

Chilton Zoning Focus

Zoning or No Zoning? Issues for Residents to Consider

Zoning Overview

Zoning is a practice that regulates the allowable uses of land, lot size and the location, height and bulk of structures within specified zones or districts in a governmental jurisdiction. According to the American Planning Association, there are four main reasons that communities decide to utilize zoning:

1. To separate potentially conflicting land uses;
2. To ensure new development is located according to a community's comprehensive plan, land use plan, or other local plan which is linked directly with the community's vision, values, and goals;
3. To promote quality development that will not harm the health, safety and welfare of the public; and
4. To balance individual property rights with the rights of the general public to have a healthy, safe, and orderly living environment.

When a community decides that zoning is an appropriate form of land use regulation, a zoning ordinance is developed and adopted. In addition to specifying and designating appropriate land uses within different zoning districts (e.g. general agriculture, farmland preservation, residential, industrial), a zoning ordinance also specifies "*conditional*" uses that can be allowed with restrictions or special conditions after a public hearing process.

Why is the Town of Chilton considering zoning?

The Town of Chilton worked with Calumet County to develop the County's Comprehensive Plan, including the town's land use map, showing what land uses are planned for the Town of Chilton. Town officials also cooperated with Calumet County to develop a Farmland Preservation Plan and map (required by state law) that shows the farmlands to be preserved. These plans and maps, as adopted, identify the town's vision for:

- Effectively managing the rate of nonagricultural growth in the town to preserve land for agriculture;
- Promoting more efficient growth patterns; and
- Minimizing the public costs of non-agricultural growth in the town.

In order to implement the town's future visions, town residents voted at the 2010 Annual Meeting to authorize development of a town zoning ordinance.

Public Info Meeting
on the proposed ordinance
7:30 pm, Mon, August 30
Town of Chilton Town Hall
N4695 County BB
Chilton

Zoning

Advantages

- Offers standard, commonly accepted regulations for implementing the community's desired future vision in an organized manner
- Protects individual and community property values by limiting uses, activities, and physical outcomes that might undermine a given zone's uses
- May allow a community to direct development so that it minimizes public costs
- Can protect a community's quality of life

Disadvantages

- Concerns about new regulations where few or none currently exist
- Can create unnecessary trade-offs between natural resource preservation and development

An Overview of Chilton's Proposed Zoning Ordinance

A zoning ordinance can be difficult to use, particularly when a property owner is trying to determine how the regulations will affect personal property. This description of the five major sections of the Town's proposed zoning ordinance is intended to give property owners an overall understanding of the ordinance. Contact the Town of Chilton for more information on how the ordinance applies to a specific landowner's situation.

Section 24.100 Statutory Authority and Purpose

The important part of this section is 24.102 which states the Town's purpose in adopting a zoning ordinance.

Section 24.200 Definitions

A zoning ordinance contains many words and phrases that are specific to the regulation of land uses. This section clarifies what these words and phrases mean.

Section 24.300 Zoning Districts/ Maps

The zoning districts in the Town of Chilton proposed zoning ordinance are based on the Town's Comprehensive Plan, which outlines what type of growth the Town expects in the future, where that growth will occur, and on the existing land uses in the town. The Town expects that most of the town will continue to be farmed, with relatively few homes, businesses, and public uses scattered throughout the town.

The proposed zoning ordinance has two zoning districts – **Farmland Preservation and General Agriculture**.

The land uses in the Farmland Preservation District are limited to those allowed by Wisconsin's Farmland Preservation Program. Land uses in the General Agriculture District include those allowed in the Farmland Preservation District plus other land

uses not allowed in the Farmland Preservation District.

Property owners should look at the proposed zoning map and see which zoning district their property is in. Next, they should check the list of uses for that zoning district to see if their use of their property is a permitted use or a conditional use. If it is a permitted use, for example crop production or beekeeping in a Farmland Preservation Zone, or a home business in a General Agriculture zone, they will be able to continue to use their property as they have been. If it is a conditional use, (for example, a day care in a General Agriculture zone or a non-farm residential cluster in a Farmland Preservation area) they will be able to continue to use the land in that way until they want to make a change to the intended use. The change **may** result in the Town requiring them to apply for a conditional use permit (see Section 24.412).

If a current use for a particular property does not appear in the draft zoning code listed, a property owner should ask the Town Zoning Advisory Committee to determine if it is similar to another permitted or conditional use listed in the zoning district. If it is, they will be able to continue to use the property. If it is not, the Town will decide on adding this use as a permitted or conditional use. If it decides not to add their use, the use will be a nonconforming use (see Section 24.413 and the explanation of nonconforming uses, structures, and lots on page 3.)

Section 24.400 General Provisions

24.401 through 24.405

The important part of this subsection is that Calumet County has ordinances that also apply to the development of land in the Town of Chilton. When a property owner

starts thinking about developing his/her property or adding a new building or structure, he/she must make sure to contact the County to determine if any of the County's ordinances will apply to his/her property. In particular, property owners should be aware of the County's regulations for development that is proposed to occur near a wetland, stream, river, pond or lake.

24.410 through 24.419

The requirements for a specific zoning district are listed in Section 24.300. This sub-section describes the requirements that are general in nature. The process for applying for a conditional use permit is included here. Also included is what a property owner can and can't do if a use or structure is nonconforming.

24.420 through 24.499

Some uses are required to meet standards that are above and beyond those listed in a zoning district. This sub-section includes detailed requirements for signs, telecommunication towers and antennas, and nonmetallic mining. Adult-oriented establishments and wind energy facilities are also subject to separate ordinances.

Section 24.500 Administration and Enforcement

This section describes who will administer and enforce the zoning ordinance. It provides for an appeal process that a property owner can use if they do not agree with a decision made by the Town in administering and enforcing the ordinance. It also describes how the ordinance can be amended, either by changing the zoning map or amending the text of the ordinance.

How Does a Zoning Ordinance Get Adopted and Administered?

The decision to establish a zoning ordinance includes several steps involving public input. Since Fall of 2008, the Town Board has worked with the firm, Martenson & Eisele (M & E), on a number of zoning-related projects. Since April 2010, M & E has assisted the town with preparing a draft zoning ordinance. As of August, 2010, the draft ordinance is completed.

Following a public hearing and, assuming a favorable recommendation by the Plan Commission, the draft ordinance will be considered for adoption by the Town Board. After adoption by the Town Board, the zoning ordinance must be sent to the County for approval.

County Involvement in the Town

Wisconsin law requires the County to adopt and enforce shoreland zoning regulations, which it does through its zoning ordinance (Ch. 82 Calumet County Code of Ordinances). In addition, the County also administers and enforces a land division ordinance (Ch 62), a floodplain zoning ordinance (Ch 51), and stormwater and erosion control ordinances (Ch 10), along with a few additional ordinances. All of these ordinances are administered in the town as applicable, regardless of whether the town adopts a zoning ordinance.

If the town adopts a zoning ordinance, that ordinance and the accompanying maps need County approval prior to going into effect.

Towns with a town zoning ordinance are required by state law to have:

- a Zoning Administrator to issue permits and accept applications;
- a 5 or 7-member Plan Commission, the members of which are appointed for 3-year terms by the Town Chairman; and
- a 5 member (plus 2 alternates) Zoning Board of Appeals.

According to WI law, primary roles of the Plan Commission are

development of the Comprehensive Plan (s.62.23(2) & (3) Wis. Stats), recommending changes in the zoning ordinance to the Town Board, and reviewing certain types of development as required by state law (s62.23(5) Wis. Stats). Plan Commissions may also be given authority to address other issues such as conditional uses or subdivision ordinances. Roles of the Zoning Board of Appeals are to handle variances to the zoning ordinance, administrative appeals, and conditional uses, if assigned.

Nonconforming Uses, Structures, and Lots

When a new zoning ordinance is adopted, there will be situations where an existing land use, building or lot does not conform to the requirements of the new zoning ordinance. With the proposed zoning ordinance, the town has attempted to write the ordinance in a way that recognizes most current uses as being in compliance, or conforming, with the ordinance. Section 24.310 of the ordinance contains the details.

Nonconforming Use: A nonconforming use can continue as if it were a permitted or conditional use except that the use cannot be expanded. If you stop using the property for the nonconforming use for a period of twelve (12) consecutive months, any future use of your property must conform to the requirements of the zoning district.

Nonconforming Structure: One of the requirements for a zoning district is that buildings must be a certain distance from a property line. If a building is closer to the property line than allowed in the zoning district, the building will be a nonconforming structure. While the zoning ordinance restricts how much a nonconforming structure can be expanded or altered, it can be rebuilt if it is destroyed or damaged, for example, by wind or fire.

Nonconforming Use of a Structure: When a building meets the requirements of the zoning district (i.e. it is a conforming structure), but the use of the building is a nonconforming use, the zoning ordinance limits what can be done with the building. It cannot be expanded and if it is damaged or destroyed beyond 50% of its fair market value, it cannot be rebuilt.

Nonconforming Lot: Nonconforming lots that were recorded lots as of the date the zoning ordinance was adopted can be built on even if they do not meet the area or width requirements. The building must, however, meet requirements for the distance between the building and the property line.

Density Standards

The new zoning ordinance introduces another new concept that helps protect town farmland from being developed for non-agricultural uses — density standards. In a rural community, density standards are a way of limiting the number of residences that can be built on a parcel of farmland.

There are two density standards in the proposed Chilton zoning ordinance – a Town of Chilton density standard and a State of Wisconsin Farmland Preservation density standard. According to the proposed ordinance, on any particular parcel of land, the Town will enforce the more restrictive of the two standards.

The *Town of Chilton density standard* is one dwelling unit per 20 acres and applies to the entire town. The standard is applied to all parcels on record with the Calumet County Register of Deeds office as of the date of the adoption of the proposed zoning ordinance. These parcels are called “parent parcels”. Following are three examples of how the Town of Chilton density standard will work:

- A parent parcel under 40 acres can be divided into two or more lots but only one house can be built.
- A parent parcel between 40 and 59.99 acres can be divided into two or more lots but only two lots can have a house.
- A parent parcel between 60 and 79.99 acres can be divided into two or more lots but only three lots can have a house.

The *Farmland Preservation density standard* is required by Wisconsin’s Farmland Preservation Program because the town’s proposed zoning ordinance creates a farmland preservation district. It applies to the parcels that make up a base farm tract in the Farmland Preservation zoning district. A base farm tract is all of the land, whether one parcel or two or more parcels, that is in the Farmland Preservation Zoning District and that is part of a single farm. With this standard, the owner of a base farm tract cannot create more than four lots for use as a nonfarm residence. In addition, the ratio of the acreage of the nonfarm residence lots to the total acreage of the base farm tract cannot be greater than 1 to 20.

Following are two examples of how the Farmland Preservation Density standard will work:

- If a base farm tract is 80 acres, the farmer can create up to four lots that total 3.81 acres or less.
- If a base farm tract is 160 acres, the farmer can create up to four lots that total 7.62 acres or less.

Property owners with questions about the ordinance are encouraged to contact the town to become familiar with how the proposed density standards would apply to their own land ownership situations.

Attend the meeting at **7:30pm, Monday, August 30** at Chilton Town Hall to learn more about the Town of Chilton proposed zoning ordinance. Obtain a copy of the proposed zoning ordinance from the town’s website at <http://www.townofchilton.com/> or pick up a printed copy at the Town Hall.

Sources: (1) American Planning Association Press, *Small Town Planning Handbook* (2) Bartz, Jonathan, consultant with Martenson & Eisele

Mary Kohrell, Calumet County Community Resource Development Educator

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or 920-989-2700 (Appleton area)
Fax: 920-849-1614



We’re on the Web

<http://calumet.uwex.edu>

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