

Article VIII(A) - AGRICULTURAL Farmland Preservation DISTRICT (AG-FP)

Lawful uses which are pursuant to the preservation of prime agricultural land for continual farming and which are performed in a manner consistent with the requirements of this Ordinance, shall be permitted in all **AG-FP** Districts. The following shall apply in **AG-FP** Districts:

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.
 - (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 appurtenances.
 - (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 annually.
 4. It does not impair or limit the current or future agricultural use of the farm or other protected farmland.
- (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 service 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) “Common ownership” for purposes of the farmland preservation ordinance means ownership by the same person or persons. “Common ownership” includes land owned by the same individual, married couple, joint tenants, tenants in common, corporation, LLC, partnership, estate or trust. 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.
- (5) “Contiguous” means adjacent to or sharing a common boundary. “Contiguous” land includes land that is separated only by 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.
- (6) “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.
- (7) “Farm residence” means a single–family or duplex residence that is the only residential structure on the farm.
- (8) “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.
- (9) “Livestock” means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game bird, camelids, ratites and farm-raised fish.
- (10) “Open space parcel” means a parcel on which no buildings, other than hunting blinds or small sheds, have been constructed or approved for construction.
- (11) “Person” means an individual, corporation, partnership, limited liability company (LLC), trust, estate or other legal entity.
- (12) “Prime agricultural 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.
- (13) “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 the ordinance.
- (14) “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 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 60.61(5) 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, as defined herein.

(2) Undeveloped natural resources and open space area.

(3) 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. ACCESSORY USES. The following land uses are allowed accessory to a permitted or conditional use in a farmland preservation zoning district:

(1) A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use, including:

(a) A facility to store or process raw agricultural commodities, all of which are produced on the farm.

(b) A facility used to keep livestock on the farm.

(c) A facility used to store or process inputs primarily for agricultural uses on the farm.

(d) A facility used to keep or service vehicles or equipment primarily employed in agricultural uses on the farm.

- (2) An activity or business operation that is an integral part of or incidental to, an agricultural use.
- (3) A farm residence, including normal residential appurtenances such as a pool, deck, or patio.
- (4) A home business, activity or enterprise, whether or not associated with an agricultural use, which meets all of the following requirements:
 - (a) It is conducted on a farm by an owner or operator of the farm.
 - (b) It requires no buildings, structures, or improvements other than those described in par. (a) or (c).
 - (c) It employs no more than 4 full-time employees annually. It does not impair or limit the current future agricultural use of the farm or other protected farmland.
- (5) Conditional accessory uses which require a conditional use permit as set forth in Section E:
 - (a) Riding stables and/or boarding facilities.
 - (b) Farmstead retail outlets.

E. CONDITIONAL USE.

(1) General.

- (a) The Town of New Denmark 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. The Town of New Denmark Plan Commission shall follow the procedures described in Town of New Denmark Zoning Ordinance Article XIX. Administration and Enforcement.
- (b) Before issuing a conditional use permit under par. (a), the Town of New Denmark Plan Commission shall determine in writing that the proposed use meets applicable conditions under this section. The Town of New Denmark Plan Commission may issue the permit subject to any additional conditions which the Town of New Denmark Plan Commission deems necessary to carry out the purposes of this ordinance.

(2) Certain Agricultural and Agriculture-Related Conditional Uses.

(a) The Town of New Denmark may issue a conditional use permit for the certain agricultural and agriculture-related uses under Section E (2) (b) if all of the following apply:

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

(b) Certain Agricultural Conditional Uses and Agricultural-Related Conditional Uses include:

1. Farmstead food processing facilities.
2. On-farm fuel or agrichemical storage facilities.
3. A grain warehouse, potato warehouse, or other warehouse that stores raw agricultural commodities received from farms.
4. A dairy plant that processes or handles milk from farms.
5. A meat slaughter establishment.
6. A food processing plant that processes raw agricultural commodities received from farms.

7. 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.
8. 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 bulk fuel or other bulk products.
9. A sawmill or other facility that processes wood or other forest products received directly from farms.
10. A facility that provides farm inputs such as fertilizer, pesticides, seed or feed directly to farms.
11. A facility that is primarily engaged in sale and servicing of farm vehicles or other farm equipment.
12. A facility that is primarily engaged in providing agronomic or veterinary services to a farm.
13. 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.
14. 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.
15. A waste storage or processing facility used to store or process animal waste produced solely from livestock kept on the farm.

(3) Compatible Infrastructure.

- (a) The Town of New Denmark may issue a conditional use permit for a proposed use under Section E, Conditional Use, 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.
- (b) The Town of New Denmark may issue a conditional use permit for any of the following compatible infrastructure uses if that use meets applicable conditions under par. (a):
1. Transportation uses, including rail facilities, and agricultural aeronautic facilities.
 2. Communication uses, including cell towers, antennae and broadcast towers.

F. GOVERNMENT AND NONPROFIT COMMUNITY USES.

- (1) The Town of New Denmark may issue conditional use permits for a government use, or for an institutional, religious or community use, if the Town of New Denmark determines that all of the following apply:
- (a) The use and its location in the farmland preservation zoning district are consistent with the purpose 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.

(2) Government and Nonprofit Community Conditional Uses Include:

- (a) Fire stations, police stations, post offices, and other government administration buildings.
- (b) Schools, colleges, and universities.
- (c) Religious institutions, including cemeteries and mausoleums.
- (d) Public parks and recreation areas.

G. DIMENSIONAL REQUIRMENTS

(1) Lot Requirements within the AG-FP District:

Area – 35 Acres minimum
 Zoning lot frontage – 500 feet minimum of contiguous frontage as defined herein.

(2) Height Regulations:

Farm Structures – 60 feet maximum *
 Residential Dwellings – 35 feet maximum

(3) Building Setbacks:

| | Principal Structure | Temporary & Accessory Buildings |
|------------|--------------------------------------|--------------------------------------|
| Front Yard | 50 feet minimum From right-of-way | 50 feet minimum From right-of-way |
| Side Yard | 25 feet minimum | 25 feet minimum |
| Rear Yard | 25 feet minimum | 25 feet minimum |

(4) Building Size:

Minimum size of a residential dwelling shall be one thousand one hundred (1,100) square feet

(5) Accessory Buildings:

Accessory uses shall conform to district requirements and those set forth in Article IV, Subsection C, Building and Uses.

*Except as provided by Article IV, Subsection E, Height Regulations.

H. OTHER REQUIREMENTS

(1) Parking:

Parking shall conform to the requirements as set forth in Article XIV, Off-Street Parking Requirements.

(2) Signs:

Signs shall be regulated as set forth in Article XIII, Sign Regulations

(3) Other structures or buildings allowed within the **AG-FP District shall meet the requirements of the District and remaining articles of the zoning ordinance as determined by the Town Zoning Administrator.**

(4) Soils within the **AG-FP district shall be actively farmed using accepted conservation practices so as to insure a continuation of farming, prevent erosion of the soils and prevent depletion of soil quality.**

(5) Farm dwellings and related structures which remain after farm consolidation may be separated from the farm parcel on a lot containing a minimum of one and one-half (1.5) acres and two hundred (200) feet of contiguous lot frontage.

(6) Existing nonconforming residences located in the **AG-FP that were constructed before January 1, 2014 may be continued in residential use and may be exempted from any limitations imposed or authorized under Article XVIII, Nonconforming Uses, Items 1, 2, 3, and 4.**

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

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

(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 of New Denmark Plan Commission, which is in effect at the time of the rezoning.

(c) The rezoning is substantially consistent with the Brown County Farmland Preservation Plan, certified under ch. 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.
- (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 Brown County Farmland Preservation Plan Map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
- (3) The Town will report by March 1 of each year, to the State of Wisconsin Department of Agriculture, Trade and Consumer Protection and Brown County, the number of acres of the land in the Town that has been rezoned out of AG-FP District under Subsection (1) during the prior year and a map clearly showing the location of those acres in compliance with sec. 91.48 (2) & (3) Wis. Stats.