

## Farmland Preservation Agreement

The Wisconsin Farmland Preservation agreement is a existing agreement between the landowner and the Department of Agriculture, Trade and Consumer Protection (DATCP). In 2009, the Legislature repealed and recreated the Farmland Preservation Program in response to growing pressures to convert farmland statewide to nonagricultural uses, and recreated it with a new structure. The new law authorized DATCP to write administrative rule ATCP 49, which establishes technical details as to how local governments may plan and zone agriculture farmland. Buffalo County, however, does not have zoned Farmland Preservation.

## Eligibility requirements

Any farmland claimed must be located in a farmland preservation area identified in a certified county farmland preservation plan. Eligible land includes agricultural land or permanent undeveloped natural resource areas or open space land that is under a farmland preservation agreement or located in a designated agricultural enterprise area. Claimants must have a \$6000 in gross farm revenue in the past year or \$18000 in the past three years. Rental income of farmed acres does not count toward total gross farm revenue. Claimants must also have all past taxes paid in full, and must comply with the soil and water conservation standards, including the administrative rule ATCP 50, DNR rule NR 151, and the NRCS 590 Technical Standards.

## Buffalo County Directory

Land Conservation Department

(608)685-6260

Natural Resources Conservation Service (NRCS)

(608)685-4454 ext. 101

UW-Extension

(608)685-6256

Farm Service Agency

(608)685-4454 ext. 100

DNR Forestry

(608)685-6223

DNR Fishery

(608)685-6221

DNR Wildlife Management

(608)685-6222

DNR Conservation Warden

(608)797-1926



# BUFFALO COUNTY FARMLAND PRESERVATION



## Claiming the farmland preservation tax credit

Landowners with existing agreement entered into prior to July 1, 2009 may continue to collect a tax credit until the expiration of their existing agreement. The County must issue a Certificate of Compliance (CoC) that their farm is meeting all conservation requirements. This CoC must be attached to your tax schedule.

Since Buffalo County does not have an area zoned for farmland preservation, when the agreement expires, you will not be eligible to claim a credit unless you successfully petition to be located in a designated agri-

## Ceasing or expired

Once an agreement for land enrolled has expired, the only option for farmland preservation is through the Agricultural Enterprise Area (AEA).

A landowner is eligible to buy out if the agreement land has been enrolled for ten or more years. At that point, if the landowner chooses to buy out, they have to fill out an application to cease the agreement, plus pay back the ten years of tax credits taken with interest, which is determined by the Department of Agriculture, Trade, and Consumer Protection.

For additional information on the Farmland Preservation Program or nonpoint runoff rules, please contact the Land Conservation & Resource Management Department at (608) 685-6260.

## Conservation Compliance Requirements:

Landowners claiming tax credits must meet the following conservation requirements:

- Follow a Nutrient Management (590) Plan
- Provide an annual 590 Nutrient Management checklist to the County
- Perform soil testing on fields every 4 years
- Allow the County to inspect all cropped fields once every 4 years
- Meet tolerable soil loss (T) on cropped fields
- Prevent direct runoff from feedlots or stored manure into state waters
- Limit livestock to maintain vegetative cover
- Eliminate gully erosion
- Maintain any manure storage structures
- Follow the Buffalo county Manure Storage ordinance by meeting technical standards for newly constructed or substantially altered manure storage facilities
- Divert clean water away from feedlots, manure storage areas, and barnyards within Surface Water Quality Management Areas
- Do not stack unconfined manure piles within a Surface Water Quality Management Area



## Agricultural Enterprise Areas (AEA)

An Agricultural Enterprise Area (AEA) is a tool that can help communities meet locally identified goals for preserving agricultural land and encouraging agricultural economic development.

This is a voluntary enrollment that allows the landowners to receive a tax credit for keeping the land in agricultural use for 15 years if they are meeting the conservation compliance rules, have at least 5 landowners interested within a large, contiguous land area that is primarily agricultural use.

To have an area designated as an agricultural enterprise area, farm owners and local governments must work together to submit a petition to the Wisconsin Department of Agriculture, Trade and Consumer Protection (DATCP). By working together and by drawing in other local stakeholders including ag-related businesses, economic development experts and other interested individuals, the community can ensure adequate support for an AEA selected for designation.

Once an AEA is designated, the eligible farm owners within the area should consider signing a farmland preservation agreement with the state to protect the land for agriculture and collect state tax credits.

# FARMLAND PRESERVATION TAX CREDITS

## FP ZONING AND FP AGREEMENTS SIGNED OR MODIFIED AFTER JULY 1, 2009

### FARMLAND PRESERVATION PROGRAM

#### What are the tax credits?

Participation in the state's farmland preservation program gives eligible landowners the opportunity to claim a farmland preservation tax credit on their income tax return in exchange for keeping the land in agricultural use and achieving state soil and water conservation standards. Land that is located in a certified farmland preservation zoning district or covered by a farmland preservation agreement signed or modified after July 1, 2009, must use Schedule FC-A to claim the credit. Tax credit amounts equal:

**\$5.00/Acre** for landowners with a farmland preservation agreement signed after July 1, 2009 and located in an agricultural enterprise area, or for landowners who have modified an agreement signed before July 1, 2009

**\$7.50/Acre** for landowners in an area zoned for farmland preservation

**\$10.00/Acre** for landowners in an area zoned for farmland preservation and in an agricultural enterprise area with a farmland preservation agreement signed after July 1, 2009, or in an area zoned for farmland preservation and with a farmland preservation agreement modified after July 1, 2009

#### What are the eligibility requirements to claim the tax credits?

- ✓ Must be a Wisconsin resident
- ✓ Land must meet at least one of the following: (a) be within a certified farmland preservation zoning district, (b) be in an agricultural enterprise area and covered by a farmland preservation agreement, and/or (c) covered by a farmland preservation agreement signed before July 1, 2009 that has been modified
- ✓ Land must have produced at least \$6,000 in gross farm revenue during the previous year or \$18,000 in gross farm revenues during the previous three years
- ✓ Property taxes for the previous year must have been paid
- ✓ Claimant must have a certificate of compliance from the county's land conservation committee to show that the farm meets state soil and water conservation standards



Wisconsin Department of Agriculture, Trade and Consumer Protection

Phone: (608)224-4500

Website: <http://datcp.wi.gov>

Email: [DATCPWorkingLands@wisconsin.gov](mailto:DATCPWorkingLands@wisconsin.gov)

ARM-Pub-205 (Rev January 2016)

## Buffalo County Farmland Preservation Zoning District

### AGRICULTURE/NATURAL RESOURCE – 40 (ANR- 40)

The Agriculture/Natural Resource -40 District is established with the intention of promoting the preservation of farmland, a goal established in the Buffalo County Comprehensive Land Use Plan. The purpose of the ANR 40 District is to protect and preserve the historic use of prime soils for agricultural production and raising livestock, with other soil types and steeper slopes protected for natural resource production and harvesting uses such as commercial logging and silviculture. The ANR- 40 District establishes policies intended to ensure the long term stability, productivity, and sustainability of agricultural and natural resource lands and land uses including supporting industries.

It is the intent of the ANR- 40 zoning district to strictly limit the intrusion of non-agricultural uses and development which can conflict with traditional and contemporary farming operations and practices. Non-farm residents and other users of land in this district may be subject to inconvenience and or discomfort arising from normal and accepted agricultural practices and operations including but not limited to; noise, odor, dust, operation of machinery, storage and dispersal of manure and the application of; fertilizers, herbicides, soil amendments and pesticides. Owners of property, residents and other users of property should be prepared to accept such farming practices which may generate inconvenience, discomfort and possible injury from normal farming operations, and are hereby officially noticed that the state Right to Farm Law (WI Statutes 823.08) may bar them from obtaining legal judgment against such normal farming/agricultural operations. A maximum non-farm dwelling density of 1 dwelling per 40 acres\* with a minimum lot size of 2 acres is established for the district. Only one single family dwelling shall be permitted on a lot. It is intended that this district will be certified by the Wisconsin Department of Agriculture, Trade, and Consumer Protection (DATCP) as a Farmland Preservation District to permit eligible landowners to receive tax credits under Subchapter IX of Chapter 71, Wis. Stats.

\*In calculating dwelling density for this district a “forty-forty” commonly described by metes and bounds that is found by survey/legal description to be less than 40 acres, shall be considered to meet the acreage density requirements provided all four quarter-quarter corners are identified as part of said survey/legal description.

A non-farm dwelling shall have a minimum setback of five hundred (500) feet from any existing feedlot or livestock confinement area with a capacity of fifty (50) animal units or more.

#### Permitted uses:

##### 1. Agricultural uses conducted for the purpose of producing an income or livelihood:

- a. Agronomic crop production
- b. Apiculture
- c. Aquaculture and/or fish hatcheries
- d. Dairying
- e. Fallow land
- f. Floriculture
- g. Grazing
- h. Hatcheries
- i. Horticultural crop production
- j. Nursery, sod, and Christmas tree production
- k. Raising livestock
- l. Silviculture
- m. Viticulture

##### 2. Farm accessory uses

- a. A building, structure, or improvement that is an integral part of, or is incidental to, an agricultural use.
- b. A business, activity, or enterprise conducted by the owner or operator of a farm, that does not impair or limit the current or future agricultural use of the farm or other farmland, and that meets all of the requirements for a home occupation as described in Section \_\_\_\_ of this ordinance.
- c. Roadside stands, temporary seasonal roadside sales of agriculture products primarily produced on the premises.
- d. Professional offices if located in a farm dwelling that meet s. 91.01(1).

e. Tourist rooming house if located in a farm dwelling that meet s. 91.01(1).

3. Minor utilities

4. Pre-existing dwellings.

a. Pre-existing dwellings established prior to December 31, 2013 located in areas subject to zoning under this chapter may be continued in residential use. Such pre-existing dwellings may be structurally altered and repaired, replaced, or rebuilt if destroyed but are subject to setback, height and other dimensional requirements. If a pre-existing dwelling is removed, destroyed, or not occupied for a period of 12 consecutive months, it cannot be replaced or re-occupied and all future use of the property must conform to the provisions of this chapter.

5. One (1) additional farm dwelling is permitted in the ANR-40 district per base farm tract.

a. Farm dwellings do not count against the residential density limitations of the ANR-40 district.

6. Undeveloped natural resource and open space areas, and associated conservation practices.

a. Hunting, fishing, trapping, and consumption of naturally replenishing resources.

7. 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.

**Conditional uses:**

1. Agricultural related uses, all listed uses shall maintain a minimum setback of 200 feet from any residential district or residential lot.

a. Animal hospitals that primarily service livestock

b. Animal slaughtering and/or butchering establishments

c. Facilities that provide farm inputs such as fertilizer, pesticides, seed, or feed directly to farms

d. Facilities primarily engaged in sale and servicing of farm vehicles or other farm equipment

e. Facilities primarily engaged in providing agronomic or veterinary services to farms

f. Feed mills or rendering plants that process raw agricultural commodities or agricultural by-products received directly from farms, or supply animal feed directly to farms

g. Food processing plants that process raw agricultural commodities received from farms

h. Grain warehouses, potato warehouses, or other warehouses that store raw agricultural commodities received from farms

2. Agricultural/Natural resource related home businesses that is owned and operated by a resident occupant which is secondary to the use of the premises, provided that the following criteria are met:

a. The use shall be conducted entirely within the residence or an accessory structure customarily located on a farm or rural homestead and shall not exceed 3,000 sq. ft. in floor area or employ more than 3 fulltime employees,

b. Crafts and other related products are allowed so that they are incidental and negligible to the agricultural related business,

c. There shall be no outside storage or display of materials, equipment, or products except for those products that are grown on the property and are sold on a seasonal basis,

d. There shall be no excessive noise, odor, dust, glare, vibration, or electrical disturbances beyond the lot line,

e. One on-premise sign shall be allowed stating the name of the business, the owner /operator, and the product being sold or service offered. The sign shall not exceed twenty-four (24) square feet in area, shall be non-illuminated, and shall not be placed within a vision triangle.

3. Blacksmiths meeting the requirements of State Statutes 91.01(1)

4. Commercial outdoor recreation areas including, but not limited to:

a. Golf courses provided they are public use and meet State Statutes 91.46(5)

b. Stable ring

c. Fairgrounds provided they are public use and meet State Statutes 91.46(5)

d. Campgrounds with twenty (20) sites or less provided they are an open space use with no structures. Additional sites may be allowed per Board of Adjustment variance.

e. Skeet and trap shooting range that meet s. 91.46(5).

5. Commercial raising of fur-bearing animals, provided the following criteria are met:

a. All structures and confinement areas shall maintain a minimum setback of one thousand (1,000) feet from a residential district or residential lot,

b. Animal waste handling plan,

- c. Fencing or screening,
- 6. New or expanding feed lots when more than 500 animal units will be housed or confined provided the following criteria are met:
  - a. Structures and confinement areas shall maintain a minimum setback of one thousand (1,000) feet from a residential district or residential lot,
  - b. Animal waste handling plan,
- 7. New or expanding feedlots where from 50 to 500 animal units will be housed or confined provided the following criteria are met:
  - a. Structures and confinement areas shall maintain a minimum setback of five hundred (500) feet from a residential district or residential lot.
  - b. Animal waste handling plan.
- 8. Kennels – commercial kennels must meet s. 91.01(1)
  - a. Structures or confinement areas shall maintain a minimum setback of two hundred (200) feet from any lot line
- 9. Non-farm dwellings
  - a. A Conditional Use Permit may be granted for up to 1 non-farm dwelling for every 40 acres of land included in the Base Farm Tract (BFT). A maximum of 4 non-farm dwellings are allowed per BFT. In addition, the ratio of all “non-farm dwelling acreage” to “farm acreage” on the BFT may not exceed 1 to 20. Non-farm dwelling acreage shall be determined by the County based on the use of the property. Two family dwellings are allowed but will count as 2 residences. Existing non-farm dwellings at the time of adoption of this chapter are counted against the number of non-farm dwellings allowed. Once the housing density for the BFT is met, it will be required that the remaining acreage in the BFT be subject to a deed restriction prohibiting any additional dwellings or non-agricultural development. In addition, the approval of a Conditional Use Permit to establish a non-farm dwelling may be subject (based on the size of the lot) to recording of a deed restriction that shall apply to the dwelling and to the balance of acreage on the lot on which the dwelling is located. The deed restriction shall prohibit any additional dwellings or non-agricultural development on the remainder of the lot ensuring “farm acreage” is maintained.
    - (1) A parcel for a non-farm dwelling authorized by an Administrative Conditional Use Permit shall not do any of the following:
      - (i) Convert prime farmland from agricultural use or convert land previously used as cropland, other than a woodlot, from agricultural use if on the farm there is a reasonable alternative location or size for a farm residential parcel or farm dwelling.
      - (ii) Significantly impair or limit the current or future agricultural use of other protected farmland.
    - (2) Calculation. The allowable number of non-farm residential lots shall be calculated by dividing the size of the BFT in acres by the maximum residential density of the district. (Example: 96 acre lot in the Agriculture/Natural Resource – 40 district results in  $92/40 = 2.3$  lots.)
    - (3) Rounding. Any fractional lot resulting from the calculation in 6 (a) (3) which is at least .75 shall be rounded up to the next whole number.
    - (4) Minimum lot size. No lot or building site shall be created which does not meet the minimum lot area requirements of this Ordinance.
- 10. Nonprofit, and/or charitable organizations related to agriculture meeting the requirements of State Statutes 91.46(5)
- 11. Nonmetallic mineral extraction meeting the requirements of State Statutes 91.46(6)
- 12. Public wayside or roadside park meeting the requirements of State Statutes 91.46(5)
- 13. Temporary Sawmills, duration not to exceed 90 days
- 14. Temporary concrete or asphalt plant operated in conjunction with a permitted nonmetallic mine, duration not to exceed 120 days and meet State Statutes 91.46(6).
- 15. Land alteration over one acre for non-agricultural purposes.
- 16. Communication Towers over 100 feet in height, including all ancillary equipment and meet State Statutes 91.46(4).
- 17. Municipal buildings for the maintenance of roads and storage of equipment and materials meeting the requirements of State Statutes 91.46(5)
- 18. Sanitary landfill meeting the requirements of State Statutes 91.46(5)

19. Churches/Religious Institutions/Cemeteries meeting the requirements of State Statutes 91.46(5).
20. Schools/Colleges/Universities meeting the requirements of State Statutes 91.46(5).
21. Winery/Brewery/Other related use provided the product is made on site.
22. Bed and Breakfasts that meet s. 91.01(1).

**Prohibited uses:**

1. Any use not specifically listed as a permitted or conditional use.

**Standards for Rezoning land out of the Agriculture/Natural Resource -40 District.**

1. The Department of Agriculture, Trade and Consumer Protection shall be notified of all rezoning out of the farmland preservation district by March 1 of each year.
2. Decisions on zoning petitions for rezoning areas within a farmland preservation district shall be based on the following findings:
  - a. The land is better suited for a use not allowed in the farmland preservation zoning district.
  - b. The rezoning is consistent with any applicable comprehensive plan.
  - c. The rezoning is substantially consistent with the county certified farmland preservation plan.
  - d. The rezoning will not substantially impair or limit current or future agricultural use of surrounding parcels of land that are zoned for or legally restricted to agricultural use.
  - e. Adequate public facilities to serve the development are present or will be provided.
  - f. Provision of these facilities will not be an unreasonable burden to local government.
  - g. Development will not cause unreasonable air and water pollution, soil erosion or adverse effects on rare or irreplaceable natural areas.
  - h. The need of the proposed development in an agricultural area.
  - i. The availability of alternate locations.
  - j. The productivity of the agricultural land involved.

**Definitions (definitions will be located in the definitions section of the Zoning Ordinance)**

“Base farm tract” means one of the following: (1) All contiguous parcels in a farmland preservation zoning district that are part of a single farm when DATCP first certifies the farmland preservation ordinance under the new law (or on an earlier date specified in the ordinance), regardless of any subsequent changes in the size of the farm. (2) Any other tract that DATCP by rule defines as a “base farm tract.”

“Farm acreage” means the size of a farm in acres.

“Farm dwelling” means any of the following structures that is located on a “farm”:

- (1) A single-family or duplex dwelling that is the only residential structure on the “farm” or is occupied by any of the following:
  - (a) An owner or operator of the farm.
  - (b) A parent or child of an owner or operator of a farm.
  - (c) An individual who earns more than 50 percent of his or her gross income from the farm.
- (2) A state-certified migrant labor camp

“Non-farm dwelling” means any dwelling other than a “farm dwelling.”

“Non-farm dwelling acreage” means the total number of acres of all parcels on which “non-farm dwellings” are located.