**Sec. 13-1-30 Exclusive Agricultural Use (EAU) District**

1. **Purpose.** The Town recognizes the importance of preserving prime agricultural lands for productive agricultural purposes. The specific purposes of the Exclusive Agricultural Use (EAU) District are to:
	* Preserve productive agricultural land for food and fiber production;
	* Preserve productive farms by preventing land use conflicts between incompatible uses and controlling public service costs;
	* Maintain a viable agricultural base to support agricultural processing and related service industries;
	* Reduce costs of providing services to scattered non-farm uses;
	* Pace and shape growth;
	* Implement the provisions of the county agricultural plan as adopted and periodically revised; and
	* Comply with the provisions of Chapter 91, Wisconsin Statutes (Exclusive Agricultural Zoning) to permit eligible landowners to receive tax credits.
2. **Applicability.** The EAU District includes prime agricultural lands historically exhibiting high crop yields, which generally consist of Class I, II, and III soil capability classes established by the United States Department of Agriculture, Natural Resource Conservation Service, and other lands that are integral parts of productive farm operations, all as identified in the Fond du Lac County Agricultural Preservation Plan.
3. **Definitions Related to EAU District.**USES CONSISTENT WITH AGRICULTURAL USES: A “use consistent with agricultural uses” must meet all of the following criteria:
	1. (a) The activity will not convert land that has been devoted primarily to agricultural use;
	2. (b) The activity will not limit the surrounding land’s potential for agricultural use;
	3. (c) The activity will not conflict with agricultural operations on the land subject to a farmland preservation agreement;
	4. (d) The activity will not conflict with agricultural operations conducted on other properties.
4. **Permitted Uses.** The following uses are permitted in the EAU District:
	1. *Agricultural Uses.* Beekeeping; commercial feedlots of less than 500 cattle or 1000 hogs or sheep; dairying; egg production; floriculture; fish or fur farming; forest and game management; grazing; livestock raising; orchards; plant greenhouses and nurseries; poultry raising; raising of grain, grass, mint and seed crops; raising of fruits, nuts, vegetables or berries; sod farming; placing land in federal programs in return for payments in kind; owning land, at least thirty-five (35) acres of which is enrolled in the conservation reserve program under 16 USC 3831-3836; participating in the milk production termination program under 7 USC 1446.
	2. *Agriculturally-Related Dwellings.* Dwellings that have a use consistent with agricultural use and that are occupied by any of the following:
		1. An owner of the parcel;
		2. A person who, or a family at least one adult member of which, earns the majority of his or her gross income from conducting the farm operations on the parcel;
		3. A parent or child of an owner who conducts the majority of the farm operations on the parcel;
		4. A parent or child of an owner who resides on the parcel and who previously conducted the majority of the farm operations on the parcel.
	3. *Pre-Existing Dwellings and Residential Lots.* Pre-existing dwellings that do not conform to Sec. 13-1-30(4)(b) above may be continued in residential use and shall not be considered nonconforming uses under this Ordinance. Such pre-existing dwellings may be altered, repaired or rebuilt if destroyed but are subject to setback, height and other dimensional requirements. Residential lots of record held in separate ownership from adjoining lands at the date of the adoption of this ordinance may be used for new dwellings (one per lot of record), that shall then be classified as pre-existing dwellings.
	4. *Accessory Structures.* Accessory structures and improvements consistent with agricultural uses, and those consistent with dwellings as listed under Sec. 13-1-30(4)(b) above**.**
	5. *Accessory Uses.* Uses clearly related, but incidental to the primary farm operation such as seed and fertilizer sales, grain drying and repair of farm equipment.
	6. *Gas and electric utility* uses consistent with agricultural uses and not requiring authorization under Section 196.491, Wisconsin Statutes.
	7. *Community living arrangements* serving eight (8) or fewer persons; adult family homes; foster homes and treatment foster homes, subject to Section 60.63(3), Wisconsin Statutes; family day care homes.
5. **Conditional Uses.** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any Conditional Use Permits in the EAU District. Conditional Use Permits may be granted only for those uses outlined below that are consistent with agricultural uses. The following uses are allowed in the EAU District upon the granting of a Conditional Use Permit:
	1. Religious, institutional, governmental and utility uses that are not permitted uses and are found to be locating in an EAU District by necessity in light of alternative locations available for such uses.
	2. Community living arrangements serving nine (9) or more persons; day care homes for the care and supervision of nine (9) or more children.
	3. Commercial feedlots of five hundred (500) or more cattle or one thousand (1000) or more hogs or sheep.
	4. A structure or improvement made incident to a lease for oil and natural gas exploration and extraction.
	5. Farm dwellings and related structures, existing prior to the adoption of this Ordinance, that are separated from the farm lot after farm consolidation.
	6. Home occupations other than those specifically defined in Sec. 13-1-30(4)(e) above.
	7. The temporary, seasonal establishment of one (1) roadside stand per lot for the sale of produce grown on the premises shall be allowed without a temporary use permit.
	8. Family farm businesses if limited to existing farm dwellings or structures or portions of the existing farmstead that are not dedicated to agricultural uses. No more than two (2) persons who are not members of the resident farm family may be employed in the family farm business. For purposes of this subsection, “family farm business” means any of the following:
		1. The purchase, sale, lease or rental of personal or real property;
		2. The manufacture, processing or marketing of products, commodities or any other personal property;
		3. The sale of services.
6. **Decision Criteria for Conditional Use Permits.** When deciding on Conditional Use Permits in the EAU District, the Planning Commission shall consider the following criteria instead of those set forth in Sec. 13-1-77(5) of this Ordinance:
	1. The relationship of the application to the “Purposes” set forth above;
	2. The compatibility of, and/or potential conflict with existing agricultural uses;
	3. The need of the proposed use to be located in the EAU District;
	4. The availability of alternative locations in districts other than EAU or AT;
	5. The agricultural productivity of the lands involved;
	6. The acreage of productive agricultural land to be converted to non-agricultural use by the proposed use;
	7. Whether adequate public facilities to accommodate the development presently exist or will be provided within a reasonable time;
	8. Whether the provision of public facilities to accommodate development will place an unreasonable burden on the Town to provide them;
	9. Whether the land proposed for rezoning is suitable for development;
	10. Whether development will result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas.

(b) Conditions That May Be Attached. The following conditions may be attached to the granting of a Conditional Use Permit. A performance bond or other comparable form of security may be required to insure compliance with such requirements.

* + 1. Increased setbacks and yards;
		2. Specifications for water supply, liquid waste, and solid waste disposal facilities;
		3. Landscaping and planting screens;
		4. Operational controls;
		5. Erosion prevention measures;
		6. Location of the use on the lot; and
		7. Similar requirements found necessary to fulfill the purpose and intent of this ordinance.
1. **Minimum Lot Size.** The minimum lot size to establish a residence or farm operation shall be thirty-five (35) acres, with the following exceptions:
	1. The minimum lot size to establish a separate parcel for an additional residence for persons specified in Sec. 13-1-30(4)(b)(2)-(4) shall be one (1) acre.
	2. Where an additional residence for persons specified in Sec. 13-1-30(4)(b)(2)-(4) is located on a farm without creating a separate parcel, the residence shall be at least one hundred (100) feet from other dwellings.
	3. Lots with farm dwellings and related structures specified in Sec. 13-1-30(5)(d) above shall be a minimum of 65,000 square feet and a maximum of five (5) acres.
2. **Height Limitations.** The maximum height for all residential structures shall be thirty-five (35) feet. The maximum height for all non-farm accessory structures shall be twenty (20) feet. There shall be no specific height limitation for any farm-related structures, except that the total height of any such structure shall not exceed .8 times its distance from the nearest lot line.
3. **Setbacks.** The minimum front yard for farm dwellings and accessory structures shall be according to Sec. 13-1-57, Highway Setbacks. The minimum side and rear yard for farm dwellings and accessory structures shall be twenty-five (25) feet. The minimum front, side and rear setbacks for structures housing livestock shall be one hundred (100) feet from the nearest lot line or road right-of-way, as applicable.
4. **Rezoning from EAU.** The Department of Agriculture, Trade and Consumer Protection shall be notified of the approval of any rezoning. When deciding on rezonings from EAU to a different district classification, the Planning Commission shall consider the following criteria instead of those set forth in Sec. 13-1-78(5)(b) of this Ordinance:
	1. Adequate public facilities to accommodate the development presently exist or will be provided within a reasonable time.
	2. The provision of public facilities to accommodate development will not place an unreasonable burden on the Town to provide them
	3. The land proposed for rezoning is suitable for development and development will not result in undue water or air pollution, cause unreasonable soil erosion or have an unreasonably adverse effect on rare or irreplaceable natural areas
	4. The potential for conflict with remaining agricultural uses in the area is.
	5. The need of the proposed development location in an agricultural area.
	6. The availability of alternative locations.
	7. The productivity of the agricultural lands involved.

The location of the proposed development to minimize the amount of agricultural land converted.