain, fruit, produce, trees, shrubs, flowers or other products of agricultural operations. **In the Farm Preservation Overlay District, must meet requirement of Chapter 91 Wis. Stats.**

Service, financial means a place and/or building, or portion thereof, which is used or is intended for providing financial and banking services. The term includes banks, savings and loan institutions, other lending institutions, and check cashing facilities. The term does not include automated teller machines, which are considered as an accessory use to commercial enterprises.

Service, funeral home means a place and/or building, or portion thereof, which is used or is intended for the care and preparation of human dead for burial and/or cremation. The term includes funeral homes or mortuaries.

Service, general means a place and/or building, or portion thereof, which is used or is intended for providing services not otherwise included in any other service type category. The term includes photography studios, weight loss centers, commercial postal services, pet grooming shops, photocopying and printing services, linen services, dry cleaning services, diaper services, barber shops, beauty parlors, and the like.

Service, medical means a place and/or building, or portion thereof, which is used or is intended for providing medical services including prevention, diagnosis, treatment, or rehabilitation. The term includes dental clinics, doctor offices, and sports medicine facilities. The term does not include those uses classified as a health care facility.

Service, professional/administrative means a place and/or buildings or portions thereof, that is used or is intended to house services involving predominantly administrative, professional, clerical, or similar operations. The term includes law offices, real estate offices, insurance offices, architectural firms, travel agencies, secretarial services, telephone answering services, and the like.

Vehicle cleaning means a place and/or building, or portion thereof, that is used or is intended for vehicle cleaning including cleaning, washing, polishing, waxing, and similar activities.

Vehicle fuel sales means a place and/or building, or portion thereof, that is used or is intended for the retail sale of gasoline, kerosene, diesel, or other petroleum-based motor fuels. The term includes the sale of convenience foods and goods, provided it is ancillary to the sale of fuels, and light maintenance activities, such as engine tune-ups, lubrication, minor repairs, and the like.

Vehicle sales and rental means a place and/or building, or portion thereof, which is used or is intended for buying, selling, exchanging, taking for consignment, renting, or leasing new or used vehicles.

Vehicle service/repair means a place and/or building, or portion thereof, which is used or is intended for maintenance, service, and repair of vehicles. Typical services include transmission repair, bodywork and painting, brake repair, vehicle upholstery, tire shop, engine repair and overhauls, and similar activities.

Veterinary clinic means a place and/or building, or portion thereof, which is used or is intended for the medical care of animals. A veterinary clinic may include office space, medical labs, appurtenant facilities, and kennels and/or enclosures for animals under the immediate medical care of a veterinarian. The term includes pet clinics, dog and cat hospitals, animal hospitals, and the like.

Auction Facility means a building or structure or portion thereof, that is used for or is intended for planned auction sales of items on a scheduled or periodic basis (two or more times per year). Facilities include, but are not limited to auction barns, sheds or other similar type structures used for the intended purpose of conducting the auction and shall meet requirements with in Farmland Preservation designated parcels shall comply with Wis. 91.01(1)(d) or be rezoned out of Farmland Preservation.

STORAGE FACILITIES

Mini-storage facility means a place and/or building, or portion thereof, that is divided into individual spaces and that is used or is intended as individual storage units that are rented, leased, or owned. The term includes a tract of land used to store vehicles that are not for sale or trade.

Truck terminal means a place and/or building, or portion thereof, which is used or is intended for storage of freight for routing or reshipment.

Warehouse means a place and/or building, or portion thereof, which is used or is intended for the storage of goods and materials, for wholesale sales, temporary storage, and distribution. The term includes moving and storage facilities. The term does not include fuel tank farms.

PUBLIC / SEMI-PUBLIC USES AND SERVICES

Airport means a place and/or building, or portion thereof, which is used or is intended for the landing and takeoff of airplanes, helicopters, similar craft, including all necessary facilities for the housing and maintenance of the same.

Cemetery means a place and/or building, or portion thereof, which is used or is intended for burial purposes. Accessory uses include columbariums, crematories, mausoleums, and mortuaries when operated in conjunction with and within the boundaries of such area.

Commercial antennae means a structure that is used or is intended for transmitting or receiving television, radio, or telephone, or other communication for commercial purposes. The term does not include antennae used for personal use.

Public safety facility means any place and/or building, or portion thereof, whether public or non-public, that is used or is intended for housing public safety services. The term includes ambulance services, fire stations, police stations, and the like.

Recycling center means a place and/or building, or portion thereof, which is used or is intended for collecting and/or processing recoverable materials prior to shipment to others who use those materials to manufacture new products. Typical types of recoverable materials include glass, newspaper, metal, and plastic. The term shall not include a junkyard.

Solid waste container site means a place and/or building, or portion thereof, where local residents can dispose of their solid waste in containers for collection and final shipment to another facility.

Solid waste transfer station means a place and/or building, or portion thereof, that is used or is intended for temporary collection of solid waste prior to transport to a processing plant or to final disposal.

Utility installation means a place, buildings, and/or structures, or portions thereof, whether public or private, that is used or is intended for providing basic infrastructure or utility services.

Utility installation, major means a utility installation generally having moderate to high impact on neighboring property. The term includes pipeline pumping stations, sewage treatment plants, electrical substations, water towers, and the like. The term does not include wind generators or solar energy systems.

Utility installation, minor means a utility installation generally having low impact on neighboring property. The term includes public water system wells, sewer lift stations, irrigation ditches, roads, and the like.

Wind turbine means a structure that generates, or is intended to generate, electricity by rotating blades attached to a generator.

Solar energy systems means equipment which directly converts and then transfers or stores solar energy into usable forms of thermal or electrical energy as defined in Wis Stats. 13.48 (2) (h) 1 g. The definition of "Solar Energy System" does not include solar powered low level light fixtures that are ground or wall mounted, solar powered electric fences, roof mounted solar energy panels of a non-reflective material or any other solar powered units that are designed primarily for personal, private use and are less than seventy-five (75) square feet in size.

Mobile and radio broadcast services means antennas, towers and other structures necessary to provide mobile and radio broadcast services in the Town. In addition, definitions contained in Wis Stats. 66.0404 are incorporated herein by reference, for the purpose of this ordinance.

COMMUNITY SERVICES/USES

Administrative government center means a place and/or building, or portion thereof, that is used or is intended as a governmental office or administrative facility. The term includes post offices, town halls, and the like.

Community center means a place and/or building, or portion thereof, which is used or is intended for short-term and intermittent meetings or gatherings of ~~nonresident~~ persons that are generally open to the public for purposes of recreation, sharing information, entertainment, social service, or similar activities. The term does not include fraternal, social, or civic clubs, lodges, union halls, and the like.

Educational facility means a place and/or building, or portion thereof, which is used or is intended for use as a preschool, elementary, junior high, or high school.

Instructional facility means any place and/or building, or portion thereof, excluding educational facilities, which is used or is intended to offer instruction, training, or tutelage in such areas as gymnastics, dance, art, music, martial arts, and the like.

Instructional facility-agriculture means any place and/or building, or portion thereof, excluding educational facilities, which is used or is intended to offer instruction, training and research for farming and/or agricultural related purposes only.

Worship facility means a place and/or building, or portion thereof that is used or is intended as a place where persons regularly assemble for religious worship and associated activities. The term includes sanctuaries, chapels, cathedrals, churches, mosques, synagogues, and temples and other onsite accessory buildings such as parsonages, friaries, convents, fellowship halls, Sunday schools, and rectories. The term does not include day care centers, community recreation facilities, dormitories, private educational facilities, emergency shelters, health care facilities, and the like.

RECREATION / SPORTS / ENTERTAINMENT

Golf course/driving range means a place, whether organized for profit or not, that is used or is intended for playing golf.

Indoor entertainment means a place and/or building, or portion thereof, that is used or is intended for indoor entertainment of all types. The term includes theaters, movie theaters, dance halls, theaters for performing arts, and the like.

Indoor sports and recreation means a place and/or building, or portion thereof, that is used or is intended for indoor recreation ~~of all types~~. The term includes bowling alleys, skating rinks, billiard and pool halls, arcades, athletic clubs, indoor racquetball courts, athletic training centers, weight loss centers, and the like. **The term does not include uses referred to as gentlemen clubs or adult establishments.**

Miniature golf means a place and/or building, or portion thereof that is used or is intended for playing miniature golf.

Outdoor entertainment means a place and/or building, or portion thereof, which is used or is intended for outdoor, spectator-type uses or events. The term includes racetracks, motocross courses, sports arenas, and the like.

Outdoor/indoor shooting range means a place and/or building, or portion thereof, that is used or is intended for target practice, including archery, pistol, rifle, and shotgun shooting. The term includes trap and skeet clubs and target ranges, and the like.

Park means a place and/or building, or portion thereof, that is used or is intended for recreational activities for use by the general public or by a homeowners' association.

Stable, commercial means a place and/or building, or portion thereof, that is used or is intended for keeping eight (8) or more horses which are kept for boarding or hire on trail rides. The term includes commercial stables, riding clubs, and riding instruction facilities.

Trail a linear corridor designed to accommodate recreational activities such as biking, hiking, jogging, skating, horseback riding, snowmobiling, and the like. The term includes trailhead facilities including parking, picnicking, bathroom facilities, and the like.

ACCESSORY USES

Accessory building means any building that is clearly incidental and subordinate to and customarily found with a principal building or use. All new accessory buildings must adhere to front, rear and side yard set-back requirements. Newly constructed accessory buildings shall be at least 10 feet further from the road right of way than the residential structure. For residences located 300 feet or more from the road ROW, the Town Board has the ability to adjust or waive these standards based on appearance, aesthetic or safety considerations.

Accessory buildings, commercial means accessory buildings that are customarily found with commercial uses. **Accessory buildings, residential** means accessory buildings that are customarily found with residential uses. The term includes garages, sheds, barns, workshops for non-commercial purposes, and the like.

Accessory structure means any man-made structure that does not constitute a principal building or accessory building. The term includes fences, non-commercial antennas, and decks that are not attached to an accessory or principal building.

Boathouse means a structure that is used to exclusively house watercraft and related equipment.

Home occupation means any occupation, profession, enterprise, or similar activity that is conducted on the premises of a single-family residence as an accessory use. The term does not include hobbies or similar non-commercial activities or any activity that would meet the definition of heavy industry. The term also does not supersede agricultural related uses as defined by Chapter 14.

Home occupation, Type I means a home occupation with no more than one (1) non-resident employee that would be compatible in size and scope in a rural residential setting or in a medium density residential setting as defined by performance standards herein described or as may be adopted.

Home occupation, Type II means a home occupation with no more than three (3) non-resident employees that would be compatible in size and scope in a rural residential setting as defined by performance standards herein described or as may be adopted.

Home occupation, Type III - Cottage Industry means a manufacturing, construction, or service enterprise owned and operated by a resident of the principal dwelling on a lot, but which is not engaged in retail sales, product distribution, or services on the premises, and which does not employ more than five (5) persons on site not residing on the premises.

Home Occupation, Type IV means a home occupation with no more than one (1) non-resident employee that would be compatible in size and scope in a rural residential setting or in a medium density residential setting as defined by performance standards herein described or as may be adopted.

Kennel, private means a place where dogs are kept and not classified as a commercial kennel.

Stable, private means a place where horses are kept for private use and not classified as a commercial stable.

Temporary dwelling means a manufactured home that is used as a dwelling for no more than one (1) year, and then only while a permanent dwelling is under construction.

Chapter 14
Town of Nepeuskun Ordinance # 2012-001
Farmland Preservation Ordinance
A-1 Farmland Preservation Regulations
.....

~~Whereas, the State of Wisconsin has recently modified its "Farmland Preservation" program, and~~

~~Whereas, the Town of Nepeuskun under their Zoning Code did reserve the right to create an A-1 Agricultural Farmland Preservation District/Classification.~~

~~Now Therefore, The Town Board on the recommendation of the Planning Commission and after holding a public hearing on the proposed creation of a Farmland Preservation Ordinance does hereby ordain as follows:~~

- ~~1. Section 5.4.2 is amended to remove reference to "Reserved" in the designation of the A-1 district/classification.~~
- ~~2. Section 5.4.2.3 is created to read A-1 Farmland Preservation~~ **Purpose.** The purpose of the A-1 Agricultural District is qualify lands in the district or under this classification for eligibility under the Wisconsin State Farmland Preservation program and to conserve productive farming areas, assure a proper economic and physical environment for continued agricultural use of land, maintain an open rural character; assure compatible types and densities of development on lands that are useable for agricultural pursuits; minimize other land uses incompatible with farming, and prevent the uncontrolled spread of residential development. *Intention of the Zone is to permit usual acceptable farming and farming practices which may generate dust, odor, smoke, noise, and vibration; during growing seasons machinery may be operated at other than daylight hours; certain generally acceptable farming operations may involve the use and spraying of herbicides or pesticides; and acceptable practices in keeping animals may involve odors or noises. Accordingly, any person or entity residing or working in an Agricultural Zone should anticipate these types of occurrences and recognize that such are the by-product of zoning an area in the Town where agricultural endeavors are encouraged to thrive.*
- ~~3. Chapter 5 - Article 7 shall be created to read:~~

Article 7

A. DEFINITIONS. In this farmland preservation ordinance:

- (1)** "Accessory use" means any of the following land uses on a *farm*:
 - (a) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use. This may include, for example:
 1. A facility used to store or process raw agricultural commodities, all of which are produced on the farm.
 2. A facility used to keep livestock on the farm.
 3. A facility used to store or process inputs primarily for agricultural uses on the farm.
 4. A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.
 5. A wind turbine or solar energy facility that collects wind or solar energy on the farm and uses or transforms it to provide energy primarily for use on the farm.
 6. A manure digester, bio-fuel facility, or other facility that produces energy primarily from materials grown or produced on the farm, primarily for use on the farm.
 7. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.
 - (b) An activity or business operation that is an integral part of or incidental to an agricultural use.
 - (c) A farm residence, including normal residential accessories.
 - (d) A business, activity, or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 1. It is conducted on a farm by an owner or operator of that farm.
 2. It requires no buildings, structures, or improvements other than those described in par. (a) or (c).
 3. It employs no more than 4 full-time employees at any given time.
 4. It does not impair or limit the current or future agricultural use of the farm or other protected farmland in any significant way or substantive part.
- (2)** "Agricultural use" means any of the following activities conducted for the purpose of producing an income or livelihood:
 - (a) Crop or forage production.
 - (b) Keeping livestock.
 - (c) Beekeeping.
 - (d) Nursery, sod, or Christmas tree production.
 - (e) Floriculture.
 - (f) Aquaculture.
 - (g) Fur farming.

- (h) Forest management.
 - (i) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.
- (3) "Agriculture-related use" means a facility, whether or not located on a farm, that has at least one of the following as a primary and not merely incidental purpose:
- (a) Providing agricultural supplies, agricultural equipment, agricultural inputs or agricultural services directly to farms, including farms in the farmland preservation zoning district.
 - (b) Storing, processing or handling raw agricultural commodities obtained directly from farms, including farms in the farmland preservation zoning district.
 - (c) Slaughtering livestock, including livestock from farms in the farmland preservation zoning district.
 - (d) Marketing livestock to or from farms, including farms in the farmland preservation zoning district.
 - (e) Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation zoning district.
- ~~(4) "Base farm tract" means all land, whether one parcel or 2 or more contiguous parcels, which is in a farmland preservation zoning district and is part of a single farm regardless of any subsequent changes in the size of the farm. The Town of Nepeuskun has established base farm tracts as of 12-21-2010 that are of this same definition.~~
- (5) "Common ownership" means ownership by the same person or persons, or by persons that are all wholly owned by the same person or persons. "Common ownership" includes joint tenancy and tenancy in common. Solely for purposes of this definition, a parcel owned by one member of a married couple is deemed to be owned by the married couple. Land is deemed to be under "common ownership," for purposes of this ordinance, if it is all owned by the same individual, married couple, joint tenants, tenants in common, corporation, LLC, partnership, estate or trust. If land parcels are owned by separate legal entities, but those legal entities are all wholly owned by exactly the same person or persons, those land parcels are deemed to be under "common ownership" for purposes of this ordinance but not necessarily for other purposes.
- (6) "Contiguous" means adjacent to or sharing a common boundary. "Contiguous" land includes land that is separated only by a river, stream, section line, public road, private road, railroad, pipeline, transmission line, or transportation or transmission right-of-way. Parcels are not "contiguous" if they meet only at a single point.
- (7) "Farm" means all land under common ownership that is primarily devoted to agricultural use. For purposes of this definition, land is deemed to be primarily devoted to agricultural use if any of the following apply:
- (a) The land produces at least \$6,000 in annual gross farm revenues to its owner or renter, regardless of whether a majority of the land area is in agricultural use.
 - (b) A majority of the land area is in agricultural use.
- ~~(8) "Farm acreage" means, for purposes of section D (2) the combined total acreage of all of the following in the "base farm tract:"~~
- ~~(a) Farms.~~
 - ~~(b) Open space parcels of more than 10 acres.~~
- (9) "Farm residence" means any of the following structures located on a farm:
- (a) A single-family or duplex (two-family) residence that is the only residential structure on the farm.
 - (b) A single-family or duplex (two-family) residence that is occupied by any of the following:
 - 1. An owner or operator of the farm.
 - 2. A parent or child of an owner or operator of the farm
 - 3. An individual who earns more than 50 percent of his or her gross income from the farm.
 - (c) A migrant labor camp that is certified under s. 103.92, Wis. Stats.
- (10) "Gross farm revenue" means gross receipts from agricultural uses, less the cost or other basis of livestock or other agricultural items purchased for resale which are sold or otherwise disposed of during the taxable year. "Gross farm revenue" includes receipts accruing to a renter but does not include rent paid to the land owner.
- (11) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, llamas, ostrich/emus, and farm-raised fish.
- (12) "Nonfarm residence" means any residence other than a farm residence.
- ~~(13) "Nonfarm residential acreage" means, for purposes of section D(2), the combined total acreage of all parcels on which nonfarm residences are located, all parcels on which the Town of Nepeuskun has approved nonfarm residences, all parcels of 10 acres or less that do not qualify as farms, and the parcel to which the conditional use permit application pertains. If a residence is located or proposed to be located on an undivided farm, but does not qualify as a farm residence, the size of the residential parcel is deemed to be 10 acres.~~

- (14) "Open space parcel" means a parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.
- (15) "Person" means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.
- (16) "Prime farmland" means all of the following:
 - (a) An area with a class I or class II land capability classification as identified by the Natural Resources Conservation Service of the United States Department of Agriculture.
 - (b) Land, other than land described in par. (a), which is identified as ~~prime~~ farmland in the county's certified farmland preservation plan.
- (17) "Prior nonconforming use" means a land use that does not comply with this farmland preservation zoning ordinance, but which lawfully existed prior to the application of this ordinance.
- (18) "Protected farmland" means land that is any of the following:
 - (a) Located in a farmland preservation zoning district certified under ch. 91, Wis. Stats.
 - (b) Covered by a farmland preservation agreement under ch. 91, Wis. Stats.
 - (c) Covered by an agricultural conservation easement under s. 93.73, Wis. Stats.
 - (d) Otherwise legally protected from nonagricultural development.

B. LAND USE IN FARMLAND PRESERVATION ZONING DISTRICT; GENERAL. Only the following land uses are allowed in a farmland preservation zoning district:

- (1) Uses allowed under section C without a conditional use permit.
- (2) Uses allowed under section D with a conditional use permit.
- (3) Prior nonconforming uses, subject to 59.69(10) Wis. Stats.

C. PERMITTED USES. The following land uses are allowed without a conditional use permit in a farmland preservation zoning district:

- (1) Agricultural uses and accessory uses on farms (~~including farm residences~~), except that a conditional use permit is required under section D(3) for the following agricultural uses and accessory uses on farms:
 - (a) A new or expanded facility used to keep cattle, swine, poultry, sheep, or goats, if that facility will have more than 500 animal units ~~if the proposed facility meets the standards, procedures and application prescribed in ch. ATCP 51, Wis. Admin. Code, Wis. Stats 93.90 and NR 243.~~
 - (b) ~~On-farm riding stables and boarding facilities, farmstead food processing facilities, and farmstead retail outlets.~~ See Chapter 5, Exhibit 2, Land Uses by District for other conditional use exceptions.
- (2) Non-farm residential structures built prior to January 1, 2014
- (3) Undeveloped natural resource and open space areas.
- (4) Transportation, utility, communication, or other uses that are required under state or federal law to be located in a specific place, or that are authorized to be located in a specific place under a state or federal law that preempts the requirement of a conditional use permit for that use.

D. CONDITIONAL USES.

- (1) **General.**
 - (a) The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed land use identified in this section if the proposed land use meets applicable conditions under this section.
 - (b) Before issuing a conditional use permit under par. (a), the Town Board on recommendation of the Plan Commission shall determine in writing that the proposed use meets applicable conditions under this section. The Town Board on recommendation of the Plan Commission may issue the permit subject to any additional conditions which the Town Board on recommendation of the Plan Commission deems necessary to carry out the purposes of this ordinance.

~~(c) On-farm riding stables and boarding facilities, farmstead food processing facilities, and farmstead retail outlets. See Chapter 5, Exhibit 2, Land Uses by District for other conditional use exceptions.~~

~~(2) **Nonfarm residences.** The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed nonfarm residence if built after January 1, 2014 if all of the conditions of the Town's ordinance for the granting of a permit for a nonfarm residence are met. (Sec.5.5.1). In every case to be eligible:~~

~~(a) Neither the nonfarm residence, nor the parcel on which the nonfarm residence is located can result in the conversion of prime farmland, or cropland other than a woodlot, from agricultural use if there is a reasonable alternative available to the permit applicant for location of the residence; nor can there be a significant impairment or limitation on the current or future agricultural use of any other protected farmland.~~

~~(b) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located cannot be greater than 1 to 20 after the residence is constructed or converted to a non-farm residence.~~

~~(c) There cannot be more than 5 dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.~~

(3) Agricultural and accessory uses on farms. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for any of the following agricultural uses or accessory uses for which a permit is required under section C(1):

(a) A new or expanded facility that will be used to keep cattle, swine, poultry, sheep or goats, and that will have more than 500 animal units, if the proposed facility meets the standards prescribed in ch. ATCP 51, Wis. Adm. Code.

~~(b) On-farm riding stables and boarding facilities, farmstead food processing facilities, and farmstead retail outlets. Also see Chapters 5, Exhibit 2, Land Use by District for other conditional use exceptions.~~

(4) Agriculture-related uses. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for an agriculture-related use if all of the following apply:

(a) Unless required by State or Federal, the use supports agricultural uses in the farmland preservation zoning district in direct and significant ways and is more suited to a farmland preservation zoning district than to an industrial or commercial zoning district.

(b) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.

(c) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.

(d) The use is reasonably designed to minimize conversion of land, at and around the use site, from agricultural use or open space use.

(e) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.

(f) Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(5) Compatible infrastructure.

(a) **Unless required by State or Federal law,** the Town Board on recommendation of the Plan Commission may issue a conditional use permit for any of the following uses if that use meets applicable conditions under par. (b):

1. Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.

2. Communication uses, including transmission lines, cell towers, antennae, and broadcast towers.

3. Oil, gas and other pipelines.

4. Electrical transmission lines.

5. Wind turbines (when not an accessory use on a farm which is permitted).
6. Solar power generation facilities (when not an accessory use on a farm which is permitted).
7. Drainage facilities.

(b) The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a proposed use under par. (a) if all of the following apply:

1. The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
2. The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
3. The use is reasonably designed to minimize conversion of land, at and around the site of the use, from agricultural use or open space use.
4. The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
5. Construction damage to land remaining in agricultural use is minimized and repaired to the extent feasible.

(6) Government and nonprofit community uses. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a government use, or for an institutional, religious or community use, if the Town Board on recommendation of the Plan Commission determines that all of the following apply:

- (a) The use and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (b) The use and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations, or are specifically approved under state or federal law.
- (c) The use is reasonably designed to minimize the conversion of land, at and around the site of the use, from agricultural use or open space use.
- (d) The use does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (e) Construction damage to land remaining in agricultural use is minimized and repaired, to the extent feasible.

(7) Nonmetallic mineral extraction. The Town Board on recommendation of the Plan Commission may issue a conditional use permit for a nonmetallic mineral extraction operation if all of the following apply:

- (a) The operation complies with all of the following:
 1. Subchapter I of ch. 295, Wis. Stats., and rules promulgated under that subchapter.
 2. Applicable provisions of the Town of Nepeuskun Ordinances.
 3. Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.
- (b) The operation and its location in the farmland preservation zoning district are consistent with the purposes of the farmland preservation zoning district.
- (c) The operation and its location in the farmland preservation zoning district are reasonable and appropriate, considering alternative locations outside the farmland preservation zoning district, or are specifically approved under state or federal law.
- (d) The operation is reasonably designed to minimize the conversion of land around the extraction site from agricultural use or open space use.

- (e) The operation does not substantially impair or limit the current or future agricultural use of other protected farmland.
- (f) The conditional use permit requires the landowner to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner to restore the land to a condition suitable for agricultural use, according to a written restoration plan included with the permit.

E. REZONING LAND OUT OF A FARMLAND PRESERVATION ZONING DISTRICT.

(1) Except as provided in sub. (2), the Town Board on recommendation of the Plan Commission may not rezone land out of a farmland preservation zoning district unless the Town Board on recommendation of the Plan Commission finds all of the following in writing, after public hearing, as part of the official record of rezoning:

- (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district. *Rezone decisions and actions shall follow DATCP guidelines if available. Note: No rezone is required for residences built prior to January 1, 2014.*
- (b) The rezoning is consistent with any comprehensive plan, adopted by the Town Board on recommendation of the Plan Commission which is in effect at the time of the rezoning.
- (c) The rezoning is substantially consistent with the Winnebago County farmland preservation plan, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning. The rezoning will not substantially impair or limit current or future agricultural use of other protected farmland.
- (d) *The rezoning will not substantially impair or limit current or future agricultural use surrounding parcels of land that are zoned for or legally restricted to agricultural use.*

(2) Subsection (1) does not apply to any of the following:

- (a) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under ch. 91, Wis. Stats.
- (b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Winnebago County farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.

End of Restated Ordinance

Attestation of Action ~~regarding Ordinance 2012-004~~

Description	Date
Adopted	January 21, 2013
Amended	August 6, 2015
Amended	_____, 2021

.....
End of Chapter