

II. **Agricultural Preservation District**

A. **Purpose:**

The Town has established the Agricultural Preservation District as a means of preserving agricultural lands and rural character throughout the Town while providing opportunities for limited non-farm development. This designation will also



serve to promote continued investment in agricultural operations by ensuring that incompatible land uses are directed to areas that will minimize interference with farming activities. The primary land use policy within this district is the density policy, which limits the density of residential development to one dwelling unit per 35 acres. This district encompasses the most land within the town and includes productive farmlands, farm dwellings and other agricultural land uses, pastureland, woodlots, and scattered non-farm single-family dwellings. The policies for this district allow for a limited amount of non-farm residential and commercial development in keeping with the overall goals and objectives of the Town to preserve agriculture and rural character.

B. **Objectives:**

1. Continue to maintain and encourage production agriculture, agricultural-related businesses, forestry, open space, and compatible uses.
2. Protect farm operations from the encroachment of incompatible uses.
3. Limit nonfarm development consistent with town density policies.
4. Direct nonfarm development away from productive agricultural lands, provided it will not prevent the landowners' use of available splits.
5. Maintain and promote eligibility for county, state and federal programs, grants, incentives, cost-share funding and tax credits designed to support farming and maintain land in agricultural use.

C. **Appropriate Zoning Districts:**

- A-1[ex] (Exclusive Agriculture)
- A-4 (Small-Acreage Agriculture)
- A-B (Agricultural Business)
- CO-1 (Conservancy)
- RE-1 (Recreational)
- TDR-S (Transfer of Development Rights - Sending Area) Overlay

For nonfarm development permitted under town density & siting policies:

- A-2, A-2(1), A-2(4), A-2(8) (Agriculture)
- RH-1, RH-2, RH-3 (Rural Homes)
- LC-1 (Limited Commercial), with appropriate conditions as needed to meet the objectives of the *Town of Cross Plains Comprehensive Plan*
- TDR-R (Transfer of Development Rights - Receiving Area) Overlay

D. **Policies & Programs – Agricultural Preservation District:**

1. **Density Policy** – Within the Agricultural Preservation District, the density policy will serve as the primary tool for meeting the town's land use objectives to maintain rural character and preserve agricultural land. The density policy limits the amount of non-farm development and will be used to guide Town decisions when considering rezones out of the A-1EX district.

- a) **Density limitation:** The density of non-farm development is limited to one non-farm use (also referred to herein as, “split” or “density unit”) per 35 contiguous acres held in single ownership as of December 26, 1981 (Map 8-5). The density limitation shall apply to residential development, and to other forms of development, including;
 - non-farm commercial development created after the date of adoption of this comprehensive plan, and;
 - sales of land or easements to public entities unless otherwise indicated in sales contracts, deeds, or recorded agreements.

The density limit on any one December 26, 1981 farm may be reduced or increased subject to the town's Transfer of Development Rights program as described in Section VIII.

Example: The density standard of one dwelling unit or non-farm use per 35 acres of land owned as of December 26, 1981 means that a 140-acre farm as of that date would be eligible for up to 4 new lots for non-farm development if all other plan policies were met. This policy is not meant to require or

encourage 35-acre dwelling unit lots; rather landowners are encouraged to create smaller clustered dwelling unit lots on less productive soils.

- b) **Rounding:** The Town shall “round up” to the nearest whole number when a density calculation results in a remaining fraction over $\frac{1}{2}$ (50%). For example, a 12/26/1981 farm unit totaling 56 acres would be eligible for a total of two nonfarm development sites ($56 / 35 = 1.6$, rounded up to 2).
- c) **Determining original 12/26/1981 farm units:** The Town will utilize the 1981 Land Atlas and Plat Book for Dane County by Rockford Map Publishers, Inc., as a guide to determining original farm ownership and acreage as of December 26, 1981. Parcel size will be based on gross acreage, which includes road and other public rights of way, as calculated by the Dane county GIS system (Map 8-5). Landowners or applicants for rezoning proposals may submit more detailed information for consideration, such as recorded deeds or surveys.

An original farm unit or parcel is defined as contiguous lands in single ownership as of December 26, 1981. For the purposes of this policy, single ownership is defined as parcels owned by one individual or by a married couple, partnership, or corporation including that individual. Parcels interrupted by roads, other public rights-of-way, or by navigable waterways shall be considered contiguous for the purposes of calculating allowable density. Parcels meeting at a single point shall be considered contiguous.

- d) **Eligible lands:** When calculating original farm acreage and eligible density units, all contiguous property under single ownership within the Agricultural Preservation District shall be included. This includes land under water, within mapped wetlands, floodplains, or environmental corridors.
- e) **Farm residences:** Separation of residences built prior to December 26, 1981 shall not count against this density policy. All residences built after December 26, 1981, including residences for farm owners or operators under sections 10.123(2)(b) and (c), Dane County Code, shall count against the density policy, except as provided below.
- f) **Exceptions:** Replacement of a farm residence existing prior to December 26, 1981 shall not count toward the density limitation, provided the previous residence is destroyed or converted to non-residential use. The burden of proof of identifying the construction date rests with the applicant or landowner.
- g) **Duplexes:** Duplexes constructed after the date of adoption of the *Town of Cross Plains Comprehensive Plan* shall count as two density units toward the density limitation. Conversion of an existing single-family residence to a duplex shall count as one additional density unit toward the density limitation. “Dependency living arrangements,” as defined in ss. 10.01(19a)

& (19b), Dane County Code, and allowed under a conditional use permit, are not considered a duplex under this policy and do not count as an additional density unit.

h) **Land transfers after December 26, 1981 and allocation of density**

units: Land sales of over 35 acres occurring after December 26, 1981, do not result in new allotments of density units. When land sales of more than 35 acres occur after December 26, 1981 without *clear documentation* or recorded agreement between buyer and seller, or subsequent/current owners, regarding any transfer of splits or density units, the Town shall utilize the following guidelines when considering allocation of any remaining density unit(s):

- (1) Landowners are encouraged to make clear in recorded documentation, such as a sales contract or warranty deed, that a density unit is being transferred or retained when selling tracts of land over 35 acres. The Town may request that any supporting documentation be included with development or rezone proposals. Supporting documents may include, but are not limited to, sales contracts, warranty deeds, affidavits, and written agreements.
- (2) Landowners who combine portions of different December 26, 1981 farm parcels in order to obtain over 35 acres are not entitled to a nonfarm density unit.
- (3) Land annexed into a city or village after December 26, 1981 shall be removed from the original farm acreage when calculating eligible density units.
- (4) Proportional allocation: In the absence of clearly understood supporting documentation, any remaining splits will be allocated on a proportional basis among current owners of the December 26, 1981 farm unit in keeping with the Town's 1 per 35-acre density policy. Unless the property is approved as a TDR Receiving Area under the policies in Section VIII, the density standard shall not be exceeded on the December 26, 1981 farm unit.

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*.
- k) **When density units are exhausted:** When eligible density units for an original December 26, 1981 farm have been exhausted, the town will recommend to the county board that a deed notice, deed restriction or conservation easement be recorded as a condition of the rezone. Portions of the property intended to remain in agricultural use shall be zoned A-1EX or A-4. Any agricultural conservation easement will be only for the limited purpose of assuring the availability of real property for agricultural use and shall not include any requirements for public access or restrictions on agricultural or forestry practices. This restriction on agricultural conservation easements shall not preclude agriculture or forestry practice regulations under county or town ordinances.
1. **Development siting standards & criteria:** The Town shall use the following siting standards and criteria when reviewing proposed non-farm rezones or development. Development siting standards will not be used to prevent the use of, or reduce the number of, splits allocated under the town density policy.

- a) Buildings should not be placed in wetlands, floodplains, hydric soils, soils with low or very low potential for dwellings with basements. (See also Environmental and Resource Protection District, below.)
- b) Within the Agricultural Preservation District, the minimum parcel size for proposed new lots shall be 2 acres, exclusive of right-of-way. Nonfarm zoning parcels shall be the minimum size necessary to accommodate the proposed use, while meeting town driveway standards, minimum road frontage and other criteria of the town comprehensive plan. *NOTE: The town's density policy does not require 35-acre residential lots.*
- c) Building sites shall be located to minimize disturbance of productive agricultural soils, and to minimize conflicts with existing agricultural use. For the purposes of the *Town of Cross Plains Comprehensive Plan*, productive agricultural soils are soils classified as Group I or Group II under the Dane County Land Evaluation and Site Assessment system (see Map 8-2).
- d) The Town shall discourage the layout of streets or driveways across agricultural land in order to reach non-farm development.
- e) New driveways and roads shall be the minimum length necessary to access the site and should be located to minimize disturbance of productive agricultural soils. All driveways shall be designed and located to be suitable for emergency vehicle access and safe access onto existing roadways. Driveways must comply with the Town Driveway Ordinance, County or State Highway access requirements, as applicable. For driveways longer than 125 feet in length, the town will require proof of compliance with county erosion control and stormwater regulations before a driveway permit will be issued.
- f) Contractors shall be required to use erosion control measures and return lands to a near normal setting after completion of construction. The Town may require an erosion control and/or stormwater management plan or a preliminary review letter meeting county ordinance standards as a condition of approval.
- g) A specific site plan may be required for proposed development, such as, but not limited to, proposed commercial development, or horse boarding facilities. The site plan should show the layout of the proposed lot(s), the location and use of proposed buildings, parking area(s), and driveway access. Additional criteria include the following:
 - (1) Driveway must provide for safe passage of emergency vehicles.
 - (2) All cuts, fills and erosion problems must be noted and an erosion control plan submitted before a driveway permit can be issued.
- h) The Commission should review the siting of buildings within the environmentally sensitive areas, such as the Black Earth Creek Water