

This document provides a brief explanation of the ordinance revision suggestions included on the “Summary Table of Potential Ordinance Amendment Ideas”.

As with the Summary Table, the explanations are numbered and grouped into four categories – past ordinance amendments, staff recommendations, comprehensive plan recommendations, and others submitted by stakeholder groups and individuals.

## **PAST ORDINANCE AMENDMENTS**

**This category includes several previously attempted / recommended ordinance amendments. In most cases, a draft amendment exists and could be updated for current use.**

**NOTE: Number corresponds to OA summary table (items 1-3)**

### **1. Ordinance Amendment Revising Commercial Zoning Districts**

This amendment was developed by the Subcommittee on Commercial Zoning in 2001 following over a year of work. The amendment was never introduced. A summary report is available for review upon request.

### **2. Ordinance Amendment #22, 2003-04, Regarding Residences in the Exclusive Agricultural District**

This amendment was introduced in October 2003 by Supervisor Anderson. The amendment applies to sec. 10.123(2)(b) and 10.123(2)(c) and deletes a residence for a farm owner or operator as a permitted use but maintains the conforming status of any residence lawfully in existence as of the date of the amendment. As a conforming structure, such a residence could be repaired or replaced.

A substitute amendment was also introduced that maintains the central purpose of OA #22, and provides additional clarification regarding the treatment of existing primary and secondary residences.

### **3. Ordinance Amendment #26, 2005-06, Regarding TDR (Transfer of Development Rights) Zoning Districts**

Substitute #1 to this ordinance amendment was approved by the county board in late December 2007, and signed by the county executive in January 2008, but subsequently denied by a majority of towns. The ordinance amendment would establish overlay zoning districts for TDR “sending” and “receiving” areas which could be utilized to facilitate town TDR programs. The amendment refers to adopted town plans for specific implementation details, such as location of sending / receiving areas, density provisions, and transfer ratios.

The amendment would *not* establish a county-wide TDR program, but rather simply provide a zoning framework for local TDR programs.

# STAFF RECOMMENDATIONS

This category includes county zoning and planning staff recommendations.

**NOTE: Number corresponds to OA summary table (items 4-12)**

- 4. Delete section 10.16(3)(b) that allows consolidation of lots through a deed restriction process. All consolidation should be through a certified survey map.** Section 10.16(3)(b) allows for the combination of separate parcels under common ownership, each of which do not individually meet the minimum area or dimensional requirements of the zoning district, to be combined by deed restriction for use as one zoning lot. This process has proven cumbersome from a staff perspective, and creates ambiguity in a property's legal description and title history. Combining multiple lots under common ownership for use as a single zoning lot should be accomplished by recording a Certified Survey Map.
- 5. Update various definitions to clarify vague references and to accurately reflect modern land uses.** Various definitions included in the ordinance are in need of updating to clarify vague or incomplete definitions and to more accurately describe modern land uses. Staff will compile a list of existing problematic definitions, as well as undefined terms that should be included.
- 6. Redesign sign ordinance to reflect today's sign industry standards in a more user-friendly format.** The sign ordinance is currently organized in a cumbersome fashion, and does not reflect modern day standards. Staff can provide examples of more functional sign ordinance format, content, and organization.
- 7. Update and clarify section 10.16(3)(a) relating to substandard parcels.** Section 10.16(3)(a) provides that, "*Any lot or parcel shown on a recorded subdivision, plat or assessor's plat, or conveyance recorded in the office of the Register of Deeds for Dane County prior to the adoption of this ordinance, may be used as a building site...even though such lot or parcel does not conform to the minimum frontage or area requirements of the district in which it is located...*". This provision should be updated to include the administrative procedures necessary to establish a parcel's status (e.g., parcel status determination). It should also be revised to cross reference other ordinance requirements that continue to apply to such parcels (shoreland / wetland regs, setbacks, lot coverage standards, etc.).
- 8. Revise accessory structure regulation to eliminate differences between, residential, agricultural, and farm accessory structures.** The regulations relating to accessory structures are poorly designed and confusing. Administration and enforcement of the current regulations for residential, agricultural, and farm accessory structures hinge on being able to adequately determine the use of both existing and proposed structures. Experience demonstrates that use of such structures over time is inherently transitory, resulting in numerous problems for enforcement of the current ordinance. A more uniform approach to regulating accessory structures would provide predictability and consistency in applying the ordinance.

**9. Incorporate administrative requirements for Rezone, Conditional Use Permit, Telecommunication Tower, and Mineral Extraction applications.**

The ordinance should include the administrative requirements for various permit applications. Having such requirements included in the ordinance would ensure predictability and consistency in applications.

**10. Modify the Conditional Use Permit standards for operation of Limited Family Businesses.**

Rural, family based businesses are possible under a CUP for a Limited Family Business (LFB). The standards for operation of a LFB are outlined in sec. 10.192. One of the requirements is that structures used in the business be considered residential accessory buildings and meet all requirements for such structures. This could preclude someone from, say, operating an LFB out of an existing barn.

In addition, consideration should be given to expanding the definition of LFBs to permit flexibility. Often, a specific family related business must rezone to C-1 or C-2 because one or more of the current ordinance standards cannot be met. The zoning is then conditioned on recording of deed restrictions to prohibit the litany of commercial uses permitted under those categories. The ability to apply for a CUP would limit what effectively amounts to spot zoning in these instances. That CUPs can be “sunset” to expire upon sale of a property, is also an attractive option for towns not wishing to allow commercial zoning in a predominantly agricultural area.

**11. Develop ordinance provisions addressing plumbing in accessory structures.**

The zoning ordinance does not include any regulations governing plumbing in accessory buildings. Allowing sinks or restroom facilities in accessory structures can be perfectly appropriate in some circumstances. However, there have been numerous cases in which such structures effectively become secondary residences, guest houses, or rental units. In most cases, these types of accessory uses not permitted under the ordinance. Ordinance provisions regulating plumbing in accessory structures would ensure a more consistent application and enforcement of the zoning code.

**12. Address issues with substantial farm income requirement for "farm residences" in the A-1EX district under 10.123(2)(b)**

A residence for a farm “owner or operator” is a permitted use in the A-1EX district provided that, “substantial income” is derived from the farm operation. This provision of the code continues to be difficult to administer and enforce, and has historically resulted in the approval of homesites that did not satisfy town plan siting or density standards. Rebuilding or renovation of existing farm residences can also be affected by the substantial farm income requirement. Consideration should be given to amending the ordinance to resolve the various issues that arise due to this particular provision.

# ORDINANCE REVISIONS FROM COMPREHENSIVE PLAN

This category includes zoning ordinance revisions recommended in the Dane County comprehensive plan.

**NOTE: Number corresponds to OA summary table (items 13-17)**

**13. Establish maximum lot sizes, with exceptions where necessary due to local land conditions, for all land rezoned out of exclusive agriculture.**

Many town plans already include recommended or required maximum lot sizes for land rezoned out of A-1EX Exclusive Agriculture.

**14. Make it easier to establish agricultural service or other industries that promote appropriate, sustainable rural and farm economic development.**

Examples include: biotech industries, value-added enterprises, agricultural tourism, forestry and sustainable timber harvest, agricultural supply and product distributors, ethanol plants, soybean and other processing plants, implement dealers, and mixed use developments involving traditional agricultural and retail / processing uses.

Several of these are addressed in the proposed revisions to the commercial zoning districts.

**15. Allow for and promote reduced lot sizes, setbacks, road widths, zero lot lines, and other regulations that decrease housing costs, as defined in the BUILD Traditional Neighborhood Design draft ordinance, where appropriate.**

This could be termed a “hamlet overlay district” and utilized to promote reinvestment in existing housing stock or infill development in unincorporated hamlets.

**16. Revise commercial districts to support mixed residential/commercial uses and neighborhood-scale small business uses.**

**17. Improve standards and adopt objective criteria for siting, operation and expansion of mineral extraction sites.**

A good deal of work was done on this issue by the former subcommittee on Mineral Extraction. Please see the attached memo and accompanying materials from Senior Planner, Pam Andros outlining the work of the former subcommittee.

# OTHER ORDINANCE AMENDMENTS

This category includes recommendations from various individuals and stakeholder groups.

**NOTE: Number corresponds to OA summary table (items 18-29)**

## Dane County Towns Association Recommendations

### **18. Develop an ordinance regulating wind energy systems**

Recent proposals to build wind power turbines in the towns of Springfield and Oregon has exposed a deficiency in the county zoning code. Under the current code, proposals associated with a utility company are essentially unregulated – the ordinance permits “utility services” in virtually every zoning district. Dane County should develop an ordinance regulating wind energy systems so we are well prepared to handle future proposals. Such an ordinance could provide a predictable process for applicants while protecting the interests of property owners and towns.

### **19. Agricultural Plan Development district**

The county should adopt an Ag Plan Development District to help track splits and ensure compliance with town density provisions. Such a district could be used to site non-farm development in a fashion that preserves farmland, while applying a zoning category to the balance of the farm that indicates it is ag-use only. This could replace the current system of using deed restrictions to track the density status of properties.

### **20. Conservation Subdivision design guidelines / district**

Currently, the zoning ordinance does not include any conservation design guidelines. Some town plans include policies that outline elements of conservation subdivision design. The zoning code should include provisions related to conservation design, including possible density bonuses to promote conformance with the siting and design guidelines.

### **21. Enhanced application of conservancy zoning**

When A-1EX zoning was adopted by towns, it was done in a “blanket” fashion. As a result, many non-agricultural lands were included in the A-1EX district. Consideration should be given to applying conservancy zoning (e.g., the CO-1 district) as a way to more accurately reflect the types of uses occurring on forest and other open space lands.

### **22. Expand LC-1 (Limited Commercial) Zoning**

The LC-1 zone should be expanded to include additional limited commercial uses. Small scale commercial uses can be compatible with neighboring rural residential and agricultural uses and make valuable use of existing farm buildings. Currently, the LC-1 district is limited essentially to contractor-type businesses, such as landscaping. As a result, many small scale commercial uses are often required to rezone to a more intensive commercial zoning district like C-1 or C-2. This situation is problematic in the many towns that do not permit rezoning to B-1, C-1, or C-2, despite the fact that the particular use may be compatible with a rural location and neighboring uses. Expanding the list of permitted and conditional uses in the LC-1 district could help alleviate this problem.

### **23. Review / revise RH-1 animal unit allowances**

The RH-1 category is an important element of rural communities which allow property owners to keep animals without having agricultural land (limit of 1 “animal unit” per acre). The definition of animal unit, however, includes a wide range of animals including cows, hogs, sheep, goats, poultry, mules, and rabbits. Some of the animals included in the definition can have a high impact on the neighborhood, and should possibly be limited to agricultural operations.

### **24. Accommodate assisted, multi-family senior housing**

Under the existing code, multi-family residential uses are permitted (R-4 district). However, there’s no provision in the code for aging in place services (e.g., assisted-living senior housing). A zoning classification should be created that allows the construction of housing and related facilities targeted at persons aged 55 and older. The district would need to include the possibility of on-site meal and health services.

## **Other Public Recommendations**

### **25. Proposed tall structure ordinance**

Private airport owners have expressed concerns over the lack of a tall structure ordinance that would protect take off and landing airspace near private airfields. They propose an ordinance that would govern tall structures near such airfields.

### **26. Revise limitation of outbuilding to 50% of principle dwelling**

The zoning ordinance currently limits the size of accessory buildings to no more than half the size of the principle dwelling in the Rural Homes (RH) zoning district. Many rural property owners like to have workshops or accessory buildings for variety of uses, including storage of items, vehicles and equipment. The 50% limit can negatively impact the continued use or maintenance of old farm buildings once they’re split off onto smaller RH zoned parcels. The issue is further complicated by the code’s differential treatment of residential, agricultural, and farm accessory buildings. Note that the zoning administrator has issued an interpretation acknowledging these issues and indicating that, in lieu of this particular provision, he will enforce the 10% lot coverage limitation in the RH zones. The lot coverage limitation provides for additional flexibility since it is tied to parcel size.

### **27. Revise s. 10.04(b)(1) that requires a principal residence exists or is under construction prior to the construction of accessory buildings**

In the Rural Homes district, accessory buildings cannot be built prior to the construction of the principle residence. This can be problematic for property owners building their own homes, who may like to have an accessory building for the storage of equipment and materials during home construction. Note that the A-2 district permits the construction of accessory buildings prior to construction of the principle residence.

### **28. Revise Conditional Use Permit procedures for certain regional uses (e.g., mineral extraction, cell towers)**

Representatives of the Dane County Aggregate Producers and the cellular communications industry (Verizon Wireless) have appeared before the Chapter 10 task force and expressed concerns over the new CUP approval procedures, which effectively provide towns with veto

authority over conditional uses. Their concern is that towns will use the new authority to severely limit uses that provide regional benefits, like quarries or cell towers. They propose to return to the previous decision making structure for certain conditional uses, whereby town board action was advisory to the county zoning committee.

**29. Create an ordinance regulating the on-farm storage of bulk liquid fertilizer**

The town of Dunkirk plan commission submitted this suggestion. The purpose of such an ordinance would be to ensure the safe handling and storage of bulk liquid fertilizer and to protect the health and safety of neighboring residents. As a county-wide initiative, this could be a difficult idea to implement. Note that the town of Dunkirk is in the process of developing a town-level ordinance on this matter. The county is exploring options to assist the town in implementing and enforcing their ordinance.