

#### 4.4 Agricultural Farmland Preservation District (A-FP)

##### (1) Purpose and Intent of Agricultural Farmland Preservation District (A-FP)

The purpose of the A-FP District is to provide a means of accomplishing the agricultural goals and objectives of the Town's Smart Growth Comprehensive Plan. This district exclusively provides for agricultural uses and uses compatible with agriculture. The intent in having this district is to conserve prime agricultural soils, historically farmed soils, and prevent uncontrolled and uneconomical spread of residential development which results in excessive costs to the community for the provisions of essential public services. Agricultural soils are predominant in this district and are to be very sparsely developed to protect the community's economic base and tax base.

The A-FP District is a "Farmland Preservation District" and meets the requirements to be regarded as Farmland Preservation Zoning for the purposes of the State of Wisconsin Farmland Preservation Program.

##### (2) Permitted Uses

The following uses are permitted in this district:

(A) *Agricultural uses on farms*, consisting of any of the following activities conducted for the purpose of producing an income or livelihood, **except for such agricultural uses for which a conditional use permit is required pursuant to subsection (3) below:**

(i) Crop or forage production.

(ii) Keeping *livestock*.

(iii) Nursery, sod, or Christmas tree production.

(iv) Floriculture.

(v) Aquaculture.

(vi) Forest management.

(vii) Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

(B) *Accessory uses on farms* consisting of any of the following activities, **except for such accessory uses for which a conditional use permit is required pursuant to subsection (3) below:**

(i) A building, structure, or improvement that is an integral part of, or is incidental to, an *agricultural use*, examples of which are set forth in the definition of *accessory use* in Section 15.2 of this Ordinance.

(ii) An activity or business operation that is an integral part of, or incidental to, an *agricultural use*.

(iii) A *farm residence*, including normal residential appurtenances.

(C) Undeveloped natural resource and open space areas.

(D) 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.

(E) *Prior nonconforming uses*, subject to the provisions of Section 60.61(5) Wis. Stats.

### (3) Conditional Uses

The Town Board may issue a conditional use permit for a proposed land use identified in this subsection if the proposed land use meets applicable conditions under this subsection. The Town Board shall follow the procedures described in Section 5 of this Ordinance. In addition, before issuing a conditional use permit hereunder, the Town Board shall determine in writing that the proposed use meets applicable conditions under this subsection. The Town Board may issue the permit subject to any additional conditions which the Town Board deems necessary to carry out the purposes of this Ordinance (with the exception that no additional conditions may be imposed upon a permit relating to a *livestock facility* to the extent that such additional conditions are prohibited by Section 93.90 Wis. Stats. and Chapter ATCP 51 of the Wisconsin Administrative Code).

(A) Agricultural and accessory uses on farms. The Town Board may issue a conditional use permit for any of the following *agricultural uses* or *accessory uses*:

(i) A new or expanded *livestock facility*, if the facility will have more than one (1) animal unit per contiguous acre or more than 500 animal units, whichever is less, if the proposed facility meets the standards prescribed in Chapter ATCP 51, Wis. Adm. Code.

(ii) On-farm riding stables and boarding facilities, provided such use complies with the requirements of Section 91.01(1)(d) Wis. Stats.

(iii) Farmstead food processing facilities, provided such use complies with the requirements of Section 91.01(1)(d) Wis. Stats.

(iv) Farmstead retail outlets, provided such use complies with the requirements of Section 91.01(1)(d) Wis. Stats.

(v) Large on-farm fuel or agrichemical storage facilities, provided such use complies with the requirements of Section 91.01(1)(d) Wis. Stats.

(vi) Fur farms and beekeeping facilities conducted for the purpose of producing an income or livelihood.

(vii) Storage of non-agricultural items in buildings existing at the time of the adoption of this Ordinance, provided such use complies with the requirements of Section 91.01(1)(d) Wis. Stats.

(viii) Agricultural related airport or air strip not open to the public located on a *farm* which is accessory to the farm use.

(ix) A *farm owner/operator business* as defined in Section 15.2 of this Ordinance.

(x) Application of lagoon wastewater or other liquid by-products of animal waste by use of Center Pivot Waste Distribution Systems and Traveling Gun Waste Distribution Systems.

(B) Agriculture-related uses. The Town Board may issue a conditional use permit for an *agriculture-related use* if all of the following apply:

(i) 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.

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

(iii) 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.

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

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

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

For purposes of this subsection, *agriculture-related use* shall include, but not be limited to, the following:

- A grain warehouse, potato warehouse, or other warehouse that stores raw agricultural commodities received from farms.
- A dairy plant that processes or handles milk from farms.
- A meat slaughter establishment.
- A food processing plant that processes raw agricultural commodities received from farms.
- A feed mill or rendering plant that processes raw agricultural commodities or agricultural by-products received directly from farms, or supplies animal feed directly to farms.
- An ethanol plant, bio-diesel plant, communal manure digester, pelletizing plant or other facility that processes raw agricultural commodities, agricultural by-products or agricultural wastes received directly from farms to produce fuel or other products.
- A sawmill or other facility that processes wood or other forest products received directly from farms.
- A facility that provides farm inputs such as fertilizer, pesticides, seed or feed directly to farms.
- A facility that is primarily engaged in sale and servicing of farm vehicles or other farm equipment.
- A facility that is primarily engaged in providing agronomic or veterinary services to farms.
- Other agricultural facilities (other than livestock facilities) that may cause noxious odors or noise in excess of the Performance Standards set forth in Sections 13.6 and 13.7 of this Ordinance.
- Creameries, milk condenseries, cheese factories, and pea vineries that processes or handles milk and other commodities received directly from farms, provided, however, that such use is not located or operated nearer than 500 feet to any dwelling.

(C) Compatible Infrastructure.

(i) The Town Board may issue a conditional use permit for any of the following uses if that use meets applicable conditions under subsection (3)(C)(ii) below:

- (a) Transportation uses, including roads, rail facilities, and agricultural aeronautic facilities.
- (b) Communication uses, including transmission lines, cell towers, antennae and broadcast towers.
- (c) Oil, gas and other pipelines.
- (d) Electrical transmission lines.
- (e) Wind turbines.
- (f) Solar power generation facilities that primarily produce energy not used on the *farm*.
- (g) Drainage facilities.

(ii) The Town Board may issue a conditional use permit for a proposed use under subsection (3)(C)(i) above if 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 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.

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

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

(ii) 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.

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

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

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

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

(i) The operation complies with all of the following:

(a) Subchapter I of Chapter 295, Wis. Stats., and rules promulgated under that subchapter.

(b) Applicable provisions of the Town of Rock Mining Ordinance and the Rock County Non-Metallic Mining Reclamation Ordinance.

(c) Any applicable requirements of the Wisconsin Department of Transportation concerning the restoration of nonmetallic mineral extraction sites.

(ii) The operation and its location in the farmland preservation zoning district are consistent with the purpose of the farmland preservation zoning district.

(iii) 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.

(iv) The operation is reasonably designed to minimize conversion of land around the extraction site, from *agricultural use* or open space use.

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

(vi) The conditional use permit requires the landowner and/or the operator to restore the affected land after the nonmetallic mineral extraction operation is completed. The permit shall require the landowner and/or the operator to restore the land to a condition suitable for *agricultural use*, according to a written restoration plan included with the permit.

(4) Rezoning Land out of Agricultural Farmland Preservation District (A-FP)

(A) Except as provided in subsection (4)(B) below, the Town Board may not rezone land out of the A-FP District unless the Town Board does all of the following prior to the rezoning:

(i) Finds all of the following in writing, after public hearing, as part of the official record of the rezoning:

- (a) The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
- (b) The rezoning is consistent with any comprehensive plan, adopted by the Town Board, which is in effect at the time of the rezoning.
- (c) The rezoning is substantially consistent with the Rock County farmland preservation plan, certified under Chapter 91, Wis. Stats., which is in effect at the time of the rezoning.
- (d) The rezoning will not substantially impair or limit current or future *agricultural use* of other *protected farmland*.

(ii) When addressing the factors in subsection (4)(A)(i) as it relates to rezoning an existing residence and/or accessory structure(s) out of the A-FP District, all of the following must apply:

- (a) The land rezoned out of the A-FP District must be no larger than five (5) acres;
- (b) The land rezoned out of the A-FP District must comply with the standards of the A-3 and R-1 Districts;
- (c) The existing residence and/or accessory structure(s) must have been built on or before February 2, 2015;
- (d) The land remaining in the parcel from which the rezoned land was originally a part must be a minimum of thirty-five (35) acres unless transferred to an adjacent property;
- (e) A restriction is recorded prohibiting construction of residences on thirty-five (35) acres of the parcel from which the rezoned land was originally a part.

***(Amended by Ordinance No. 2018-06)***

(B) Subsection (4)(A) above does not apply to any of the following:

(i) A rezoning that is affirmatively certified by the Wisconsin Department of Agriculture, Trade and Consumer Protection under Chapter 91, Wis. Stats.

(ii) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the Rock County farmland preservation plan map, certified under Chapter 91, Wis. Stats., which is in effect at the time of the rezoning.

(C) By March 1 of each year, the Town Clerk shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection and the County of Rock a report of the number of acres that the Town has rezoned out of the A-FP District during the previous year and a map that clearly shows the location of those areas.

(5) Requirements for Permitted and Conditional Uses

Within the A-FP District the following standards shall apply:

(A) Minimum Lot Size ----- 35 acres

(B) Maximum Building Height -----35 ft. Residential structures  
--- No maximum on other structures.

(C) Minimum Front Yard Setback----- 50 ft.

(D) Minimum Rear Yard Setback----- 50 ft.

(E) Minimum Side Yard;  
Principal Buildings ----- 20 ft. on each side  
Accessory Buildings ----- 10 ft. on each side

(F) Minimum Lot Width at Building Line ----- 100 ft.

(G) All front yard setbacks are also subject to Section 10.1 of this Ordinance for setbacks on Arterial, Collector and Local Roads.

(H) Minimum Floor Area per Family ----- 1,000 sq. ft.

(I) Animals per Acre – One (1) Animal Unit per contiguous acre. Additional Animal Units per acre will require a Conditional Use Permit from the Town Board, after recommendation from the Planning & Zoning Committee.

(J) General Setbacks Applicable to Livestock Structures

(i) Property lines



Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from the property line if the livestock facility will have fewer than 1,000 animal units, and 200 feet from the property line if the livestock facility will have 1,000 or more animal units. The setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the property line.

(ii) Public Road Right-of-Way

Except as provided for waste storage structures, livestock structures must be located a minimum of 100 feet from a public road right-of-way if the livestock facility will have fewer than 1,000 animal units, and 150 feet from a public road right-of-way if the livestock facility will have 1,000 or more animal units. This setback requirement does not prevent the use or expansion of a livestock structure that was located within the setback area prior to the effective date of this setback requirement, except that a structure may not be expanded closer to the public road right-of-way.

(iii) Waste Storage Structure

A new waste storage structure may not be located within 350 feet of a property line, or within 350 feet of the nearest point of any public road right-of-way.

A single new waste storage structure may be constructed closer to the property line or public road if a new structure is:

- located on the same tax parcel as a waste storage structure in existence before May 1, 2006;
- no larger than the existing structure;
- no further than 50 feet from the existing structure;
- no closer to the road or property line than the existing structure.

This setback requirement does not apply to existing waste storage structures, except that an existing structure within 350 feet of a property line may not expand toward that property line or road.

(K) Water Quality and Related Setback Requirements

(i) Navigable waters and wetlands

A livestock facility shall comply with setback and related requirements in any applicable shore land or wetland zoning ordinances enacted within the scope of authority granted under §§ 59.692, 61.351 or 62.231 of the Wisconsin Statutes.

(ii) Flood Plain

A livestock facility shall comply with setback and related requirements in any applicable flood plain zoning ordinance that is enacted within the scope of statutory authority under § 87.30 of the Wisconsin Statutes.

(iii) Wells

All wells located within a livestock facility shall comply with Chapters NR811 and 812 of the Wisconsin Administrative Code. New or substantially altered livestock structures shall be separated from existing wells by the distances required in said Chapters NR811 and 812, regardless of whether the livestock facility operator owns the land in which the wells are located. A livestock structure in existence on May 1, 2006, may be altered as long as the alteration does not reduce the distance between the livestock structure and an existing well.

(L) Single-Family Residences

No single-family residence shall be constructed within 1,000 feet of a livestock structure or building, including animal waste storage areas. This provision shall not apply to dwelling units that are accessory to a livestock facility.