

**ORDINANCE 2021 – 06**  
**AN ORDINANCE AMENDING SECTIONS 425-1-7, 425-3-3A, 425-4-3H**  
**AND APPENDIX A OF THE ZONING ORDINANCE OF THE TOWN OF FULTON**

WHEREAS, the Town Board and Plan Commission of the Town of Fulton having determined that it is appropriate to amend those provisions addressing the base farm tract regulations in the A-E Zoning District to make those provisions more clear and succinct while maintaining the original intent of those regulations to preserve farmland and limit development in agricultural areas; and

WHEREAS, the Plan Commission of the Town of Fulton having held a duly noticed public hearing on the proposed amendments to Sections 425-1-7, 425-3-3A, 425-4-3H and Appendix A of the Zoning Ordinance of the Town of Fulton; and

WHEREAS, following said public hearing, the Plan Commission having found that the proposed amendments to Sections 425-1-7, 425-3-3A, 425-4-3H and Appendix A of the Zoning Ordinance of the Town of Fulton are appropriate and in the best interests of the residents and owners of property within the Town of Fulton and having recommended said proposed amendments to the Town Board of the Town of Fulton; and

WHEREAS, the Town Board of the Town of Fulton having reviewed the proposed amendments to Sections 425-1-7, 425-3-3A, 425-4-3H and Appendix A of the Zoning Ordinance of the Town of Fulton at a duly noticed public hearing and having considered the recommendation of the Plan Commission and having determined that said proposed amendments to the Zoning Ordinance are in the best interest of the residents and owners of property within the Town of Fulton.

NOW, THEREFORE, the Town Board of the Town of Fulton do hereby ordain as follows:

Section I.      Section 425-1-7 of the Zoning Ordinance of the Town of Fulton is hereby amended by repealing the following definitions:

NEW LOT, RESIDENCE, FARMSTEAD RESIDENCE, AGRICULTURE  
PARENT BASE FARM LOT

Section II.     Section 425-1-7 of the Zoning Ordinance of the Town of Fulton is hereby amended by adding the following new definitions:

**NEW RESIDENTIAL LOT** – A lot on which a residence is proposed to be located, created from a base farm after July 14, 2015, in accordance with Sec. 4-3H(2)(d)(1) of this chapter (applicable to land in the A-E zoning district).

**NEW FARMSTEAD RESIDENCE LOT** – A lot on which a residence and associated accessory buildings, existing on or prior to October 9, 1980, created from a base farm after July 14, 2015, in accordance with Sec. 4-3H(2)(d)(1) of this chapter (applicable to land in the A-E zoning district).

**NEW AGRICULTURAL LOT— A-E OR — A-G** – A lot on which agricultural or agriculture-related uses will occur, created from a base farm after July 14, 2015, in accordance with Sec. 4-3H(2)(d)(1) of this chapter (applicable to land in the A-E zoning district).

**PARENT BASE FARM LOT** – A lot in a base farm remaining after a new lot is created in accordance with Sec. 4-3H(2)(d)(1) of this Ordinance.

Section III. Section 425-3-3A. of the Zoning Ordinance of the Town of Fulton is hereby amended to read as follows:

**A. Agricultural-Exclusive (A-E).**

1. Purpose and Intent. The purpose of the Agricultural-Exclusive (A-E) Zoning District is to protect farming and farmland from non-agricultural development, and to ensure that qualifying landowners in the A-E District are eligible for the State of Wisconsin Farmland Preservation Tax Credit, through certification of the A-E Zoning District by the Wisconsin Department of Agriculture, Trade and Consumer Protection (hereafter "DATCP") as a "farmland preservation zoning district," with areas within this zoning district so identified in the Rock County Agriculture Plan or similar plan or document, in accordance with Chapter 91, Wis. Stats. The intent of the A-E Zoning District is to provide large acreage lots for agricultural uses or uses compatible with agricultural uses. Lands identified as suitable for designation within the A-E Zoning District are hereby established in accordance with **Appendix B**: Criteria for Designation of Town of Fulton Lands in the Agricultural-Exclusive (A-E) and Agricultural-General (A-G), herein. Owners and buyers of lands zoned A-E should review section 425-4-3(H) of the Town's ordinances to understand the restrictions on the use, division, and rezoning of A-E land. Questions about the meaning of the ordinance or its application to specific properties should be directed to the Town Zoning Administrator.

Section IV. Section 425-4-3H. of the Zoning Ordinance of the Town of Fulton is hereby amended to read as follows:

**H. Zoning district change and new lot creation in A-E Zoning District.** The Board may, by ordinance, change the zoning district designation of a lot/outlot as initiated by the Board, the Commission, or by a zoning district change application submitted by the lot/outlot owner(s), subject to review and approval by the Town, in accordance with the following procedures:

**(1)** Application submittal. An applicant shall submit to the Town Clerk a Town of Fulton Zoning District Change Application or similarly named document as available at the office of the Town Clerk and on the Town website, and an application fee as determined by Board resolution.

**(2)** Application review.

**(a)** Upon receipt of the zoning district change application from the applicant, the Town Clerk shall notify by postal mail the parties in interest, and land owners and the clerk of any local government unit within 1,000 feet of the lot proposed for

zoning district change if in the A-E, A-G, or R-RL Zoning Districts, and 500 feet of the lot proposed for zoning district change if in any other zoning district. The Town Clerk shall also publish a Class 2 Legal Notice in accordance with Chapter 985, Wis. Stats., listing the time and place of a public hearing at which the zoning district change application will be reviewed by the Commission, and the location of the land proposed for the zoning change, with said postal mail notification postmarked 10 days prior to said hearing.

**(b)** The Commission shall review a zoning district change application at a public hearing for compliance with this chapter and in accordance with § 425-4-2B(2) of this chapter and shall also consider the following factors (hereafter "zoning district change findings of fact") in review of the application:

**[1]** The use identified in the application is consistent with the purpose and intent of the zoning district to which it will be changed;

**[2]** Relevant Wisconsin case law related to the application;

**[3]** The land identified in the application is suitable for the proposed use identified therein and said use will not result in undue water and air pollution, cause unreasonable soil erosion, or have an unreasonable adverse effect on rare or irreplaceable natural resources;

**[4]** Approval of an application for any lands proposed to be changed from the A-E Zoning District to any other zoning district shall not be granted by the Town unless it determines the application meets farmland preservation zoning district change findings of fact as identified in the following:

**[a]** The land identified in the application is better suited for a use not allowed in the A-E Zoning District;

**[b]** The application is consistent with the Comprehensive Plan and the Future Land Use Map contained therein;

**[c]** The application is substantially consistent with the Rock County Agriculture Plan/Farmland Preservation Plan and the Rock County and Town of Fulton Agricultural Resources — Farmland Preservation Maps contained therein;

**[d]** Changing the zoning district of the land identified in the application will not substantially impair or limit current or future agricultural use of other protected farmland.

**(c)** PARENT BASE FARM LOT. Base farm tracts are contiguous lands that were part of a single farm in the A-E Zoning District on July 14, 2015, regardless of any subsequent changes in farm size or composition, including ownership transfer or land division. Base Farms are a fixed geographical area that remains constant over time. The Town maintains a Base Farm Tract map. The parent base farm lot is the lot in a base farm remaining after a new lot is created, in

accordance with Sec. 4-3 (H) (2) (d) of this Ordinance, not to include said new lots. The parent base farm lot is not permitted to have a new farmstead residence built if it does not have an existing farmstead residence.

**(d)** New lots in the A-E Zoning District. New lots shall be in accordance with all applicable provisions of this chapter, Land Division Ordinance,<sup>[4]</sup> and Land Division and Management Ordinance, and all of the following:

**[1]** The following new lots are allowed in the A-E Zoning District:

**[a]** New residential lot. A lot on which a residence, not to include a farmstead residence, will be located, subject to all of the following:

**[i]** Only the owner of the parent base farm lot is allowed to create a new residential lot, unless the right to create one or more additional lots has been transferred to another owner for use in the same base farm and recorded as such with the Rock County Register of Deeds;

**[ii]** Each base farm shall be allowed to create no more than five new residential lots;

**[iii]** No more than 10% of the base farm's total acreage shall be converted to residential lots. The Town maintains a record of the acreage of each base farm available for new residential lot creation;

**[iv]** New residential lots may be no smaller than three acres and no larger than ten acres and shall be rezoned to the R-RL Zoning District.

**[b]** New farmstead residence lot. A lot on which a farmstead residence will be located, subject to all of the following:

**[i]** New farmstead residence lots must be between three acres and ten acres and re-zoned to the R-RL Zoning District.

**[c]** New agricultural lot–A-E. A lot on which no residential use will be located, subject to the following:

**[i]** New agricultural lots–A-E must be 20 acres or greater and remain in the A-E Zoning District.

**[2]** No parent base farm lot shall be less than 20 acres.

**[3]** A new residential lot, and a new farmstead residence lot, shall be configured and residences sited thereon in accordance with the following:

**[a]** The Land Division and Development Activities Memorandum of Agreement — Town of Fulton and the Rock County Planning, Economic

and Community Development Agency, contained as **Appendix D** herein;<sup>[5]</sup>

**[5]** *Editor's Note: Said appendix is included as an attachment to this chapter.*

**[b]** In a manner that will not convert prime farmland from agricultural use or convert land previously used as crop land, other than a woodlot, from agricultural use unless, in the judgement of the Town of Fulton Planning and Zoning Commission, there is not a reasonable alternative location or size for a nonfarm residential parcel;

**[c]** In a manner that will not significantly impair or limit the current or future agricultural use of other protected farmland;

**[d]** Driveways to serve new lots and residences thereon shall be designed in accordance with § 425-4-3C of this chapter.

**[4]** No lot in the A-E Zoning District shall have its zoning district designation changed to A-G, and no lot in the A-G Zoning District shall have its zoning district changed to A-E, unless changed as a result of an exemption under **[5][a]**, or a comprehensive Zoning Chapter text and Zoning Map amendment.

**[5]** Exemptions.

**[a]** Lands may be exempt from the new lot restrictions in **[1][a-c]** or **[4]** if 90% or greater of an area of interest is classified as “not prime farmland” by the Natural Resources Conservation Service’s (NRCS) Web Soil Survey. If this proof can be provided, the Town Board will consider making an exception to allow New Residential Lot or New Agricultural Lot-AG creation regardless of whether the provisions are met in **[1][a-c]** above.

**[i]** Woodlands do not automatically qualify for this exemption unless applicant can prove through NRCS maps that soils are considered “not prime farmland”.

**[ii]** Applicants are allowed no more than four exemptions within a single base farm. One lot is considered one exemption.

**[iii]** Applicants must still meet building configuration and siting criteria under Sec. 4-3(H)(2)(d)(3).

**[b]** The following lot creations are permitted and are exempt from **[1][a-c]** above:

**[i]** A lot created from a lot in the A-E Zoning District after July 14, 2015, if the A-E lot was identified for non-agricultural land use on the Comprehensive Plan Future Land Use Map and the Rock County and Town of Fulton Agricultural Resources-Farmland Preservation Maps;

**[ii]** A lot created from a lot in the A-E Zoning District after July 14, 2015, if designated in the NR-OS Zoning District.

**[4]** *Editor's Note: See Ch. 380, Subdivision of Land.*

**[6]** Any applicant creating a new lot must sign and record with the Rock County Register of Deeds, within six (6) months of approval by the Town and at the applicant's sole expense, affidavits containing the following in [a]-[c]. The Town must be listed as a party to all deed restrictions and have the power to release restrictions if requests are consistent with the Comprehensive Plan's Future Land Use Map.

**[a]** New Residential Lot or New Farmstead Residence Lot

**[i]** Residence Affidavit, or similarly named document, on the deed of the new lot indemnifying all agricultural uses and/or operations on the parent base farm lot from which the new lots were created; and restricting further land division of the new lot;

**[ii]** Agricultural Land Preservation Affidavit, or similarly named document, on the deed of the parent base farm lot from which the new lot was created, restricting uses of the remainder of the parent base farm lot once all available new residential lots have been created, in accordance with § 425-4-3H(2)(d)[1][a][iii] of this chapter, to Agricultural and open space uses and farm residences. This shall also further restrict land division of the parent base farm lot in accordance with § 425-4-3H(2)(d)[1] of this chapter, such that the affidavit identifies the number of additional new lots that may still be created, if any.

**[b]** New Agricultural Lot—A-E

**[i]** Agriculture Affidavit—A-E, or similarly named document, on the deed of the new lot restricting the location and/or construction of any new, additional residence on the new lot; and restricting further land division of the new lot in accordance with § 425-4-3H(2)(d)[1] of this chapter.

**[c]** New Agricultural Lot—A-G

**[i]** Agriculture Affidavit—A-G, or similarly named document, on the deed of the new lot restricting further land division of the new lot.

**[3]** Recommendation and action.

**(a)** After review, the Commission shall make a recommendation to the Board of approval, approval with conditions, or denial with findings on the zoning district change application after a public hearing. The Commission shall identify the Zoning District Change Findings of Fact as identified in § 425-4-3H(2)(b) of this chapter and state in its recommendation whether the zoning district change application has met said findings of fact.

(b) The Board shall then review the application and the Commission's recommendation. The Board shall take action and approve, approve with conditions, or deny with findings a zoning district change application, with a majority of the Board required in attendance at the hearing for any approval action. The Board shall identify the zoning district change findings of fact as identified in § 425-4-3H(2)(b) of this chapter and state in its action whether the zoning district change application has met said findings of fact.

(4) Protest to zoning district change application.

(a) A protest to a zoning district change application may be presented to the Board prior to or at the public hearing at which the zoning district change application is being reviewed, with said protest to entail the signatures and acknowledgements of either of the following:

[1] Owners of at least 50% of the lot/outlot(s) proposed to be changed;

[2] Adjacent owners of at least 50% of the total perimeter of the lot/outlot(s) proposed to be changed and within 300 feet of said lot/outlot.

(b) If a protest to a zoning change is filed and contains the signatures and acknowledgements in accordance with § 425-4-3H(4)(a)[1] or [2] of this chapter, a recommendation of approval or approval with conditions by the Commission and 2/3 majority of the Board is required to approve any zoning district change application so protested.

(5) Issuance or denial notification.

(a) If the zoning district change application is approved in accordance with § 425-4-3H(3) or (4) of this chapter, the Board shall issue a zoning district change approval notice to the applicant within 10 business days of the action. One copy of the application review form, containing the Town action and action date, shall be provided to the applicant, Commission, Zoning Administrator, and the Rock County Planning, Economic and Community Development Agency within 10 business days of said action.

(b) Prior to March 1 annually, the Town shall submit to the Rock County Planning, Economic and Community Development Agency and DATCP a report of total acres zoned out of the Agricultural-Exclusive (A-E) Zoning District to another district in the previous calendar year, including a map identifying said acres, in accordance with Chapter 91, Wis. Stats.

(c) If the zoning district change application is denied in accordance with § 425-4-3H(3) or (4) of this chapter, the Board shall issue a notice of denial to the applicant within 10 business days of the action. One copy of the application review form, containing the Town action and action date, shall be provided to the applicant, Commission, Zoning Administrator, and the Rock County Planning, Economic and Community Development Agency within 10 business days of said action.



Section V. The Use Table in Appendix A of the Zoning Ordinance of the Town of Fulton is hereby amended by adding the following footnote:

30 In the A-E District each base farm is allowed one farmstead residence.

| Use Type   |                        |
|--|------------------------|
| <b>4. Residential</b>  | <b>A-E<sup>2</sup></b> |
| Community living arrangement:<br>Fewer than 8 people <sup>27</sup>   |                        |
| Community living arrangement:<br>Greater than 8 people <sup>27</sup> |                        |
| Home occupation/home office <sup>28</sup>                            | P <sup>12</sup>        |
| Residence: farm: single family                                       | P <sup>30</sup>        |
| Residence: farm: two-family  | P <sup>30</sup>        |
| Residence: nonfarm: multifamily                                      |                        |
| Residence: nonfarm: single-family                                    |                        |
| Residence: nonfarm: two-family                                       |                        |
| Mobile home park   |                        |
| Nursing, retirement, or convalescent home                            |                        |

Section VI. This ordinance shall take effect upon passage and publication as provided by law.

Approved by the Town Board of the Town of Fulton this 8<sup>th</sup> day of June, 2021.

TOWN OF FULTON

By: Evan Sayre  
Evan Sayre, Town Chairperson

ATTEST:

By: Connie Zimmerman  
Connie Zimmerman, Clerk/Treasurer

Date passed: 6/8/21  
Date published: 6/16/21