

Conversion Fees

Wisconsin Working Lands Initiative

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Farmland Preservation Zoning

A county, town or municipality (zoning authority) may adopt a farmland preservation zoning ordinance. Farmers covered by the ordinance may claim state farmland preservation tax credits *if* the ordinance is certified for compliance with state farmland preservation standards. A certified ordinance must clearly identify the farmland preservation districts in which farmers are eligible for tax credits.

A zoning authority may, from time to time, rezone individual parcels out of a certified farmland preservation district. But special procedures and “conversion fees” apply. (See s. 91.48, Wis. Stats.)

Farmland preservation zoning serves to protect farmland and help it stay in agricultural use. It is especially effective for protecting large contiguous blocks of land. Such large blocks provide security for land owners that their land will continue to be used for agriculture and agriculture-related purposes. This contributes predictability to farm management decisions, limits land use conflicts with neighbors, and encourages agricultural investment. These benefits are lost whenever land is removed from agricultural use. The conversion fee acts not only as a disincentive for rezoning land but also as a way to recoup some lost benefits. Fees collected are used to foster farmland protection efforts in the state.

Rezoning Procedure and Fees

State law requires a zoning authority to do all of the following before rezoning land out of a certified farmland preservation district at the request of any person:

- **Hold a public hearing on the requested rezoning.**
- **Make all of the following “findings” after public hearing:**
 - The rezoned land is better suited for a use not allowed in the farmland preservation zoning district.
 - The rezoning is consistent with any applicable comprehensive plan.
 - The rezoning is substantially consistent with the *county’s* certified farmland preservation plan.
 - 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.
- **Collect a “conversion fee” from the person requesting the rezone.**
 - Fee is intended to discourage excessive rezoning of agricultural land. Fee revenues are paid to a state farmland preservation trust fund and used to help fund state, county and local farmland preservation programs.
 - Fee amount depends on the amount of land rezoned.
 - Fee applies beginning on *January 1, 2010*.
 - Fee applies, regardless of whether the person requesting the rezone has ever collected farmland preservation tax credits.
 - Requester must pay the fee before the rezone is finally approved by the zoning authority (fee may be refunded if approval is denied).
 - Zoning authority may charge a supplementary local fee, in addition to the state-mandated fee. The supplementary fee, if any, must be used to help pay for local farmland preservation programs.

These requirements do *not* apply to general zoning map amendments that are initiated by the zoning authority and certified by the WI Department of Agriculture, Trade and Consumer Protection.

Conversion Fees

Conversion Fee Amount

Conversion fees are based on the Wisconsin Department of Revenue Use Value Guidelines for Agricultural Land Assessment (<http://www.revenue.wi.gov/report/a.html>). A per acre conversion fee is calculated by multiplying the Grade 1 Agricultural Land Assessment value (or highest class of tillable land) by 3.

EXAMPLE:

In the Town of Neva (Langlade County), the 2010 Grade 1 Agricultural Land Assessment Value is \$194 per acre. In that town, the 2010 per-acre rezoning “conversion fee” is therefore $\$194 \times 3 = \582 per acre.

The “conversion fee” for 2 acres is $\$582 \times 2 = \$1,164$.

In the Town of Cross Plains (Dane County), the 2010 Grade 1 Agricultural Land Assessment Value is \$319 per acre. In that town, the 2010 per-acre rezoning “conversion fee” is therefore $\$319 \times 3 = \957 per acre.

The “conversion fee” for 2 acres is $\$957 \times 2 = \$1,914$.

The fewer acres rezoned, the smaller the “conversion fee.” The “conversion fee,” though substantial, is *much* less than the difference between the development value and the agricultural use value of the rezoned land. It provides a significant, but not prohibitive, disincentive for rezoning land out of agricultural use.

An Alternative to Rezoning

If a zoning authority is concerned about landowner resistance to rezoning “conversion fees,” it has another option. Most rezoning requests seek to rezone parcels for residential construction. The new farmland preservation law allows residential construction *within* a farmland preservation district, *without* the need for rezoning, pursuant to a “conditional use” permit.

Conditional use permit standards ensure that approved residences are compatible with the farmland preservation district (see Wis. Stats. s. 91.46). There is no rezoning “conversion fee,” because the land remains within the certified farmland preservation district and is not rezoned out of the district.

A zoning authority could take advantage of this option by adopting a simple zoning ordinance *text amendment*. The amendment could allow residential construction in a farmland preservation district, under a “conditional use” permit, if the residence meets the state standards under Wis. Stats. s. 91.46. Several zoning authorities are considering this approach, and have developed sample language in consultation with DATCP.

The text amendment would not require any map changes, and would likely be consistent with the county’s *current* certified farmland preservation plan. DATCP could therefore certify it without a plan update. The new law provides a rapid ordinance certification process, so all of this could be accomplished rather quickly.

Such an amendment *would not take away any existing landowner rights in farmland preservation districts*, but would give landowners an *additional legal option* that they do not currently have. It would allow compatible residential construction *within* the farmland preservation district, without any rezoning or “conversion fees.” But it would also protect farmland, and allow farmers in the affected district to continue claiming tax credits (which are substantially enhanced under the new law).