

Town of Freeman

## **FARMLAND PRESERVATION DISTRICT AMENDMENT**

### **TO THE TOWN OF FREEMAN ZONING ORDINANCE AS OF 02-28-2022**

#### **Introduction**

Proposed Amendment to Freeman Township Zoning Ordinance 01-26-2015, as Amended 02-28-2022  
Industrial Animal Production Facilities.

The purpose of this amendment is to add a Farmland Preservation Zoning District for the majority of the Township. Currently under Section 2B, Freeman Township has a single combined district titled Agriculture/Residential.

This zoning amendment creates a “Farmland Preservation (FLP) Zone” in the Township of Freeman.

With this new zoning district, the Township of Freeman will have two (2) land use zones/districts: a) an agriculture / residential land use district, wherein conditional use permits are allowed as defined in section 2.A.4 and b) a Farmland Preservation (FLP) Zone/ district, wherein conditional use permits are defined relative to FLP.

Conditional Use Permit requests from either land use zone/district, require review and approval by the Planning and Zoning Commission, and final approval by the Township Board of Trustees.

The 2022 zoning map for the Town of Freeman, showing both the FLP zoned regions and the non-FLP zone regions, is given in Figure 2-B-1. Note: DATCP provided the map, dated 2017, showing non-FLP land owned by the “Army Corp of Engineers, Wisconsin DNR, and all residential subdivisions as of 2017.” The May 2022 updated FLP map excludes a) all landowners with 20 acres of land or less; b) new residential subdivision since the 2017 map was created; and c) landowners who have requested their land NOT be in the FLP zone/district – see Figure 2-B-2 for those named landowners. NOTE: New landowners can be added to this figure if the landowner provides a written request to the Town Clerk. Likewise, a landowner, on this list, who decides at a later date desiring to be included in the FLP zone can submit a request to the Town Board for approval. Landowners with 20 acres or less may request to be added to the Farmland Preservation District by written request to the Town Board for approval. The updated total zoning map for the Township of Freeman shall be updated annually and shall be available on the Towns’ Website and the Town Hall.

The 2022 Township of Freeman updated zoning ordinance shall be submitted to the Wisconsin DATCP agency to be certified as a FLP zone in the Township. For landowners in the FLP zone to receive state tax credit, they are required to have a DATCP certified land management plan (State Statute 91).

This FLP zoning map satisfies the DATCP requirement of 75% of the Township land being in the zone based on the DATCP Township map of 2017.

#### **FARMLAND PRESERVATION (FLP) ZONE/DISTRICT**

- A. Purpose. The intent of this district is to maintain highly productive agricultural lands in food and fiber production by effectively limiting encroachment of non-agricultural development and minimizing land use conflicts among incompatible uses. The purpose of this District is to further supplement the implementation of the Crawford County Farmland Preservation Plan as well as

meet the minimum requirements of Chapter 91, Wis. Stats., to the extent applicable, in order that the town's farmers may qualify for tax credits.

B. Definitions. The following definitions apply in the Farmland Preservation District and to the extent applicable the exclusive agricultural district:

(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.
- 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 paragraph (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.
- e) Any other use that the department, by rule, identifies as an agricultural use.

(1m) "Agricultural enterprise area" means an area designated in accordance with s. 91.84.

(2) "Agricultural Use" means any of the following:

1. Any of the following activities conducted for the purpose of producing an income or livelihood:

1. Crop or forage production.
2. Keeping livestock.
3. Beekeeping.
4. Nursery, sod, or Christmas tree production. 4m. Floriculture.
5. Aquaculture.
6. Fur farming.
7. Forest management.
8. Enrolling land in a federal agricultural commodity payment program or a federal or state agricultural land conservation payment program.

2. Any other use that the department, by rule, identifies as an agricultural use.

(3) "Agriculture-related use" means any of the following:

- a) An agricultural equipment dealership, facility providing agricultural supplies, facility for storing or processing agricultural products, or facility for processing agricultural wastes.
  - b) Any other use that the department, by rule, identifies as an agriculture-related use.
- (4) "Base Farm Tract" means one of the following:
- a) All land, whether one parcel or 2 or more contiguous parcels, that is in a farmland preservation zoning district and that is part of a single farm on the date that the department under s. 91.36(1) first certifies the farmland preservation zoning ordinance covering the land or on an earlier date specified in the farmland preservation zoning ordinance, regardless of any subsequent changes in the size of the farm.
  - b) Any other tract that the department by rule defines as a base farm tract.
- (5) "Certified farmland preservation plan" means a farmland preservation plan that is certified as determined under s. 91.12.
- (6) "Certified farmland preservation zoning ordinance" means a zoning ordinance that is certified as determined under s.91.32.
- (7) "Chief elected official" means the mayor of a city or, if the city is organized under subch. I of ch. 64, the president of the council of that city, the village president of a village, the town board chairperson of a town, or the county executive of a county, or, if the county does not have a county executive, the chairperson of the county board of supervisors.
- (8) "Comprehensive plan" has the meaning given in s.66.1001 (1) (a).
- (9) "Conditional use" means a use allowed under a conditional use permit, special exception, or other special zoning permission issued by a political subdivision.
- (10) "County land conservation committee" means a committee created under s. 92.06 (1).
- (11) "Department" means the department of agriculture, trade and consumer protection.
- (12) "Farm" means all land under common ownership that is primarily devoted to agricultural use.
- (13) "Farm acreage" means size of a farm in acres.
- (14) "Farmland preservation agreement" means any of the following agreements between an owner of land and the department under which the owner agrees to restrict the use of land in return for tax credits:
- a) A farmland preservation agreement or transition area agreement entered into under s. 91.13, 2007 Wis. Stats., or s. 91.14, 2007 stats.
  - b) An agreement entered into under s. 91.60(1).
- (15) "Farmland preservation area" means an area that is planned primarily for agricultural use or agriculture-related use, or both, and that is one of the following:
- a) Identified as an agricultural preservation area or transition area in a farmland preservation plan described in s. 91.12(1).
  - b) Identified under s. 91.10(1)(d) in a farmland preservation plan described in s. 91.12(2).

- (16) "Farmland preservation plan" means a plan for the preservation of farmland in a county, including an agricultural preservation plan under subch. IV of ch. 91, 2007 stats.
- (17) "Farmland preservation zoning district" means any of the following:
- a) An area zoned for exclusive agricultural use under an ordinance described in s. 91.32 (1).
  - b) A farmland preservation zoning district designated under s. 91.38 (1) (c) in an ordinance described in s. 91.32 (2). 13
- (18) "Farm residence" means any of the following structures that are located on a farm:
- a) A single-family or duplex residence that is the only residential structure on the farm or is occupied by any of the following:
    - 1. An owner or operator of the farm.
    - 2. A parent or child of an owner or 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.
- (19) "Gross farm revenues" has the meaning given in s. 71.613 (1) (g).
- (20) "Livestock" means bovine animals, equine animals, goats, poultry, sheep, swine, farm-raised deer, farm-raised game birds, camelids, ratites, and farm-raised fish.
- (21) "Nonfarm residence" means a single-family or multi-family residence other than a farm residence.
- (22) "Nonfarm residential acreage" means the total number of acres of all parcels on which nonfarm residences are located.
- (23) "Overlay district" means a zoning district that is superimposed on one or more other zoning districts and imposes additional restrictions on the underlying districts.
- (24) "Owner" means a person who has an ownership interest in land.
- (25) "Permitted use" means a use that is allowed without a conditional use permit, special exception, or other special zoning permission.
- (26) "Political subdivision" means a city, village, town, or county.
- (27) "Prime farmland" means any of the following:
- a) An area with a class I or class II land capability classification as identified by the natural resource's conservation service of the federal department of agriculture.
  - b) Land, other than land described in par. (a), that is identified as prime farmland in a certified farmland preservation plan.
- (28) "Prior nonconforming use" means a land use that does not conform with the farmland preservation zoning ordinance but that existed lawfully before the farmland preservation zoning ordinance was enacted.

(29) "Protected farmland" means land that is located in the farmland preservation zoning district, is covered by a farmland preservation agreement, or is otherwise legally protected from nonagricultural development.

(30) "Taxable year" has the meaning given in s. 71.01 (12). History: 2009 a. 28. Wisconsin's Working Lands: Securing Our Future. Matson. Wis. Law. Dec. 2009.

C. Land Use in the Farmland Preservation District; General. Only the following land uses are allowed in a farmland preservation zoning district:

1. Uses allowed under Section (D) as a permitted use.
2. Uses allowed under Section (E) with a Conditional Use Permit.
3. Prior nonconforming uses, subject Section 62.23(7)(h), Wis. Stats. and any amendments thereto.

D. Permitted Uses.

1. Agricultural Uses
2. Accessory Uses
3. Agriculture-related Uses 14
4. Nonfarm residences constructed in a rural residential district in accordance with an approval of the district as a Conditional Use under Section e.(2)(b).
5. Undeveloped natural resource and open space areas.
6. A transportation, utility, communication, or other use that is required under state or federal law to be located in a specific place or that is authorized to be located in a specific place under a state or federal law that preempts the requirement of a special use permit for that use.

E. Conditional Uses.

1. Creation of a nonfarm residence or conversion of a farm resident to a nonfarm residence through a change of occupancy, subject to the following requirements:
  - a) The ratio of nonfarm residential acreage to farm acreage on the base farm tract on which the residence is or will be located will not be greater than 1:20 after the residence is constructed or converted to a farm residence.
  - b) There will not be more than four dwelling units in nonfarm residences, nor more than five dwelling units in residences of any kind, on the base farm tract after the residence is constructed or converted to a nonfarm residence.
  - c) The location and size of the proposed nonfarm residential parcel, and, for a new nonfarm residence, the location of the nonfarm residence on that nonfarm residential parcel, will not do any of the following:
    1. 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 nonfarm residential parcel or a nonfarm residence.

2. Significantly impair or limit the current or future agricultural use of other protected farmland.

2. Creation of a nonfarm residential cluster that covers more than one nonfarm residence if all of the following apply:
  - a) The parcels on which the nonfarm residences would be located are contiguous.
  - b) Each nonfarm residence constructed in the nonfarm residential cluster must satisfy the requirements of Section b.(1).
  
3. Transportation, communication, pipeline, electric transmission, utility, or drainage uses, if all of the following apply:
  - a) The use and its location in the farmland preservation zoning district are consistent with the purposes 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 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.
  
4. Governmental, institutional, religious, or nonprofit community uses, if all of the following apply:
  - a) The use and its location in the Farmland Preservation District are consistent with the purposes of the farmland preservation zoning district.
  - b) The use and its location in the Farmland Preservation 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.

F. Rezoning Land Out of a Farmland Preservation District.

1. Except as provided in sub. (2), the Town of Freeman may not rezone land out of the farmland preservation zoning district unless the Town of Freeman Town Board finds all of the following in writing, after public hearing, as part of the official record of the rezoning:
  - 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 applicable comprehensive plan.
  - c) The rezoning is substantially consistent with the Crawford County Farmland Preservation plan, 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 Chapter 91, Wis. Stats. 16
  - b) A rezoning that makes the farmland preservation zoning ordinance map more consistent with the county farmland preservation plan map, certified under ch. 91, Wis. Stats., which is in effect at the time of the rezoning.
3. By March 1 of each year the Town of Freeman by its Town Board or designated Town Official shall provide to the Wisconsin Department of Agriculture, Trade and Consumer Protection a report of the number of acres that the Town of Freeman, Crawford County, Wisconsin, has rezoned out of the farmland preservation zoning district under sub. (1) during the previous year and a map that clearly shows the location of those acres.

Adopted this 30<sup>th</sup> day of May, 2022

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John Leirmo, Chairman

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Al Thompson, Supervisor

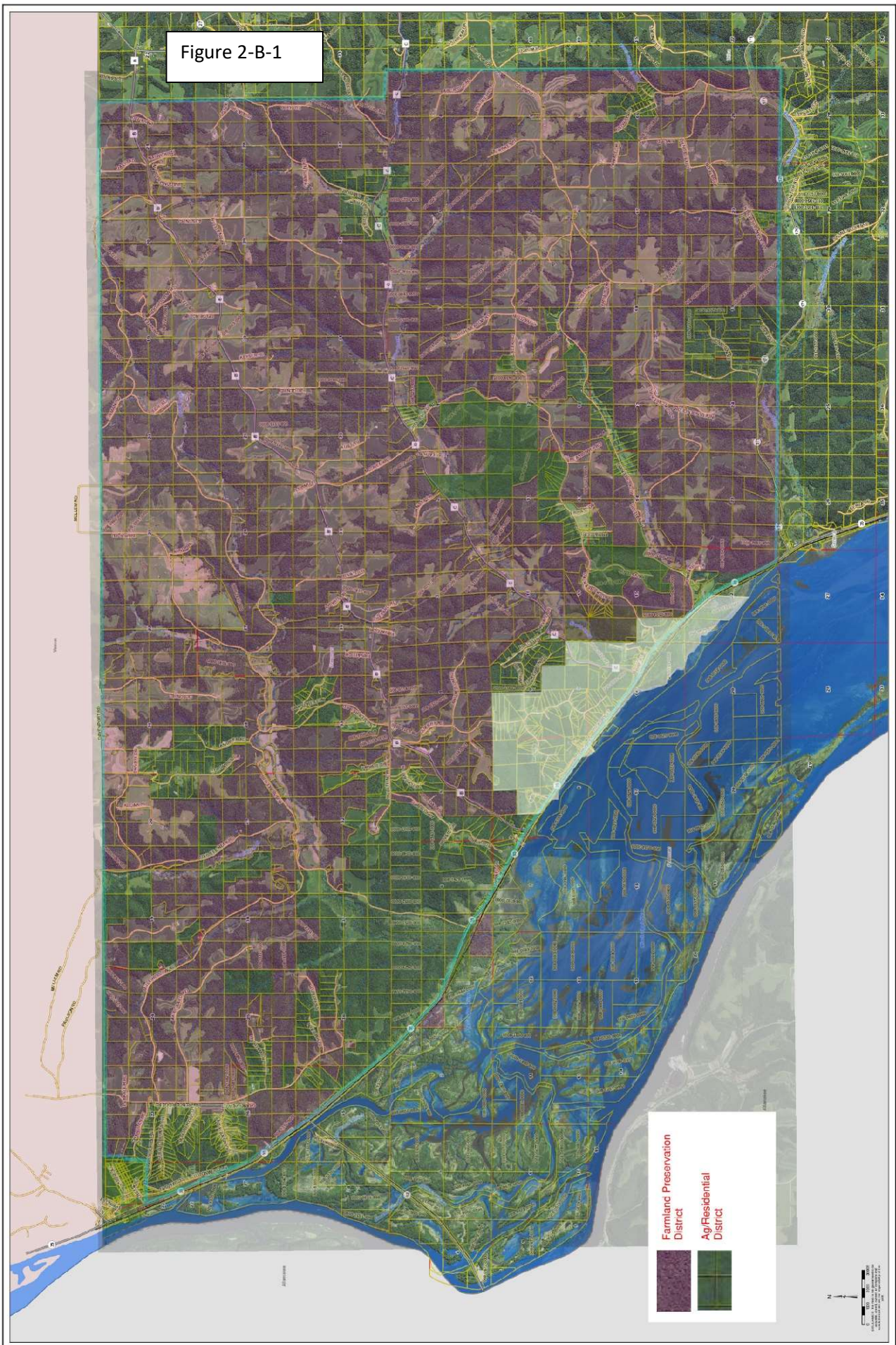
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David Olson, Supervisor

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Attested: Peggy Thompson, Clerk

Figure 2-B-1



**Farmland Preservation District**

**Ag/Residential District**





Figure 2-B-2

Landowners who have requested their land NOT be in the FLP zone/district:

1. Mark Dummann
2. Thomas and Paul Sampson
3. Severson Family Trust and Valley Hill Farms, LLC (Robert and Sally Severson)