

## *Appendix C*

### Wisconsin Department of Agriculture, Trade and Consumer Protection Farmland Preservation Program (ch. 91, Wis. Stats.)

## **Rezoning Conversion Fees: When Do They Apply?**

### **Conversion Fee Requirement:**

A political subdivision (county, town or municipality) that administers a certified farmland preservation (FP) zoning ordinance must charge a “conversion fee” whenever it rezones land out of a certified FP zoning district at the request of any person. *But the conversion fee does not apply in some cases (see below).*

- The “conversion fee” is designed to discourage excessive, unplanned rezoning of land out of certified FP zoning districts.
- The basic “conversion fee” is equal to 3 times the per acre “use value,” for the year in which the land is rezoned, of the highest value category of tillable cropland in the city, village or town in which the rezoned land is located.
- The political subdivision may also charge its own supplementary “conversion fee.”
- The political subdivision must annually remit, to the Department of Agriculture, Trade and Consumer Protection (DATCP), all of the basic “conversion fee” revenues that it collected during the preceding year. DATCP deposits “conversion fee” revenues to the state Working Lands Trust Fund to pay for statewide FP activities (including county FP planning).
- The political subdivision may keep any supplementary fee revenues, and any interest earned on the basic fee revenues, to help fund local FP programs.

### **Who Must Pay the Fee?**

The person requesting the rezoning must pay the applicable “conversion fee,” if any. *A “person” may include a political subdivision (see s. 990.01(26), Stats.).*

#### *Examples:*

- A landowner or developer formally requests a political subdivision to rezone land out of a certified FP zoning district. The landowner or developer must

pay a “conversion fee” (if applicable) to the political subdivision before the political subdivision grants the rezone.

- A town or municipality asks the county to rezone land out of a certified (county) FP zoning district. The town or municipality must pay a “conversion fee” (if applicable) to the county before the county grants the rezone.
- A political subdivision, on its own motion (but possibly in response to external pressure from landowners or developers), rezones land out of a certified FP zoning district. *If* the basic “conversion fee” applies, and no other “requester” is formally identified, the political subdivision must remit the basic “conversion fee” to DATCP from its own account.

### Situations in Which “Conversion Fee” Does NOT Apply:

The “conversion fee” does *NOT* apply in any of the following situations:

- The political subdivision properly allows a proposed land use *within* a certified FP zoning district, *without rezoning* the affected land out of the district.

***Example:***

A political subdivision properly issues a conditional use permit, authorizing the construction of a compatible non-farm residence *within* a certified FP zoning district (see s. 91.46(2), Stats.). There is no need to rezone the residential parcel out of the district, and hence *no conversion fee*.

- The political subdivision rezones land out of a district that is not a *certified* FP zoning district.

***Example:***

A political subdivision rezones land out of a “general agriculture” zoning district that is not a *certified* FP zoning district. *No conversion fee*.

- The political subdivision rezones land out of a certified FP district as part of an ordinance amendment that is *affirmatively certified* by DATCP.

***Note:*** DATCP must review and certify *comprehensive FP ordinance amendments* and amendments that extend coverage to new towns (among other things, DATCP reviews for consistency with the county’s certified FP plan). If DATCP *affirmatively certifies* an ordinance amendment that removes land from a certified FP zoning district, there is *no conversion fee*. A political subdivision may ask DATCP to certify significant

ordinance text or map amendments, regardless of whether they are “comprehensive amendments.” But DATCP does not ordinarily review or certify trivial text amendments or individual parcel rezones.

- The political subdivision rezones land out of a certified FP zoning district in order to make the zoning ordinance consistent with the *county’s* certified FP plan map (*regardless* of whether DATCP affirmatively certifies the rezoning).

**Example:** The county updates its certified FP plan map. The new certified map removes land from an FP plan area. A political subdivision subsequently amends its FP zoning ordinance to rezone the affected land out of a certified FP zoning district. The rezone makes the zoning ordinance map consistent with the county’s new certified plan map. **No conversion fee.**

**However, a conversion fee does apply** if a political subdivision rezones, out of a certified FP zoning district, land that is still included in an FP plan area in the county’s certified plan map. The rezoning makes the zoning ordinance *less consistent* with the county’s certified FP plan map (because it removes, from FP zoning protection, land that the county still plans to preserve as farmland).

- A municipality annexes land from a certified FP zoning district administered by a town or county and, in its *initial exercise of zoning authority* over the annexed land, zones the land so that it is no longer part of a certified FP zoning district. This *initial exercise of zoning authority* by the municipality is not considered a “rezoning” (between districts administered by the same zoning authority) to which the “conversion fee” requirement applies.

**Examples:**

- A municipality annexes land from a certified town FP zoning district. In its *initial exercise of zoning authority* over the annexed land (which may include a temporary zoning classification under s. 66.0217(8), Stats., or an interim zoning ordinance under s. 66.0219(6), Stats.), the municipality zones the land so that it is no longer part of a certified FP zoning district. **No conversion fee.**
- A municipality annexes land from a certified county FP zoning district. The county zoning remains in effect until the municipality initially zones the land under its municipal zoning authority (see s. 59.69(7), Stats.). In its *initial exercise of zoning authority over the annexed land*, the municipality zones the land so that it is no longer part of a certified FP zoning district. **No conversion fee.**