

i) Transfers of density units:

Transfers of density units between original December 26, 1981 farm units, may be considered subject to the Transfer of Development Rights program described in Section VIII.

(j) Substandard A-1EX parcels under 35 acres as of December 26, 1981:

(The following policies apply to parcels zoned A-1EX less than 35 acres in size)

(1) Pre-existing uses on substandard parcels less than 35 acres as of December 26, 1981 shall be permitted to continue as non-conforming uses. The Town may permit rezoning of such parcels to bring the pre-existing use into compliance with the county zoning ordinance, provided that such use is consistent with the overall goals and objectives of the Town of Cross Plains Comprehensive Plan.

(2) Vacant, legal, substandard (sometimes referred to as “non-conforming”) A-1EX zoned parcels between 4 and 35 acres in size in existence since December 26, 1981 are permitted to rezone to an appropriate district and to divide the property by recording a certified survey map to allow no more than 2 single-family homes, provided that the proposed development can satisfy the Town’s siting criteria. No parcel so divided shall be re-divided in the future.

(3) Substandard, legally created A-1EX zoned parcels between 4 and 35-acre parcels, with one existing residence, may be rezoned and divided by certified survey map to allow no more than one additional single-family home, provided that the proposed development can satisfy the Town’s siting criteria. No parcel so divided shall be re-divided in the future. When permitted divisions of an original substandard parcel are exhausted, the town will recommend to the county board that a deed notice be recorded as a condition of the rezone.

(4) Illegally created substandard parcels are not permitted to divide. Landowners may be required to obtain a written determination of the legal status of their property from the Dane County Land Division Review Officer.

(5) Illegally created substandard parcels with an existing residence may be permitted to rezone to an appropriate district to bring the parcel into compliance, provided the parcel complies with all density and siting criteria of the Town of Cross Plains Comprehensive Plan.

VIII. Transfer of Development Rights (TDR)

A. Background: A transfer of development rights program is a method of redirecting development from one part of the town, a “sending area,” to other lands in a different part of the town, a “receiving area.” The Town of Cross Plains has adopted Dane County’s Transfer of Development Rights Ordinance to facilitate the mutually agreed, voluntary transfer of development rights between landowners in the town.

B. Objectives: The Town of Cross Plains uses its TDR program to:

- a. preserve farmland and rural character;
- b. redirect nonfarm development away from productive agricultural lands;
- c. encourage permanent protection of large blocks of contiguous farmland;
- d. encourage permanent protection of regionally significant natural resource, environmental and recreational lands;
- e. allow farmers reasonable compensation for their land;
- f. direct development to more suitable areas where development is more efficiently served;
- g. develop at higher densities, and to
- h. encourage infill development.
- i. discourage land uses incompatible with proximate residential uses.

C. Policies & Programs – Transfer of Development Rights

1. Allocation of Development Rights

Development rights are determined by the town density policy in Agricultural Preservation Districts and this Transfer of Development Rights section.

Development rights are transferred from a specific sending area parcel to a specific receiving area parcel. Any development rights transferred to a parcel in a receiving area, but not immediately used for the development planned in that receiving area parcel, remain with that receiving area parcel (that is, the development rights run with the land), and are subject to all other requirements related to development rights as set forth in the Dane County TDR Ordinance and the Town of Cross Plains Comprehensive Plan.

2. A. Sending Areas.

All lands within the Agricultural Preservation Area, except for substandard parcels, are considered potential “sending areas.” Prior to application, landowners must provide a Density Study Report from the Dane County Department of Planning and Development showing that the proposed sending property has development potential remaining under the Agricultural Preservation density policies. Within potential sending areas, the town will consider petitions by landowners to rezone all or a portion of their property into the TDR-S overlay zoning district (s.10.158, Dane County Code), provided at least one of the following criteria is met:

- a. Proposed sending areas are within the National Ice Age Scientific Reserve, Ice Age Trail Corridor or Black Earth Creek Water Quality Corridor (see Map 5-5) or are a Dane County defined inactive non-conforming mineral extraction site as of 2017;
- b. Soils on the land are predominately classified as Groups I, II or III agricultural soils under the Dane County Land Evaluation and Site Assessment (LESA) system (see Map 5-1), OR;
- c. Reduction of potential nonfarm development would result in large blocks of contiguous, permanently protected farmland, natural resource land or other open space.

2. B. Super Sending Areas

GROUP 1: Inactive grandfathered mineral extractions sites as defined by Dane County in 2017

GROUP 2: A minimum of 35 acres of land, not owned by public or non-profit entities, in Town:

- a. Adjacent/contiguous with certain public lands as of 2016 in current Voluntary Conservation/TDR sending areas.
- b. Adjacent/contiguous with Black Earth Creek in current Voluntary Conservation/TDR sending areas.
- c. In National Parks Ice Age Scientific Reserve/DNR/County acquisition areas.

The areas are identified in the attached SUPER SENDING AREA map date 12/5/17 (areas 1-3).

Owners of properties in GROUP 1 or GROUP 2 are eligible for additional development entitlement rights (Super Sending Area Bonus), under the following conditions:

For GROUP 1:

1. Owners vacate grandfathered mineral extraction zoning status & deed restrict from mineral extraction activities
2. Place a permanent agricultural or conservation easement on 35 acres for every bonus split with Town as an easement holder.

For GROUP 2:

- a) Place a permanent agricultural or conservation easement on 35 acres for every Super Send Area Bonus with Town as an easement holder or sell property to a public governmental entity or non-for profit for conservation/preservation with Town as a conservation easement owner.

A limited public easement for connecting to other public lands, an ice age trail connection or a multi-use regional trail connection would not be prohibited for either group of properties.

Any unused or Super Sending Area Bonus entitlement rights are available for transfer within the town but not within the Super Sending Areas.

2. C. Super Sending Areas Bonus Entitlement Rights (additions to initial development entitlements):

For GROUP 1: Three (3) additional entitlements for every 1 unused existing entitlement as of 2017 to be located on sites with lower quality farm land as outlined in the Town Plan. For each unused development right transferred from a TDR-S zoned property in a Group 1 Sending Area, landowners may create up to four (4) development sites in an appropriate receiving area in the TDR-R district or on the TDR-S property with the unused development entitlement.

For GROUP 2: One (1) additional entitlement for every 1 unused existing entitlement as of 2017 (parcels with entitlements on a GROUP 2 eligible property eliminated after 2017 will be considered unused as of 2017)

- a) For each unused development right transferred from a TDR-S zoned property in a Group 2 Sending Area, landowners may create up to two (2) development sites in an appropriate receiving area in the TDR-R district. ~~If all entitlements have been used prior to 201, 1 additional development entitlement will be provided for 35 or more acres meeting the Super Sending Area requirements.~~
- b) For properties that have exhausted their development rights prior to 2017 and are within a Group 2 Sending Area, one additional development right will be granted. For each such additional right transferred from a TDR-S zoned property, landowners may create up to one (1) development site in an appropriate receiving area in the TDR-R district.

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3. Receiving Areas.

All lands in the Agricultural Preservation, Rural Residential, and Pine Bluff Crossroads planning areas are considered potential "receiving areas". Within these areas, the town may consider petitions by landowners to rezone all or a portion of their property to an appropriate zoning district with a TDR-R overlay (s. 10.159, Dane County Code). The town board will recommend approval of petitions to the TDR-R overlay district, provided all of the following criteria are met:

- a. Proposed receiving areas are not within the National Ice Age Scientific Reserve, Ice Age Trail

Corridor or Black Earth Creek Water Quality Corridors (see Map 5-5);

b. Proposed receiving areas have minimal impact on Group I, II or III soils under the Dane County Land Evaluation and Site Assessment (LESA) system (see Map 5-1);

c. Proposed receiving areas are not within the Village of Cross Plains Urban Service Area (see Map 8-3), unless expressly permitted in an adopted intergovernmental agreement between the Town of Cross Plains and the Village of Cross Plains;

d. Proposed development would be clustered, and adjacent to existing nonfarm development;

e. No more than one development site or lot is created in a receiving area for ~~every one~~ each development right retired in a sending area;

f. If within an Agricultural Preservation Area, lot size for proposed development does not exceed 5 acres, and;

g. Proposed development meets all of the siting criteria for the appropriate planning area as identified in the Town of Cross Plains Comprehensive Plan

4. Implementing a Transfer.

Transfers from sending areas to receiving areas are accomplished by recording conservation easements and deed notices. Transfers are permitted only within the Town of Cross Plains.