

AMENDING CHAPTER 10 OF THE DANE COUNTY CODE OF ORDINANCES REGARDING DEFINITIONS OF AGRICULTURAL USES AND REVISIONS TO THE A-1EX (EXCLUSIVE AGRICULTURE) DISTRICT

The County Board of Supervisors of the County of Dane does ordain as follows:

ARTICLE 1. Unless otherwise expressly stated herein, all references to section and chapter numbers are to those of the Dane County Code of Ordinances.

ARTICLE 2. Subsection 10.01(2a) is amended to read as follows:

(2a) 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.

ARTICLE 3. Subsection 10.01(2b) is created to read as follows:

(2b) Agricultural 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) Farm Residence.
- (d) A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in par. (a) or (c), that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.

ARTICLE 4. Subsection 10.01(2c) is created to read as follows:

(2c) Agriculture-Related Use. 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 services 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) Processing agricultural by-products or wastes received directly from farms, including farms in the farmland preservation district.

ARTICLE 5. Subsection 10.01(23f) is amended to read as follows:

(23f) Farm. Means all land under common ownership that is primarily devoted to agricultural use.

ARTICLE 6. Subsection 10.01(23ga) is created to read as follows:

(23ga) Farm Operator. A person who, or a family at least one member of which, earns substantial farm income, as defined in section 10.01(50m), from farm operations on the farm.

ARTICLE 7. Subsection 10.01(23gb) is created to read as follows:

(23gb) Farm Residence. Any of the following structures that is located on a farm:

- (a) A single-family residence that is occupied by any of the following:
 1. A person who is both the owner and farm operator of the farm.
 2. A parent or child of the owner and farm operator of the farm.
 3. An individual who earns more than 50 percent of his or her gross income from the farm.
- (b) A migrant labor camp that is certified under s. 103.92, Wis. Stat.

ARTICLE 8. Subsection 10.01(30fa) is created to read as follows:

(30fa) Limited Family Business. A small family-run commercial operation, accessory to a permitted principle use, that takes place entirely within an accessory building. All employees, except one or one full-time equivalent, must be a

member of the family residing on the premises. Limited Family Businesses must comply with all requirements of s. 10.192.

ARTICLE 9. Subsection 10.01(30g) is amended to read as follows:

(30g) Limited Rural Business. A Limited Rural Business may include any use permitted in the A-B, B-1, C-1 or C-2 zoning districts if it is located exclusively in building(s) in existence prior to April 30, 2005, maintains, restores or enhances the existing exterior character of the building(s), employs no more than 4 non-family employees, and does not conflict with the overall purposes of the district within which the Limited Rural Business is proposed. "Family" has the meaning set forth in section 10.01(23).

ARTICLE 10. Subsection 10.01(50m) is created to read as follows:

(50m) Substantial Farm Income. Means that a minimum of \$10,400 gross farm income / year for the past three (3) years is currently derived from the farming operation on the farm where the residential use is proposed. Rental income may not be used to meet the income requirement.

ARTICLE 11. Subsection 10.123(1) is restructured and amended to read as follows:

10.123 A-1 EXCLUSIVE AGRICULTURE [A-1(EX)] DISTRICT. (intro.) This district is in effect in those towns which make the election under sub. (1) (c) below.

(1) Purpose and applicability.

(a) Statement of purpose. The A-1 Exclusive Agriculture District is designed to:

1. Provide for a wide range of agriculture and agricultural accessory uses, at various scales. The A-1(EX) district accommodates as permitted uses all activities typically associated with the primary production and harvesting of crops, livestock, animal products or plant materials. Such uses may involve noise, dust, odors, heavy equipment, use of chemicals and long hours of operation.
2. Allow for incidental processing, packaging, storage, transportation, distribution or other activities intended to add value to agricultural products produced on the premises or to ready such products for market. Such uses are conditional as they may have the potential to pose conflicts with agricultural use due to: volumes or speed of vehicular traffic; residential density; proximity to incompatible uses; environmental impacts; or consumption of agriculturally productive lands.
3. Allow for other incidental activities, compatible with agricultural use, to supplement farm family income and support the agricultural community.
4. Preserve productive agricultural land for food and fiber production.
5. Preserve productive farms by preventing land use conflicts between incompatible uses.
6. Maintain a viable agricultural base to support agricultural processing and service industries.
7. Reduce costs for providing services to scattered non-farm uses;
8. Pace and shape urban growth;
9. Meet the criteria for certification as a Farmland Preservation Zoning District under s. 91.38, Wis. Stats.

(b) Lands to be included within the A-1 Exclusive Agriculture District. This district is generally intended to apply to lands in productive farm operations including: lands historically exhibiting good crop yields or capable of such yields; lands which have been demonstrated to be productive for dairying, livestock raising and grazing; other lands which are integral parts of such farm operations; land used for the production of specialty crops such as mint, sod, fruits and vegetables; lands which are capable of productive use through economically feasible improvements such as irrigation, and undeveloped natural resource and open space areas.

(c) Applicability. This section shall apply only to those towns, or portions of said towns, which have filed a resolution with the county clerk indicating the election of the town to come under provisions of this district. Towns which have filed resolutions indicating acceptance of the exclusive agriculture district prior to the date of this amendment shall continue to be under the provision of this section.

ARTICLE 12. Subsection 10.123(2) is restructured, renumbered and amended to read as follows:

(2) Permitted uses.

(a) Agricultural Uses, except those uses listed as conditional uses below. Keeping of livestock is prohibited on parcels smaller than 5 acres.

(b) Agricultural Accessory Uses, except those uses listed as conditional uses below. Any residence lawfully existing as of February, 20, 2010 shall be considered a permitted use. Notwithstanding the provisions of secs. 10.21 and 10.23 regarding nonconforming uses, such structure may be added to, altered, restored, repaired, replaced or reconstructed, without limitation, provided all of the following criteria are met:

1. the use remains residential,
2. the structure complies with all building height, setback, side yard and rear yard standards of this ordinance; and
3. for replacement residences, the structure must be located within 100 feet of the original residence, unless site-specific limitations or town residential siting standards in town plans adopted

by the county board require a greater distance. Proposals for a replacement residence that would exceed the 100 foot limitation must be approved by the relevant town board and county zoning committee.

- (c) Rental of existing or secondary residences located on a farm, but no longer utilized in the operation of the farm.
- (d) Agricultural entertainment activities, not to exceed 45 days per calendar year in the aggregate, including incidental preparation and sale of beverages and food. For any such activities planned or anticipated to have attendance of more than 200 persons at any one time during a day, an event plan addressing parking, proposed days of operation, ingress and egress, sanitation and other public safety issues shall be filed annually with the zoning administrator, town clerk, servicing fire department, emergency medical service provider, Dane County Sheriff's Department and any local law enforcement agency for such agricultural entertainment activities, at least 30 days prior to the start of any agricultural entertainment activities in each calendar year.
- (e) Farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings and similar activities, occurring on five days in a calendar year or less.

ARTICLE 13. Subsections 10.123(2)(f) and (g) are created to read as follows:

- (f) Undeveloped natural resource and open space areas.
- (g) A transportation, utility, communication, or other use that is:
 1. required under state or federal law to be located in a specific place, or;
 2. is authorized to be located in a specific place under a state or federal law that specifically preempts the requirement of a conditional use permit.

ARTICLE 14. Subsection 10.123(3) is restructured, renumbered and amended to read as follows:

(3) Conditional uses in the A-1 Exclusive Agriculture District. The following uses require a Conditional Use Permit in this district:

- (a) Agricultural Accessory Uses: In addition to other requirements of this ordinance, the following uses must meet the definition of an agricultural accessory use under s. 10.01(2b).
 1. Farm Residence, subject to sub. (4).
 2. Limited Family Businesses, that are entirely within an existing building, subject to s. 10.192.
 3. Limited Rural Businesses that are operated by an owner or operator of the farm.
 4. A business, activity, or enterprise, whether or not associated with an agricultural use, that is conducted by the owner or operator of a farm, that requires no buildings, structures, or improvements other than those described in s. 10.01(2b)(a) and (c) that employs no more than 4 full-time employees annually, and that does not impair or limit the current or future agricultural use of the farm or of other protected farmland.
 5. Sale of agricultural and dairy products not produced on the premises and incidental sale of non-alcoholic beverages and snacks.
 6. The seasonal storage of recreational equipment and motor vehicles owned by private individuals other than those residing on the premises, such storage to be in existing accessory farm buildings. The storage of a dealer's inventory or the construction of any new buildings for storage is prohibited.
 7. Farm related exhibitions, sales or events such as auctions, dairy breakfasts, exhibitions of farm machinery and technology, agricultural association meetings and similar activities, occurring on more than five days in a calendar year.
 8. Agricultural entertainment activities exceeding 45 days per year, in aggregate.
 9. Horse boarding stables, riding stables, hay and sleigh rides, and horse training facilities, including the sale of bridles, saddles, grooming supplies and related items at a horse boarding or riding stable facility. Such uses must meet the definition and criteria for an Agricultural Accessory Use under s. 10.01(2b)(d), or a Limited Family Business under s. 10.01(30fa) and 10.192, or a Limited Rural Business under s. 10.01(30g).
- (b) Governmental, institutional, religious, or nonprofit community uses.
- (c) Transportation, communications, pipeline, electric transmission, utility, or drainage uses, not listed as a permitted use above.
- (d) Non-metallic mineral extraction operations that comply with s. 91.46(6), Wis. Stat., section 10.191 and chapter 74. The application shall conform to the requirements of s. 10.191(2).
- (e) Asphalt plants or ready-mix concrete plants for production of material to be used in construction or maintenance of public roads, to be limited in time to project duration.
- (f) Small scale electric generating stations not requiring approval under section 196.491, Wis. Stat.

ARTICLE 14. Subsections 10.123(4) through (11) are renumbered and amended as follows:

- (4) *Conditional use permits for residences in the A-1 Exclusive Agriculture zoning district.*

(a) Application. The following information must be submitted with a Conditional Use Permit application for a Farm Residence in the A-1EX district:

1. Written description of the farm operation. The description should include the following details:
 - a. Location of the farm.
 - b. Size of the farm operation in acres.
 - c. Crops grown and/or livestock raised.
 - d. Number of employees, if any, in addition to farm family members.
 - e. Summary of farm income derived from the farm operation.
2. Completed IRS form "Schedule F – Profit or Loss from Farming", or subsequent IRS form for reporting farm profit or loss, for the past 3 tax years.
3. Farm conservation plan obtained from the Land Conservation Division of the Dane County Land & Water Resources Department. All active farms in Dane County have a farm conservation plan detailing the types / location of crops grown, and any on-farm conservation measures (e.g., grass drainage swales, buffer strips, etc.).
4. Map / site plan with aerial photograph showing the farm ownership boundaries. The map should clearly identify the location of the proposed new Farm Residence and driveway access.

(b) Permit conditions.

1. The Zoning Committee shall include a "sunset" provision on any CUP for a residential use issued after December 17, 2009 in the A-1EX district stating that the CUP shall expire upon sale of the property to an unrelated 3rd party. Upon sale of the property to an unrelated 3rd party, a new Conditional Use Permit or rezoning application must be filed.
2. Any Conditional Use Permit found to be in violation of this section may be revoked by the Zoning Committee, and a zoning change to an appropriate residential district shall be required to bring the property and residential use into compliance with the provisions of this ordinance.
3. The Zoning Committee shall require the recording of a notice document with the Register of Deeds on the subject property notifying current and future owners of the provisions of paragraph 1. and 2. of this section.

(5) Standards for conditional uses in the A-1 Exclusive Agriculture zoning district.

In addition to the requirements of s.10.255(2)(h), the zoning committee must find that the following standards are met before approving any conditional use permit in the A-1(exclusive agriculture) zoning district.

(a) The use and its location in the A-1 Exclusive Agriculture zoning district are consistent with the purposes of the district.

(b) The use and its location in the A-1 Exclusive Agriculture 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 surrounding parcels of land that are zoned for or legally restricted to agricultural use.

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

(6) (a) Residential dwellings shall not exceed 2 1/2 stories or 35 feet in height.

(b) Accessory buildings shall not exceed 35 feet in height.

(c) For agricultural accessory buildings there is no limitation on height.

(7) Area, frontage and population density regulations.

(a) The minimum lot size is 35 acres.

(8) Setback requirements. No building, including barns and other farm buildings of any description whatsoever, shall be erected, moved or structurally altered so as to be nearer the highway than is prescribed by section 10.17.

(9) Side yard requirements.

(a) Side yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages or hives for housing of animals or insects shall be located at least 100 feet from an R-1, R-1A, R-2, R-3, R-3A or R-4 Residence District, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.

(10) Rear yard requirements. (a) Rear yards for residential dwellings and residential accessory buildings shall be the same as for the R-1 Residence District.

(b) Accessory buildings, cages, kennels, hives and runs for housing of animals or insects shall be located at least 100 feet from an R-1, R-1A, R-2, R-3, R-3A or R-4 Residence District, except with respect to existing structures when the residence district has been created for an existing farm residence or by separating a farm residence from a farm property and the separated parcel has been rezoned to a residence district after or at the time of the division.

(11) General provisions applicable to the A-1 Exclusive Agriculture District. In addition to the conditions provided for in sections 10.16(1) through (6a) the following additional conditions shall apply:

- (a)** Any lot or parcel shown in a preliminary subdivision plat or a certified survey map which was received for review by the agency prior to the effective date of A-1 Exclusive Agriculture zoning, was approved and recorded, shall have the same status as pre-existing lots as defined in section 10.16(3)(a).
- (b)** Residential and residential accessory buildings on parcels of less than 2 acres in the A-1 Exclusive Agriculture District shall comply with the standards of section 10.05(3)
- (c)** Any residential building or its accessory building that is located on a substandard parcel as defined herein and which is destroyed by fire, explosion, act of God or act of public enemy may be rebuilt provided the locational requirements of the R-1 Residence District are complied with.
- (d)** The provisions of section 10.16(1)(b)1. pertaining to real estate offices do not apply to lands in this district.

ARTICLE 15. Subsection 10.123(12) is created to read as follows:

(12) *Rezoning of land in the A-1 Exclusive Agriculture District.* No land in the Exclusive Agriculture District shall be rezoned except in accordance with s. 91.48, Wis. Stat.