Plan Commission Handbook

Second Edition, 2012
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Center for Land Use Education

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ABOUT THE AUTHOR

Rebecca Roberts is a Land Use Specialist with the Center for Land Use Education. She works with local Extension educators and planning staff to provide workshops throughout the state for plan commissioners, zoning board members, and other local government officials. She also assists communities with various aspects of community planning, public participation, land use regulation, and the fiscal impacts of land use decisions. She received a Bachelor of Arts degree in biology and environmental studies from Augustana College and a Master of Urban Planning from the University of Illinois. She is managing editor of the Land Use Tracker newsletter and co-author of the Zoning Board Handbook and Land Use Megatrends series.

ACKNOWLEDGEMENTS

INSIDE THE HANDBOOK

The Plan Commission Handbook is designed to orient new members to the roles and responsibilities of the plan commission and to serve as a handy reference for veteran members of the commission. Local government officials, planning and zoning staff, and interested citizens will also benefit from understanding the role of the plan commission and their relationship to it.

▶ Handbook Organization

The handbook is organized into the following chapters:

1. Introduction to the Commission
2. Procedural Responsibilities
3. Community Planning
4. Public Participation
5. Plan Implementation
6. Ordinance Administration
7. Zoning Regulations
8. Subdivision Regulations

Each chapter is accompanied by various resources, including glossaries, worksheets, decision forms, recommended resources, and examples from Wisconsin communities. Many of these resources can be downloaded from the Center for Land Use Education website and modified for use by local communities.

▶ Additional Resources

The following resources are available to supplement the Plan Commission Handbook:

Workshops: The Center for Land Use Education offers plan commission workshops serving multi-county areas of Wisconsin. Workshops may be arranged through your county Cooperative Extension office or directly through the Center for Land Use Education. A list of current workshops is provided on our website.

Newsletter: The Center for Land Use Education publishes a quarterly newsletter called the Land Use Tracker. The newsletter highlights information relevant to professional planners, plan commission members, zoning board members, and other local government officials. It regularly includes information about upcoming workshops, revisions to important state statutes and case law, and updates to our publications. You may sign up on our website to receive the newsletter electronically.

Website: The Center for Land Use Education website contains links to related publications, organizations, data sources, and planning-related events. Please visit our website at: www.uwsp.edu/cnr-ap/clue.

Chapter 1
Introduction to the Commission

ROLE OF THE PLAN COMMISSION

The plan commission performs a wide variety of functions related to community planning and land use development. Formal roles are outlined in state statutes and local ordinances while informal roles evolve as a result of the nature of the plan commission's work. Five general roles are outlined below:

▶ Community Planning

One of the primary roles of the plan commission is to prepare community plans and recommend their adoption to the governing body. Important roles for the plan commission include overseeing the development of a request for proposals for professional planning services; designing the planning process; developing a community vision; reviewing community data and trends; developing goals and objectives; and recommending policies, programs and tools to implement the plan.

▶ Plan Implementation

The plan commission plays an important role in the adoption and administration of zoning ordinances, land division ordinances, development standards and other related plan implementation tools. While adoption of these tools is a legislative function reserved by state law for the local governing body, the commission's role is nonetheless important. The plan commission may be involved in drafting and reviewing ordinances or amendments, public airing of proposals, and making recommendations to the governing body.

▶ Public Participation and Education

The plan commission may be asked to take the lead role in involving the public in developing community plans and implementing programs or ordinances. A well-designed public participation process will identify affected parties, provide meaningful opportunities for public involvement, and ensure that as many points of view as possible are expressed throughout the process. While involving the public may add significant time, expense, and other challenges to the process, it can also help the community to identify issues of concern, assess the impacts of a proposal on various parties, and garner political support leading to adoption of the plan or ordinance.

▶ Development Review

In communities that are experiencing growth and change, the plan commission often spends a majority of its time reviewing specific land development proposals. Requests for zoning amendments, conditional use permits, and subdivision plats appear frequently on the municipal plan commission agenda. Plan commissions may also be involved in other types of development review including but not limited to site plan review, planned unit development review, historic preservation review, and design review.

▶ Referrals and Advisory Recommendations

The plan commission reviews a wide variety of matters referred to it. The table on the following page contains a list of items that must be referred to the plan commission before the decision-making body may take action. In most cases, the plan commission is given thirty days to review these matters.[1] If a report is not submitted by the plan commission within that time period, the decision-making body may proceed without it.[2] Failure to refer one of these items to the plan commission may result in a court voiding the action.[3] In addition to the items outlined in this table, the governing body may refer any other matter to the plan commission that it deems appropriate. These referrals may be outlined in a local ordinance or determined on a case-by-case basis.

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[1] The governing body may extend this time. Review of amendments to the zoning ordinance and official map are given 60 days.

[2] *KW Holdings, LLC v. Town of Windsor*, 2003 WI App 9, 259 Wis. 2d 357, 656 N.W.2d 752, 02-0706.

[3] *Scanlon v. Menasha*, 16 Wis. 2d 437, 114 N.W.2d 791 (1962).

Role of the Plan Commission

What functions is the plan commission required to perform? What functions are optional?
The following table provides a summary of typical plan commission functions. Words such as "shall" and "must" indicate functions the plan commission is required to perform. Words such as "may" and "should" indicate functions that may be required by local ordinance or initiated at the discretion of the governing body or plan commission.

Community Planning

- **Plan Preparation.** The plan commission shall prepare and recommend a comprehensive plan for adoption by the governing body.[4] The commission may also prepare other more detailed community plans, reports and recommendations.
- **Plan Review and Updates.** The comprehensive plan must be updated at least once every ten years.[5] However, the plan commission may review or recommend updates to the plan on a more frequent basis.
- **Consistency Review.** New or amended zoning, subdivision and official mapping ordinances must be consistent with the comprehensive plan.[6] The plan commission may be asked to review these items for consistency.

Public Participation

- **Preparation of a Public Participation Plan.** The governing body is required to prepare written procedures for public participation in association with the preparation of a comprehensive plan.[7] The plan commission may be asked to prepare this plan or take a lead role in involving the public.
- **Public Meetings and Hearings.** Under Wisconsin's Open Meetings Law, all meetings and hearings of the plan commission must be open to the public and preceded by advance notice.[8] A public hearing must be held by the plan commission or governing body prior to adopting plans and ordinances and in association with most development review functions.

Plan Implementation

- **Ordinances.** At the direction of the governing body, the plan commission shall prepare and recommend ordinances or amendments necessary to implement the plan (i.e. zoning,[9] subdivision,[10] official mapping,[11] driveway access, design review, etc.)
- **Programs.** The plan commission may recommend programs for public improvements[12] or other non-regulatory programs to implement the plan (i.e. education, economic development, tourism promotion, acquisition of land or conservation easements, capital improvement programs, intergovernmental agreements, etc.)

Development Review

- **Plat Review.** Proposed plats that fall within a municipality's plat approval jurisdiction must be referred to the plan commission for review. Approval of preliminary or final plats may be assigned to the plan commission or governing body.[13]

- **Rezones.** Proposed zoning amendments must be referred to the plan commission for review.[14] (Note: For towns under county zoning, rezones and other zoning matters do not need to be referred to town plan commissions. However, notice of rezones must be provided to affected towns.)
- **Conditional Uses.** Authority to decide zoning conditional use permits may be assigned to the plan commission, zoning board, or governing body as specified in the local zoning ordinance.[15]
- **Other review** as assigned by the governing body including but not limited to site plan review, design review, historic preservation review, etc.

Referrals and Advisory Recommendations

The following matters must be referred to the plan commission for review and consideration before the governing body or other decision-making body takes action:[16]

- Location and design of public buildings
- Location of statues and memorials
- Land for public purposes such as streets, parks, airports, etc.
- Land for public or semi-public housing, slum clearance, relief of congestion, vacation camps for children
- Public utilities
- General fire limits[17]
- Child welfare agencies and group homes[18]
- Community-based residential facilities[19]
- Pedestrian malls[20]
- Proposed housing projects[21]
- Plats of lands over which the municipality is given platting jurisdiction
- Adoption or amendment of a subdivision or land division ordinance[22]
- Amendment or repeal of any ordinance adopted under Wis. Stat. sec. 62.23, including ordinances relating to plan commissions, comprehensive planning, official mapping and zoning.

Miscellaneous Powers

- **Hire Staff.** The plan commission may employ or contract for the services of experts or staff, not to exceed appropriations made by the governing body.[23]
- **Adopt Rules of Procedure.** The plan commission may adopt rules of procedure and shall keep a record of its studies, resolutions, transactions, findings, and determinations.[24]
- **Inspect Land.** The plan commission may enter upon land, make examinations and surveys, and place and maintain necessary monuments and marks thereon.[25]

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[4] Wis. Stat. §§ 62.23(2) and 59.69(3)(a). [5] Wis. Stat. § 66.1001(2)(i). [6] Wis. Stat. § 66.1001(3). [7] Wis. Stat. § 66.1001(4)(a). [8] Wis. Stat. § 19.83. [9] Wis. Stat. §§ 59.69(5)(e), 60.61(4)(b) and 62.23(7)(d)1a. [10] Wis. Stat. § 236.45(4). [11] Wis. Stat. § 62.23(6). [12] Wis. Stat. § 62.23(4). [13] Wis. Stat. § 62.23(5) and 236.10(3). [14] Wis. Stat. §§ 59.69(5)(e) and 62.23(7)(d)2. [15] Wis. Stat. §§ 59.694(1) and 62.23(7)(e)1. [16] Wis. Stat. § 62.23(5) which applies to cities, villages and towns with village powers. Other references as noted. [17] Wis. Stat. § 62.23(9)(b). [18] Wis. Stat. § 48.68(3). [19] Wis. Stat. § 50.03(4). [20] Wis. Stat. § 66.0905. [21] Wis. Stat. § 66.1211(3). [22] Wis. Stat. § 236.45(4). [23] Wis. Stat. §§ 59.69(2)(d) and 62.23(1)(e). [24] Wis. Stat. §§ 59.69(2)(c) and 62.23(2). [25] Wis. Stat. § 62.23(4).

FORMATION AND ORGANIZATION

Cities, villages, and towns in Wisconsin are authorized by state statutes to establish a plan commission. These bodies operate under a number of names which may vary locally. These include: plan commission, planning committee, zoning committee, and others. Counties create bodies with similar functions that go by a wide variety of names including: plan commission, planning and zoning committee, and other names derived from the functions they perform (i.e. parks, economic development, land records, etc.). The following paragraphs note differences in authority, appointment, membership and terms where appropriate. The term "plan commission" is used generally throughout the remainder of the handbook to refer to all such bodies.

▶ City, Village or Town Plan Commission

Municipal plan commission members are appointed by the mayor, village president or town board chair for three-year terms beginning in April.[26] Appointments to the town plan commission are subject to confirmation by the town board. Members can be removed at the "pleasure" of the mayor, village president, or by a majority vote of the town board.[27]

Most plan commissions include seven members. However, towns with a population of 2,500 or less are authorized to form a five-member commission. At least three "citizen" members who are not municipal officials must be appointed to serve on a seven member commission. Likewise, at least one "citizen" member must serve on a five-member commission. Citizens are to be persons of "recognized experience and qualifications."

Local ordinances can be used to alter the membership of municipal plan commissions. For example, a common practice is to increase the membership of the plan commission to include the building inspector or building commissioner.

Staggering of plan commission terms upon initial appointment is recommended, but not required. Staggering of terms helps to prevent turnover of all members at one time and preserves institutional memory. For a seven member commission, a typical arrangement is turnover of two members during year one and two, and turnover of three members during year three.

Appointment of alternate members is also recommended to provide a full complement of decision-makers and to avoid postponement of decisions due to absences, resignations or conflicts of interest. Alternates can be used to fill vacancies and to provide training for future full-time members. If a vacancy occurs, it is filled for the remainder of the term.

Prior to creating a municipal plan commission, the governing body must adopt an ordinance establishing the commission. Towns must also adopt village powers. A sample plan commission ordinance for towns is available on the Local Government Center website at www.uwex.edu/lgc/program/pdf/tpcord.pdf or by calling 608-262-9961. Sample ordinances for village plan commissions are available on the Center for Land Use Education website at www.uwsp.edu/cnr-ap/clue or by calling 715-346-3783.

> ### Appointment of a Military Representative
> If a military base or installation with at least 200 personnel or 2,000 acres is located in a community, the commanding officer may appoint a representative to serve on the municipal plan commission, town zoning committee and/or county planning agency. The military appointee serves as a non-voting member of the commission.

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[26] Wis. Stat. §§ 60. 62(4) (town with village powers), 61.35 (village) and 62.23(1)-(5) (city).
[27] Wis. Stat. §§17.12 (city) and 17.13 (village/town). Members can also be removed "for cause" by ¾ vote of the city council, or by a circuit court judge in the case of villages/towns. "Cause" means inefficiency, neglect of duty, official misconduct, or malfeasance in office.

◗ Town Zoning Committee

Towns that have not adopted village powers may appoint a town zoning committee to deal with planning and zoning matters. Town zoning committees consist of five members that are appointed by the town board.[28] Members may be removed by a majority vote of the town board.

◗ County Zoning Agency

Counties have three options for establishing a "zoning agency". They may appoint a standing committee of the county board, establish a plan commission composed wholly or partly of non-county board members, or appoint an existing body to serve as the zoning agency.[29] Except in the case noted below, the county board chair appoints members to each of these bodies and may also remove members "for cause."[30] Members elect their own chair and fill other positions for two-year terms coinciding with elected office.

Counties that appoint a plan commission rather than a standing committee of the county board use staggered, three-year terms. In counties that have a county executive, the county executive appoints members to serve on the plan commission subject to confirmation by the county board. The executive may also appoint two alternates. The designated "first" alternate acts when a member of the commission refuses to vote because of a conflict of interest or when a regular member is absent. The "second" alternate acts when the first alternate or two members of the plan commission are unable to vote.

County plan commissions that include both citizen members and elected officials benefit from the time, energy, expertise and diversity of viewpoints provided by citizens. They also have the advantage of maintaining ongoing communication and relationships with the full county board.

Oath of Office

After being notified of an appointment to the plan commission, members should sign an oath of office.[31] Town and village officers have five days to sign the oath, city officers ten days, and county officers twenty days. The oath is administered by the clerk of the local jurisdiction and filed with that clerk's office. Oral swearing in may be customary in some communities but is not required.[32] Failure to file the oath within the specified time period constitutes refusal to serve in the office. In such cases, the office becomes vacant.[33] A sample oath is provided below.

"I, _____, having been appointed to the City/Village/Town/County of _____ Plan Commission swear that I will support the constitution of the United States and the constitution of the State of Wisconsin, and will faithfully and impartially discharge the duties of said office to the best of my ability.

Signature of plan commission member
Signature of officer administering oath

Subscribed and sworn to before me this _____ of _____, 20_____."

Adapted from *Wisconsin Town Law Forms, 19.01(1) Official Oath*. May 2011. State of Wisconsin.

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[28] Wis. Stat. § 60.61(4)(a)).
[29] Wis. Stat. § 59.69(2).
[30] Wis. Stat. §§ 17.001, 17.10(s) and 17.16(3). Members may be removed for cause after being given notice and an opportunity to be heard. "Cause" means inefficiency, neglect of duty, official misconduct, or malfeasance in office.

[31] Wis. Stat. §§ 19.01 (form of oath), 59.21 (counties), 60.31 (towns), 61.21 (villages), and 62.09 (cities).
[32] *The Municipality*. April 2007 Comment. League of Wisconsin Municipalities,
[33] Wis. Stat. § 17.03(7).

Plan Commission Authority and Organization

City, Village or Town Plan Commission	
Authority	- Wis. Stat. §§ 60.62(4) (towns), 61.35 (villages) and 62.23 (cities). - Plan commission is created by ordinance of governing body.
Appointment	- Mayor, village president or town board chair appoints members and selects chair. - Town appointments are subject to confirmation by town board. - Mayoral appointments are subject to confirmation of the city council, unless otherwise provided by law (Wis. Stat. § 62.09(3)(e)).
Membership	- Seven members, unless otherwise provided by ordinance. - Towns with population less than 2,500 may have a five-member commission. - Must include at least three "citizen" members who are not city officials on a seven-member commission or one "citizen" on a five-member commission. - Must include military base appointee as non-voting member if so appointed. - May, by ordinance, increase membership to include building commissioner or building inspector.
Terms	- Three year terms beginning in April. - Vacancies are filled for the remainder of a term. - Initial staggering of terms is not required but may be helpful to avoid complete turnover of members after three years.

Town Zoning Committee	
Authority	Wis. Stat. § 60.61(4)(a).
Appointment	Town board appoints members.
Membership	- Five members. - Must include military base appointee as non-voting member if so appointed.
Terms	Not specified.

County Planning Agency	
Authority	- Wis. Stat. § 59.69(2). - County board may appoint standing committee of county board, create plan commission composed wholly or partly of non-county board members, or designate an existing body to serve as the planning agency.
Appointment	- County board chair appoints members. - County executive, if present, appoints commission subject to board approval. - Members elect chair for 2-year term.
Membership	- Size not specified. - Must include military base appointee as non-voting member if so appointed.
Terms	2-year committee terms coinciding with elected office. 3-year staggered commission terms.

PLAN COMMISSION QUALIFICATIONS

Appointment of plan commission members is an important decision and should recognize the duties of the commission. Officials should choose individual commissioners that together have the skills and experiences the commission needs to fulfill its purpose, while also reflecting the diversity, interests and needs of the entire community. Below is a set of criteria that can be used to help identify qualified plan commission members.

▶ Commitment to Community Service

Candidates must demonstrate a concern for serving the public interest. Look for individuals who:

- Are willing to attend and come prepared for commission meetings as well as educational workshops, conferences, and other planning events.
- Have demonstrated an interest in community service by serving as elected officials, citizen advisors, or in some other capacity.
- Are able to sustain service throughout their term.

▶ Interpersonal and Decision Making Skills

Desirable candidates should have strong interpersonal and decision-making skills. Commissioners that possess the following traits enhance the commission's productivity:

- Good communication
- Detail-oriented
- Willingness to learn
- Critical and objective thinker
- Open-minded

▶ Planning Skills and Expertise

Planning involves numerous and complex topics, such as natural resource management and economic development. Therefore, it is helpful to choose commissioners that have skills and experience that can broaden the commission's collective knowledge. Desirable qualifications include:

> *"Someone who can serve the long-range interests of a community, unbound by election promises, political expediency, or narrow interests is the definition of the good planning commissioner."*
>
> – Albert Solnit,
> The Job of the Planning Commissioner

- Strong analytical skills (able to read maps and plan proposals and assess potential land use impacts).
- Knowledge of diverse fields such as land use law, real estate, construction, natural resources, economic development, local government, policy development, and other related fields.

▶ Diversity

The plan commission should reflect the diversity and uniqueness of the community it represents. The ideal commission will consist of individuals that reflect various social, cultural, economic and other community interests. A diverse and reflective commission can be achieved using a combination of the following criteria:

1. Physical or Geographic Diversity. A community may consist of various physical or geographic landscapes each with its own unique issues. For example, a community may contain one area dominated by agriculture, another characterized by forests and lakes, and a third more urbanized area. Commission members can be selected to mirror these areas.

2. Jurisdictional Diversity. Interests and concerns often vary by jurisdiction. For example, one town may be pro-growth while its neighbors are pro-preservation. It is important to reflect

these interests on the commission, particularly at the county level.

3. Demographic Diversity. Different types of people have different interests and needs. For example, retired citizens may want better health services while younger parents want good schools for their children. Ideally, the plan commission should reflect the community's demographic, cultural and socioeconomic composition.
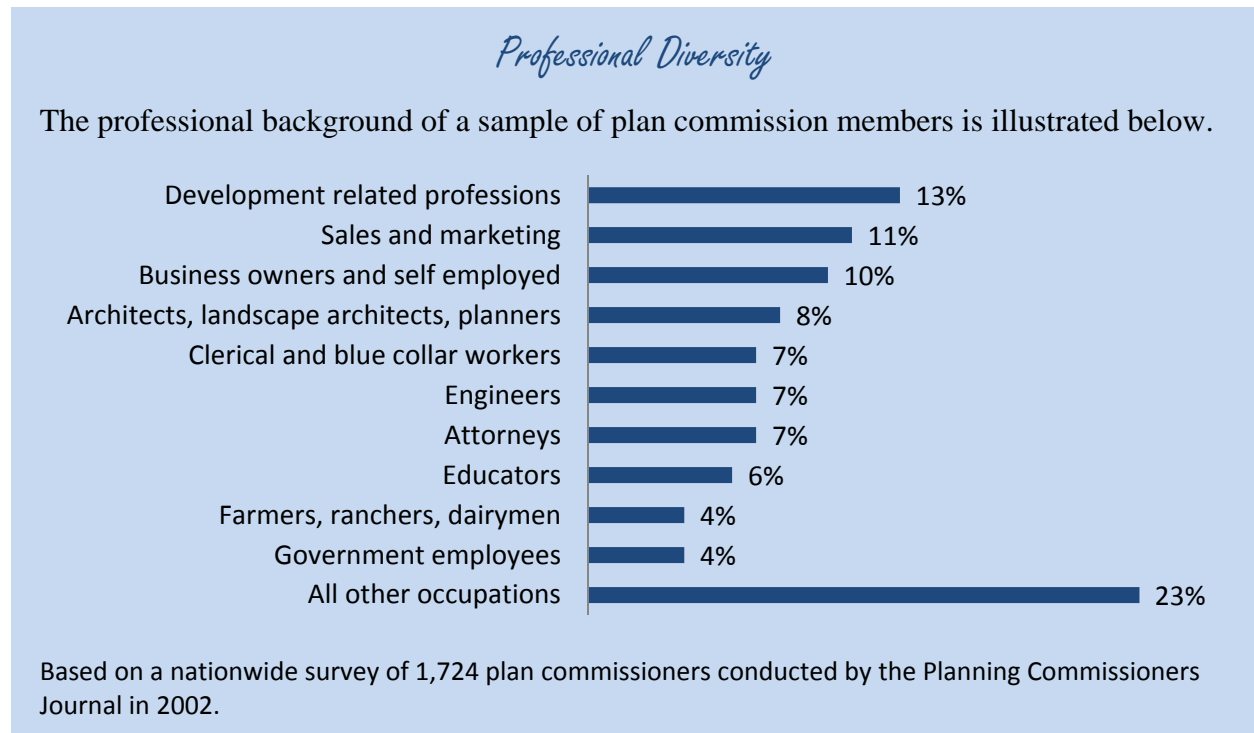
4. Professional Diversity. Selecting commission members based on demography or geography alone does not assure representation of important economic or professional interests. Such representation is essential in forming policy objectives and in determining the impact of proposed plans and regulations on different segments of the community. Ideally, various economic sectors and professions will be represented on the commission. The table below shows the professional diversity of a sample group of plan commissioners.

▶ Additional Points to Consider

When selecting members, the personal and professional interests of plan commission members should be carefully considered to ensure objectivity. Individuals who are selected for their land use expertise, such as developers or real estate professionals, may find themselves in a position where a plan commission decision involves a professional acquaintance or personal financial interest.

Occasional conflicts of interest are to be expected and should be avoided by asking members to recuse themselves from the decision-making process (see Chapter 2 for additional guidance). Such occurrences may also be reduced by selecting individuals for the plan commission that do not hold a direct financial interest in local land use decisions.

In all situations, it is necessary to balance the prospective skills and expertise of plan commission members against the potential for conflicts of interest or likely litigation.

Professional Diversity

The professional background of a sample of plan commission members is illustrated below.

Profession	Percentage
Development related professions	13%
Sales and marketing	11%
Business owners and self employed	10%
Architects, landscape architects, planners	8%
Clerical and blue collar workers	7%
Engineers	7%
Attorneys	7%
Educators	6%
Farmers, ranchers, dairymen	4%
Government employees	4%
All other occupations	23%

Based on a nationwide survey of 1,724 plan commissioners conducted by the Planning Commissioners Journal in 2002.

EFFECTIVE AND INFORMED MEMBERSHIP

▶ Orientation

Upon initial appointment, a veteran member of the plan commission, governing body or planning staff should orient new plan commission members and provide them with copies of resources necessary to do their job. Regular updates should be provided to all commission members when materials change.

Tools of the Plan Commission

Plan commission members should be provided with an electronic or print copy of the following resources:
- ✓ Comprehensive plan
- ✓ Land use ordinances
- ✓ Maps
- ✓ Rules of procedure
- ✓ Summary of applicable state statutes and case law

▶ Continuing Education

Plan commission members should have access to ongoing training and education. Planning and zoning staff at the county or municipal level may be able to provide members with updates to local plans, ordinances, statutes, and case law. Periodic training is also provided by other groups such as the Wisconsin Towns Association, Wisconsin Counties Association, League of Wisconsin Municipalities, Wisconsin's nine Regional Planning Commissions, and the University of Wisconsin-Cooperative Extension.

The UW-Extension Center for Land Use Education provides plan commission workshops throughout the state addressing the roles and responsibilities of the plan commission and related procedural and decision-making standards. The UW-Extension Local Government Center provides training on topics such as Wisconsin's open meeting law, public records law, and code of ethics. County-based Extension educators may also assist with these and other topics.

▶ Working Relationships

Plan commission members are most effective when they understand not only their roles, but also the roles of the groups they work with. Beyond the public sector, plan commission members have important interactions with local residents, landowners, builders, developers, realtors, attorneys, news reporters, and educators. The roles of various groups involved in planning and land use decision-making are described below, along with suggestions for working with each.

Governing Body
(Town Board, Village Board, City Council, County Board)

The governing body creates the plan commission and has the authority to specify powers, duties and functions of the commission. The governing body also provides a budget, equipment, and accommodations necessary for the plan commission to do its work.

The governing body is responsible for adopting and amending community plans, policies and regulations. In most cases, the governing body is required to refer these matters to the plan commission for review and input. In some communities, the governing body has authority to approve land division plats and zoning conditional use permits; in others, the governing body assigns these tasks to the plan commission.

Because the relationship between the governing body and plan commission is so important, the two should meet periodically to discuss community planning and land use issues. If the governing body has certain policies it wishes to pursue, the plan commission needs to understand those policies and how the governing body would like to achieve them. Conversely, plan commission members should share their concerns and ideas with the governing body. Ultimately, the two entities may not agree on policy or how to implement it, but at least each is informed so that they can make decisions and recommendations accordingly.

Planning Advisory Committee

When a community is undertaking a large planning effort – such as the preparation of a new comprehensive plan or the rewrite of a zoning ordinance – it may wish to appoint a special committee to advise the plan commission. These bodies go by various names such as citizen advisory committee or comprehensive plan steering committee. In communities in which day-to-day functions such as development review consume a large portion of the plan commission's time, the advisory body can help to alleviate the workload of the plan commission while also bringing diverse opinions to the process.

Zoning Board

Communities that have adopted a local zoning ordinance are required to appoint a zoning board of adjustment or zoning board of appeals. The zoning board is responsible for hearing and deciding zoning administrative appeals, variances, and in some cases, conditional use permits. Due to their familiarity with the zoning ordinance, we recommend that the zoning board meet annually with the plan commission and governing body to discuss potential revisions to the zoning ordinance and improve provisions that are unclear, inadequate, overly restrictive, or otherwise problematic.

Other Boards, Commissions and Committees

Many communities have special boards and commissions that play additional roles in the local planning process. Examples include design review boards, historic preservation commissions, and extraterritorial zoning committees. These bodies often provide additional input to the plan commission or governing body and may be granted final decision-making authority in some situations.

Professional Staff and Consultants

The size and technical capacity of planning staff varies widely throughout the state. While a large city or county might employ a full complement of professional staff, including a planning director, zoning administrator, GIS technician, support staff, and other land use professionals, smaller communities often rely on a single planning and zoning director, an administrator, elected officials, or consultants to provide these services. Consulting services are frequently provided by private consulting firms, counties, and regional planning commission.

Professional planners bring training and expertise to the planning process. They can assist with a variety of planning tasks including public participation, visioning, economic profiling, population projections and mapping. They are usually responsible for drafting land use regulations such as zoning and subdivision ordinances, and day-to-day administration of those ordinances. In this capacity, planning and zoning staff help landowners to navigate the development process, grant simple permits, and guide the development review process. They can also assist decision-makers by providing staff reports and impact analyses and making sure that procedural requirements such as meeting notice and minutes are satisfied.

Regional Planning Commissions

Wisconsin has nine Regional Planning Commissions (RPCs) serving all but five counties in the state (Columbia, Dodge, Jefferson, Rock and Sauk). By law, RPCs function as strictly advisory bodies. They have the authority to conduct studies, collect and analyze data, and make and adopt plans for the physical and economic development of the region. RPCs also provide advisory services to local governments. Specific services might include: comprehensive planning; economic development planning; preparation of zoning, subdivision and other land use regulations; grant writing; revolving loan fund administration; socio-economic data collection and dissemination; development of intergovernmental agreements; and mapping services using geographic information systems.

Attorneys (and the Law)

Planning and land use regulation rest on legal principles, statutes, and codes. Attorneys may become involved in plan commission proceedings in one of three ways: by representing an applicant or his or her opponent; by providing counsel to the plan commission; or by serving directly as a member of the plan commission. Legal counsel can play an important role in supporting the plan commission by providing education and advice related to plan commission decisions and procedural requirements.

Attorneys who appear before the commission representing a private party are advocates for that party, and therefore, may have different interpretations of statutes or local codes. This does not mean that a decision or interpretation of the plan commission is necessarily wrong. In fact, Wisconsin courts will generally uphold local decisions if any reasonable view of the evidence supports the decision. By keeping a complete record of meetings and hearings and by making decisions based on the law, plan commissions minimize the likelihood that their decisions will be overturned.

The Private Sector

Developers, builders, realtors and other contractors represent the private sector side of planning and development. These are the companies and individuals that design, build and sell subdivisions and other developments based on the plans and regulations that a community has in place. They often represent landowners in applying for local land use and building permits. While the private sector may complain about regulations, they appreciate a system where the process for obtaining permits is streamlined and transparent. In other words, there are no hidden costs or requirements.

The Role of the Lawyer

When the applicant brings a lawyer, listen carefully to the presentation, but don't assume that the lawyer is right on every point, either of law or fact. Lawyers in this situation are advocates and as such will be selective in the points they make to the commission.

Lawyers who have done their job will be familiar with the commission's plans and ordinances, especially the sections that pertain to their clients' applications. But a lawyer's interpretations of a given section may differ from yours. Be consistent in your application of the rules.

Ask questions, but don't argue with the lawyer. Make notes of any points where you disagree, and the basis for your disagreement. Above all, don't let yourself be bullied by threats of litigation, unconstitutional takings or other bluster that may come your way. Make your decision based upon the law as set forth in your plans and ordinances.

Be sure that the bases for your decisions are clearly stated in the motion or motions on which the commission votes. Courts do not lightly overturn planning commission decisions if they are in accordance with duly adopted plans and regulations and firmly based on factual findings.

From: "The Role of the Lawyer." Carolyn W. Baldwin, Esq. *Planning Commissioners Journal* #11, Summer 1993.

Nearby Communities

Each community is part of a larger network of neighboring towns, villages and cities. Local land use decisions can have impacts outside a jurisdiction's own boundaries. Wisconsin's comprehensive planning law recognizes the need for intergovernmental coordination. The law asks each local government to include an intergovernmental cooperation element within its comprehensive plan to address consistencies between and among plans of different jurisdictions and to address how to deal with future conflicts that may arise over land use matters. When adopting implementation policies and tools, neighboring communities can be an invaluable source of information and experience.

The Public

Citizens are local experts on the issues and broader trends affecting their communities. Public input should be emphasized before, during and after the development of local plans and regulations. By directly participating in public meetings, focus groups, surveys and the like, and by participating in informal discussions with neighbors and local decision-makers, the public offers perspective and opinions that are valuable in the planning process. The perennial challenge is getting significant input from the public in the planning process. There are many methods to involve individual members of the public as well as targeted interest groups such as businesses, natural resources protection groups, and agricultural interests, to name a few. Additional detail is provided in Chapter 4.

The Media

The media may attend meetings or hearings of the governing body, plan commission or zoning board. Recognizing that reporters are required to cover a very broad range of issues and work under short timelines, it's best to help them understand the role of planning and land use regulation long before a controversial issue arises. The media can also be used to keep the public informed of an ongoing planning process or planning issues in general. Staff can help reporters understand the issues at hand by providing them with copies of staff reports and applicable plans, ordinances, statutes and case law, and by taking the time to explain these materials and answer questions. When working with the media, be sure to provide clear graphics and translate your technical language into lay terminology. Working as a team with reporters is the best approach to obtain accurate press coverage.

Cooperative Extension Educators

UW-Extension educators seek to improve the quality of local decisions by providing public, private and non-profit clients with information, targeted research results, and process support. County educators work within a network of state specialists to provide direct support to local communities. The UW-Extension Center for Land Use Education offers educational workshops for plan commissions, zoning boards and other local officials involved in planning and land use issues. Upcoming workshops are listed at: www.uwsp.edu/cnr-ap/clue/Pages/workshops/workshopspc.aspx

Learning to Enjoy Your Service on the Commission

One would be hard pressed to find another overworked, underappreciated position in a community equal to being a plan commissioner. There is usually no financial remuneration, and the meetings are often tedious, technical, and sometimes contentious. Your best friends may disagree with a decision you make. Why, then, even bother? Surely, there are other uses you can find for your time.

One reason that seems to give commissioners a boost is that little goes on in the community that is not affected somewhat by planning. You have the opportunity to influence and lead the way to change that will be felt for years to come. Look upon these positive attributes as your challenge to execute the obligations of your office so that the experience is, indeed, one you savor.

Some principles to consider:

■ *Do not take it personally.*

It would be gratifying if you and the other commissioners could deal only with the big picture, concepts, and ideas. Often, however, it is the nuts and bolts of how individuals use their property that concern the commission, and this can become personal.

When landowners get frustrated or angry, they may express themselves in ways that are not pleasant. You will survive and keep your sanity if you realize it is the system they rail against and the plan commission and staff are convenient targets. Never forget, however, that even words expressed in anger can contain kernels of truth worth being considered.

■ *Respect your staff.*

They are human. They err. Sometimes their mistakes are embarrassing or should be overturned. You are entitled, or even expected to question your staff carefully, but do it privately. If you have to overturn their recommendation, vote on the facts as you see them, not hearsay or opinion. Never make them scapegoats in a public setting. This diminishes you in the eyes of the public and also undermines the confidence people will have in your staff in the future.

■ *Avoid being seduced by planning jargon.*

The longer you are on the plan commission, the more technical information you will come to understand. However, you are not, nor should you be a professional planner. Put yourself in the shoes of the citizens. In documents that are sent to the public, insist that staff translate planning jargon into plain English. Add a summary page to your meeting agenda or include a glossary of commonly used terms.

■ *Maintain collegial relations with other commissioners.*

You may have been appointed to the plan commission because of a particular interest or segment of the community that you represent. Moreover, you may have little in common with fellow commissioners, socially or professionally. Nevertheless, you all have the same title. Your enthusiasm to work for the good of the community binds you, though you may define this in different ways. Show respect for each others' opinions, even if they differ.

Take time for a convivial cup of coffee or tea before or after a meeting to help cement relationships. But check first with your staff or the city attorney to make sure this does not violate open meeting laws or run counter to community norms.

■ *Always be prepared.*

Staff spend many hours working on the agenda and supporting documents. Read them over carefully before the meeting and call them for clarification if there is something that you do not understand. Listen attentively to their presentations and those of the public, asking questions that show you have done your homework.

■ *Understand the political landscape.*

No one need tell you that planning is far from an ivory tower exercise. The commission is appointed by a political body and does its work within a political environment. That said, it is important that your decisions be the best you can make for the entire community. You need to be very careful not to give even a hint of favoritism. This means, for example, not meeting separately with a buddy of the mayor's or huddling in a corner at a social event with anyone who has a stake in a development or other major decision your commission is being asked to make. Your well-reasoned decisions may be overturned by elected officials, but that is their prerogative for which they have to answer to the public.

In these and other ways, you can enjoy the important role you play in your community.

Adapted from: *The Planning Commissioners Journal*, Number 74, Spring 2009. By Elaine Cogan, partner in the planning firm, Cogan Owens Cogan, LLC.

RECOMMENDED RESOURCES

Plan Commissions

Guide to Community Planning in Wisconsin, Chapter 3: The Plan Commission. Brian W. Ohm. 1999. 275 pages. Department of Urban & Regional Planning, UW-Madison/Extension. Available online: www.lic.wisc.edu/shapingdane/resources/planning/library/book/contents.htm.

The Job of the Planning Commissioner. 3rd Edition. Albert Solnit. 1987. 198 pages. APA Planners Press. Available from libraries, bookstores or online: www.planning.org/apastore.

Establishing the Plan Commission

Recruiting and Retaining Qualified Plan Commissioners. Douglas Miskowiak and Chin-Chun Tang. 2004. 20 pages. Center for Land Use Education. Available online: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx.

The Town Plan Commission. James H. Schneider. 2001. 9 pages. Local Government Center. (Fact Sheet #16). Available online: http://lgc.uwex.edu/publications/publs.html.

Village Powers for Town Boards. James H. Schneider. 2002. 6 pages. Local Government Center. (Fact Sheet #18). Available online: http://lgc.uwex.edu/publications/publs.html.

Plan Commission Ordinances

Village Plan Commission Ordinances. Anna Haines. 2005. 14 pages. Center for Land Use Education. Available online: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx.

Town Plan Commission Sample Ordinance and Notes. 2002. 16 pages. and *Updates to Town Plan Commission Sample Ordinance*. 2008. 4 pages. James H. Schneider. Local Government Center. Available online: http://lgc.uwex.edu/publications/publs.html.

Model Ordinance to Create a Town Plan Commission. 2004. 4 pages. Southeastern Wisconsin Regional Planning Commission. Available online: www.sewrpc.org/SEWRPC/communityassistance/EducationalServices2.htm.

PLAN COMMISSION FORMS

The forms at the end of this chapter can be used by communities looking to establish or fine-tune the operation of their plan commission. Each form can also be downloaded in Microsoft Word format from the Center for Land Use Education website: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

Application for Appointment to the Plan Commission

Plan Commission Job Description

Application for Appointment to the Plan Commission

The City/Village/Town/County of _____ is soliciting applications from individuals interested in serving on the plan commission. Members will be appointed to serve a three-year term. Please refer to the attached job description for a detailed description of plan commission duties, expectations and compensation.

Name: _____ Date: _____
Home address: _____
Length of residence: _____ E-mail address: _____
Phone (day): _____ Phone (evening): _____
Occupation: _____ Employer: _____

1) Have you ever volunteered for or been affiliated with other public or private boards, commissions, community groups, or professional associations? If yes, please describe the nature of your involvement and your length of service.
_____
_____
_____

2) This position generally requires _____ day/evening meetings each month and _____ hours of meeting and preparation time. Are you able to meet this commitment on a regular basis?
☐ Yes   ☐ No   ☐ Maybe (please describe):
_____
_____
_____

3) Please identify personal and professional skills, traits and experiences that qualify you for this position. Elaborate as needed below.

Experience: Skills/Traits:
☐ Agriculture   ☐ Open-minded   ☐ Conduct public meetings
☐ Natural Resources   ☐ Detail-oriented   ☐ Read plans and maps
☐ Real Estate/Construction   ☐ Attentive listener   ☐ Analyze alternatives
☐ Business   ☐ Clear speaker   ☐ _____
☐ Local Government   ☐ Good writer   ☐ _____
_____
_____
_____

4) Why would you like to serve on the plan commission?
_____
_____
_____

5) Please describe any special training that would assist you as a plan commission member.
_____
_____
_____

Plan Commission Job Description

PRIMARY DUTIES:

The plan commission is appointed to advise the governing body regarding community planning and land use management. The plan commission is responsible for developing and recommending the community plan and implementing policies, procedures and ordinances to the governing body for adoption. The commission is responsible for involving the public in planning and decision-making and must comply with applicable rules related to open meetings, ethical conduct, etc. The commission may be asked to review and/or decide the following matters: conditional use permits, rezonings, subdivision/land division plat approval, driveway permits, etc.

ADDITIONAL DUTIES:

The plan commission is responsible for reading and reviewing plan-related documents and background materials prior to meetings and hearings. Members are expected to listen to and consider staff presentations and public comments when making decisions. Commission members are expected to attend periodic training sessions to keep abreast of current trends and information and to better understand and fulfill its role. Special positions such as chair, vice-chair, and secretary will be elected after the plan commission is appointed.

TIME COMMITMENT:

The plan commission meets once a month for approximately two hours, depending upon the number and complexity of tasks on its agenda. Anticipate one hour of preparation time for each hour of meeting time. Plan commission terms last three years.

DESIRED QUALIFICATIONS:

The following skills and traits are desired of plan commission members:
- Attention to detail, open mindedness, patience, and willingness to listen and learn.
- Ability to work as a team and make decisions based on the best interests of the community.
- An understanding of the planning process, land use issues or law, construction and development practices, natural resources, or economic development.
- Ability to read maps and plans.
- Ability to speak and write clearly.

SUPERVISION:

The plan commission receives direction from, and is responsible to, the local governing body. The plan commission is supported by staff of the Planning and Zoning Department and contracted consultants.

WORKING CONDITIONS:

The plan commission conducts 95 percent of work indoors in an intellectual capacity, but occasionally visits outdoor sites for information gathering or inspection.

BENEFITS:

This is a voluntary position with a $25 stipend per meeting. Funding for authorized training sessions is also available.

Chapter 2
Procedural Responsibilities

OVERVIEW OF LAWS THAT APPLY TO THE PLAN COMMISSION

Plan commission members are considered public officials. As officials, they are subject to Wisconsin's open meetings law, public records law, code of ethics and conflicts of interest law.[1] Additional decision-making and procedural standards are determined by the type of decision the plan commission makes.

▶ Types of Decisions

Plan commissioners must distinguish between the roles they play in order to determine the rules that apply to their decisions. Local land use decisions can be separated into three general categories:

1. Legislative
2. Quasi-judicial
3. Administrative

Legislative actions are those which result in policy-making. They affect the community as a whole rather than a small area or a few individuals. The adoption or amendment of plans and ordinances are legislative actions reserved by state law for the elected governing body. When the plan commission makes a recommendation to adopt or amend a plan or ordinance, it also acts in a legislative capacity. Legislative decision-makers are afforded a great deal of discretion. They are limited only by procedural and constitutional concerns. In most cases, they are required or encouraged to involve the public in helping to shape their decisions.

Quasi-judicial decisions involve the application of rules and policies to the facts of a particular development proposal. The plan commission acts in a quasi-judicial manner when it considers conditional use permits, subdivision plats, variances to a subdivision ordinance, and other similar decisions. Quasi-judicial decisions involve the exercise of some discretion. For example, when deciding whether to grant a conditional use permit, the plan commission has the power to investigate facts, hold hearings, weigh evidence, draw conclusions, and use that information as a basis for their official decision.[2] Discretion of quasi-judicial decision-makers is strictly limited by local ordinance and related state laws. Quasi-judicial decision-makers must apply the law as written and may not substitute their judgment for that of the governing body.

Administrative or ministerial decisions involve the routine application of adopted rules and standards. Examples include the issuance of zoning permits (permitted uses), building permits and sign permits. Discretion associated with these types of decisions is very limited. In smaller communities, a commission member may actually perform the duties of a zoning administrator or building inspector by accepting petitions and applications, issuing permits and making inspections. This practice reflects the reality of limited personnel and financial resources in smaller communities.

Discretion Associated with Local Land Use Decisions

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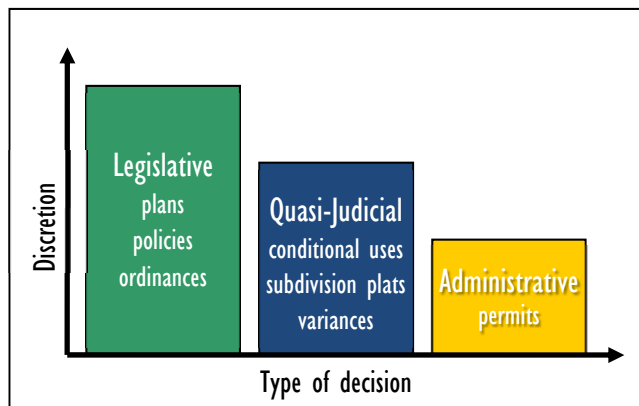
[1] See Wis. Stat. §§ 19.81-98 (open meetings), 19.21-39 (public records), 19.59 (code of ethics for local officials), 946.12 (misconduct in public office), and 946.13 (private interest in public contracts). Available: https://docs.legis.wisconsin.gov/statutes/prefaces/toc.

[2] *Universal Glossary of Land Use Terms and Phrases*. 1998. Land Use Law Center, Pace University School of Law.

◗ Sources of Guidance

Plan commissioners must look to several sources for guidance on proper decision-making standards and procedures. Sources of guidance include:

1. State statutes
2. Case law
3. Local ordinances
4. Plan commission bylaws

State statutes outline the authority of plan commissions and describe many procedural and ethical guidelines that plan commissioners and other local government bodies must follow. These include, but are not limited to, the open meetings law, public records law and state ethics code.

Case law provides additional guidance on many procedural and decision-making standards that relate to the plan commission. Case law is formed when local decisions are appealed to higher courts. All decisions of the Wisconsin Supreme Court and published decisions of the Court of Appeals set precedent statewide and must be followed locally. References to case law are included throughout the text of this handbook and cited in the footnotes. A guide to understanding case law citations is below.

Local ordinances further define the authority, decision-making standards and procedures that plan commissioners must follow. The plan commission should look to the ordinance establishing the plan commission as well as zoning, subdivision and other ordinances governing activities involving the plan commission.

Bylaws or rules of procedure are used to address issues not otherwise covered by state statutes, case law or local ordinances. Rules of procedure typically deal with issues such as member conduct, compensation, meeting conduct, and so forth. They can be developed and adopted by the governing body or the plan commission.

Citation Format for Wisconsin Court Decisions Before 2000

Snyder v. Waukesha County Zoning Bd., 74 Wis. 2d 468, 247 N.W.2d 98 (1976)

Case name   *Location(s) in official reporters*   *Year*

74 Wis. 2d 468	Volume 74, Wisconsin Reports, Second Edition, page 468
247 N.W.2d 98	Volume 247, North Western Reporter, Second Edition, page 98
Ct. App.	Indicates a court of appeals decision when placed in parentheses prior to year

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Citation Format for Wisconsin Court Decisions After 2000

State ex rel. Ziervogel v. Washington County BOA, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401

Case name   *Public domain*   *Location(s) in official reporters*

ex rel.	Abbreviation for *ex relatione* meaning "on behalf of"
2004 WI 23	Year 2004 Wisconsin Supreme Court case 23 (may be followed by paragraph #)
WI App.	Indicates a court of appeals decision when placed in the public domain
269 Wis. 2d 549	Volume 269, Wisconsin Reports, Second Edition, page 549
676 N.W.2d 401	Volume 676, North Western Reporter, Second Edition, page 401

▶ Rules of Procedure

Many procedural issues essential for the conduct of plan commission business are not addressed in state statutes and must be determined by local ordinance or by rules of procedure adopted by the plan commission. Wisconsin Statutes allow plan commissions to establish their own rules for conducting business.[3] Common issues typically addressed in plan commission rules are outlined below:

A. Membership
- Desired qualifications
- Appointment of alternates
- Officers, duties, and staff assistance
- Establishment of committees
- Vacancies, resignations and removal
- Compensation

B. Conduct
- Attendance requirements
- Training requirements
- Conflicts of interest and bias
- Ex parte communication

C. Meetings, Hearings and Site Visits
- Meeting time, frequency, location
- Parliamentary procedures
- Quorum
- Order of business
- Authorization for site inspections

D. Decisions
- Voting requirements
- Recording decisions
- Meeting minutes, exhibits and records

When creating rules of procedure or bylaws it is not necessary to restate all applicable state and local rules or case law applicable to the plan commission. The rules of procedure should primarily address issues that are not already addressed elsewhere or that are more restrictive than existing rules. If the plan commission feels it is important to reiterate existing laws, it is best to do so by reference rather than a complete reprinting of the law. That way, if the law is changed, it is not necessary to update the rules of procedure.

A sample code of conduct and rules of procedure are provided at the end of this chapter. These rules may serve as a starting point for preparation of local rules. Planning and zoning staff and legal counsel can provide assistance in drafting rules of procedure that are appropriate for your community. Prior to adoption, rules should be reviewed and agreed upon at a meeting of the plan commission.

Robert's Rules of Order

While it is common for plan commissions to adopt Robert's Rules of Order for the conduct of meetings and hearings, some caution is warranted. Robert's Rules are extremely complicated and establish highly formal processes which make discussion difficult. Furthermore, few people know these rules well enough to use them accurately. When plan commission decisions are challenged in court, the first line of attack is the rule book. Cases can be remanded back to the commission for reconsideration if the rules aren't followed. Training is also needed to properly administer Robert's Rules.

The sample rules of procedure included at the end of this chapter reference Robert's Rules of Order for issues not addressed elsewhere in the bylaws. You may wish to omit this reference or refer to a different parliamentary authority.

The UW-Extension Local Government Center provides training on parliamentary procedure. Its website contains a variety of related resources: http://lgc.uwex.edu/OpenGovt/index.html.

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[3] Wis. Stat. §§ 62.23(2) and 59.69(2)(c) authorize municipal plan commissions and county zoning agencies to prepare rules of procedure. The county board has authority to alter the rules of the county zoning agency.

MEETING AND HEARING CONDUCT

▶ Effective Meetings and Hearings

How well a community accepts a plan commission decision depends on much more than the decision itself. Public relations matter. The actions of plan commission members influence whether citizens feel they were listened to, respected and given fair consideration when the decision was made. Here are some steps commissioners can take at public meetings and hearings to bolster public confidence in the commission and its decisions:[4]

1. **Prepare.** Careful preparation is critical to success. Clarify the goals of your meeting or hearing and hold it early in the decision-making process. Select an appropriate site, line up speakers and facilitators, and prepare government officials. If background materials are to be provided as a handout, use clear, plain language, understandable by everyone.

2. **Publicize.** Outreach efforts can help in getting more people to attend meetings and hearings. Effectively publicize your event using multiple media. Create public interest and educate citizens about what is involved and how they will be affected. Use multiple communication channels to notify, educate, and build interest. Take a look at your community and figure out how people are getting their information. Are notices posted where they are likely to be read? Is the information presented in a format that is likely to be read? (remember that an article, factsheet or story is much more compelling than a posted notice or agenda). Consider placing meeting materials on a website so that they are broadly accessible and can be reviewed in advance.

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[4] Adapted from "Critical Factors for Enhancing Municipal Public Hearings." William H. Baker, H. Lon Addams and Brian Davis. *Public Administration Review*, Volume 65, Issue 4, July/August 2005.

> **Public Meeting or Public Hearing?**
>
> The distinction between a public *meeting* of a governmental body and a public *hearing* before it is a matter of purpose. A meeting is for the purpose of conducting the business of the body and may or may not involve opportunities for public involvement. A hearing is held for the express purpose of gathering information from the public regarding a pending application, petition or policy proposal. The plan commission may be required to hold a public hearing when developing recommendations on the adoption or amendment of a comprehensive plan or ordinance or when considering an application for a development permit.

3. **Launch.** Many people are unfamiliar with planning and the role of local government. Take time at the beginning of meetings to describe the role of the plan commission, the nature of the decision being made, opportunities to provide public input, and necessary technical or background information. Clearly frame the key issues and use multiple media to help achieve understanding. Describe the procedures to be used during the meeting.

4. **Facilitate.** Well-run meetings influence the overall effectiveness of public involvement. When meetings start and end on time, people are more willing to participate and stay focused on the issues at hand. A skilled chairperson or facilitator is invaluable in running an efficient meeting. Make sure that the facilitator guides and moves the discussion along, clarifying and summarizing main points, assuring citizens of the value of their input, and managing citizens' emotions. A successful facilitator will be open, unbiased, patient, non-defensive and adaptable.

5. **Listen.** Public meetings should provide meaningful opportunities for communication. When people feel that their comments make a difference, they are more likely to take the time to attend meetings and share their ideas. At the beginning of the meeting, describe how public input will be used. Make sure that members of the plan commission and local governing body carefully listen to and value citizens' comments, remembering that they are community stewards. Reading, sorting through papers, taking a restroom break, or adjusting equipment sends the message that local officials are not listening. Demonstrate you're listening by restating what you've heard from citizens, responding to their comments and following up with questions. Be honest and forthright, yet respectful and sensitive in your responses.

6. **Follow-up.** Follow up effectively after the meeting. Make sure that public input is recorded and discuss how that input will be used to make decisions. Report back to citizens at subsequent meetings to discuss how their input was used.

Additional information on public involvement is provided in Chapter 4. Information to guide the commission in conducting public hearings is provided in two parts. A checklist for conducting public hearings is provided below. A sample hearing appearance slip and announcement of proceedings are provided at the end of the chapter and may be downloaded from the internet and modified for local use.

Public Hearing Checklist

1. **Prior to meeting.** [designated staff]
   A. Arrange for alternates due to anticipated absence or conflict of interest.
   B. Send the agenda, proposal, and staff reports to commission members.
   C. Comply with open meeting law and public hearing notice requirements.
   D. Arrange for a tape recording of the hearing or a court reporter.

2. **Preliminary matters at meeting.**
   A. Distribute and collect hearing appearance slips. (see example on page 22). [chair]
   B. Call the meeting to order. [chair]
   C. Take roll and confirm that a quorum is present. [secretary]
   D. Confirm compliance with open meetings law and public notice requirements. [commission]
   E. Read the agenda and amend as necessary (reorder hearings). [chair and commission]
   F. Inform the public in attendance of hearing procedures (see script on page 23). [chair]

For Legislative Proceedings: (i.e. plan or ordinance adoption or amendment)

3. **Public hearing.**
   A. Open the public hearing. [chair]
   B. Provide a summary and rationale for the proposal. [commission or staff]
   C. Allow time for group and individual questions and answers. [commission, staff, public]
   D. Request formal statements from the public. [chair]
   E. Close the record and the hearing. [chair]

4. Deliberation and recommendation.
    A. Decide/vote on the proposal.
    B. Forward recommendation to the governing body.

For Quasi-Judicial Proceedings: (i.e. conditional use, variance, rezone of individual property)

3. Public hearing.
    A. Open the first public hearing. [chair]
    B. Read petition or application. [staff]
    C. Report on any site inspection. [secretary or staff]
    D. Request a statement by the applicant. [chair with questions by commission]
    E. Read the staff report. [staff with questions by commission]
    F. Report on related correspondence. [secretary]
    G. Disclose any ex parte communication. [commission]
    H. Request statements of witnesses (pro/con/information). [chair with questions by commission]
    I. Request a response by the applicant (or after each witness). [chair with questions by commission]
    J. Request a response by staff. [staff with questions by commission]
    K. Ask any final questions. [commission]
    L. Close the record and the hearing. [chair]

4. Deliberation and decision or recommendation.
    (Note: many plan commissions conduct all hearings before deliberating on decisions)

    A. Findings of fact
        ▪ Determine whether the commission has the authority to make the decision.
        ▪ Determine whether application contains information necessary to make a decision.
        ▪ Record pertinent facts on the decision form and in meeting minutes.
    B. Conclusions of law
        ▪ Specify applicable legal standards (found in state statutes, case law or local ordinance).
        ▪ Determine which facts relate to the legal standards.
        ▪ Determine whether the legal standards are met.
        ▪ Agree on any permit conditions.
    C. Order and Determination
        ▪ Decide/vote on the case.
        ▪ Direct staff to take any necessary action.

5. Repeat steps 3 and 4 for additional hearings.

6. Other agenda items.

7. Adjourn meeting.

OPEN GOVERNMENT

▶ Open Meetings Law

All plan commission meetings and hearings must comply with Wisconsin's open meetings law.[5] This law is intended to give the public prior notice of meetings of governmental bodies and to assure that they are held in places that are open and reasonably accessible to the public including those with disabilities. This also means that the facility chosen for a meeting should be sufficient for the number of people reasonably expected to attend.[6] Some meetings or portions of meetings are permitted to be held in closed session, but generally, discussion and decision-making must be conducted in open session and motions and voting must be open and recorded.

Under the open meetings law, a meeting is a gathering of members of a governmental body for the purpose of exercising responsibilities and authority vested in the body. A meeting occurs when both a purpose test and a numbers test are met:[7]

- **The Purpose Test** is met when discussion, information gathering, or decision-making takes place on a matter within the jurisdiction of the governmental body. This test is met even if no votes are taken; mere discussion or information gathering satisfies the test.

- **The Numbers Test** is met when enough members of the body are present to determine the outcome of an action. By statute, if a quorum is present (generally one-half of the members of the body), there is presumed to be a meeting unless the purpose test is not met. A lesser number of members may also meet the

numbers test if sufficient numbers are present to block a decision (e.g., two members of a five-member commission where four votes are required to carry an issue). This is known as a "negative quorum."

Phone conferences, chance and social gatherings, and conferences may constitute a meeting if the numbers and purpose tests are met. Phone calls to arrange meeting logistics or gatherings where no official business is discussed do not meet the open meetings test.

A series of gatherings, telephone calls, faxes, e-mails or electronic messages between plan commission members could also constitute an illegal meeting. A series of meetings or discussions, each less than quorum size, to discuss plan commission business (other than logistics) is known as a "walking quorum." This practice is illegal because it is not noticed and open to the public.

Site inspections by the plan commission must comply with the open meetings law if the purpose and numbers tests are met. If commission members travel to an inspection site together, they should refrain from discussing commission business while in transit. Inspections in which no testimony is taken and no discussions are held constitute meetings if the numbers test is met since their intended purpose is to gather information relating to plan commission business.

> **Quorum** – at least one-half of the members of a body; sufficient to decide most matters.
>
> **Negative Quorum** – enough members of a body (generally less than quorum) to block a decision.
>
> **Walking Quorum** – a series of meetings or discussions, each involving less than a quorum, intended to decide a matter.

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[5] Wis. Stat. §§ 19.81-19.98.
[6] *Badke v. Village Board of the Village of Greendale*, 173 Wis.2d 553 (1993), 580-81.
[7] *State ex rel. Newspapers, Inc. v. Showers*, 135 Wis.2d 77, 102 (1987); *State ex rel. Badke v. Village Board of the Village of Greendale*, 173 Wis.2d 553 (1993).

> **Open Session** – a meeting which is held in a place reasonably accessible to members of the public and open to all citizens at all times.
>
> **Closed Session** – a meeting where public attendance is not allowed; must be specifically authorized by state statute.
>
> *Wis. Stat. § 19.81-19.98*

◗ **Closed Sessions**

Unless specifically exempted by state statute, all meetings of governmental bodies must be open and reasonably accessible to the public. Statutory exemptions most likely to apply to the plan commission include:[8]

- **Deliberation concerning a case.** Deliberation concerning a case that was the subject of a quasi-judicial hearing. The courts have determined a case to be an adversarial proceeding with opposing parties, *not* merely an application for a conditional use permit, variance or administrative appeal. Neighbors or others testifying for or against a matter are not considered parties.[9]

- **Conferring with legal counsel.** Conferring with legal counsel about strategy regarding current or likely litigation.

- **Actions concerning public employees.** Consideration of dismissal, demotion, licensing, or discipline of a public employee or licensee unless the employee or licensee requests that the meeting be held in open session. Consideration of employment, promotion, compensation, or performance evaluation data of a public employee.

- **Potentially damaging personal information.** Consideration of financial, medical, social,

or personal histories or disciplinary data about specific persons that would likely have a substantial adverse effect on the reputation of a person.

- **Request to an ethics board.** Consideration of a request for confidential written advice from a local ethics board.

- **Purchasing and bargaining.** Matters which include business competition or bargaining issues such as public land acquisition or retaining a consultant. The competitive or bargaining issue must relate to reasons benefitting the governmental body, not a private party's desire for confidentiality.[10]

- **Other narrow exemptions.** Specified deliberation regarding unemployment and workers compensation, burial sites and other narrow exemptions provided by statute.

Statutes specify procedures that must be followed when convening and participating in a closed session:

- **To enter closed session.** The body must initially convene in open session. To move into a closed session, the presiding officer must announce the specific subject matter and statutory authority for closure. A motion and recorded individual vote by a majority of the body are required to convene in closed session.

- **Attendance at closed sessions.** Only members of the plan commission, the governing body, and those essential to the business for which the session was closed may attend a closed session. The planning or zoning staff person who presented testimony at the hearing and the municipal attorney (if he or she represented the plan commission at the hearing) should not attend closed sessions.

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[8] Wis. Stat. § 19.85(1)(a-j).
[9] *State ex rel. Hodge v. Turtle Lake*, 180 Wis.2d 62, 508 N.W.2d 301 (1993).

[10] *State ex rel. Citizens v. City of Milton*, 2007 WI App 114, 14-15.

- **Discussions, motions and decisions.** The body may consider only the matter for which the session was closed. Motions and decisions must be recorded. If a decision made in closed session is appealed, the record must contain sufficient detail to show that the plan commission considered the proper legal standards and evidence presented. Where feasible, the plan commission should vote in open session.

- **To reconvene in open session.** Once a body convenes in closed session, it may not reconvene in open session for at least 12 hours, unless public notice of its intent to return to open session was given in the original notice of the meeting. Absent such notice, the body should amend its agenda to place any closed session at the end of the agenda.[11] When there is good cause, two-hour prior notice of a planned closed session and reopening can be provided to allow reopening a meeting, but this approach is rarely necessary.

Types of Notice

Some actions of governmental bodies require additional notice or publication beyond what is required of the open meetings law. Refer to state statutes and related sections of this handbook for specific guidance. Three types of notice are typically required for plan commission actions:

Posting – Display of a notice in at least 3 public places likely to give notice to the public and those affected by a decision.

Class 1 Notice – One newspaper publication at least one week before the act or event.

Class 2 Notice – Two newspaper publications, at least once each week for consecutive weeks, the last at least one week before the act or event.

Wis. Stat. §§ 985.02 and 985.07

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[11] Wis. Stat. § 19.85(2).

▶ Public Notification

All meetings of governmental bodies must be preceded by advance public notice. Following are the minimum notice requirements of Wisconsin's open meetings law.

- **Form of notice.** Notice of public meetings is required and may be accomplished by posting in one or more public places likely to give notice to the public and those affected by the decision; a minimum of three locations is recommended.[12] A public notice may be posted on a government website as a supplement to other public notices, but does not substitute for other methods of notice.[13] Paid, published notices are not required by the open meetings law. However, where other statutes require paid publication of a hearing or meeting notice, open meetings law requirements may be incorporated into the published notice. In these situations, posting is also recommended.

- **Timing of notice.** Notice of a public meeting must be provided at least 24 hours prior to the meeting. Where such notification is impossible or impractical for good cause, notice may be provided not less than two hours prior to the meeting.

- **Content of notice.** Notice must specify the time, date, place, and subject matter of the meeting; any contemplated closed sessions; and intent to reconvene in open session within twelve hours after completion of a closed session.[14] The meeting agenda may also provide for a period of public comment and discussion. Though most meetings must be open to public attendance, the law does not require all meetings to provide a forum for public comment. Hearings, on the other hand, must include a period for public comment and/or testimony.

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[12] 66 Op. Att'y Gen. 93 (1977).
[13] Peck Correspondence, April 17, 2006. Cited in Wisconsin Open Meetings Compliance Guide, 2010.
[14] Wis. Stat. §§ 19.84(2) & 19.85(2).

- **Specificity of notice.** The public notice must describe agenda items in sufficient detail to allow anyone likely to be affected by a decision to identify those items on the agenda. In the case of a specific development proposal, provide the name of the applicant, property address and a brief description of the proposal. General subject matter designations such as "miscellaneous business," "agenda revisions," or "other such matters as authorized by law" should be avoided.[15] Only issues described in sufficient detail in the public notice and agenda may be decided.

- **Notice to media.** Notice must be provided in writing or by phone, fax or email to any news media that have filed a written request. Notice must also be provided to the governmental unit's official newspaper, or if none exists, to other media likely to give notice in the affected area.

- **Separate notices.** A separate notice is required for each meeting. A general notice of a body's upcoming meetings is not sufficient.[16] If a discussion item or decision is continued or postponed for a later date, the item must be fully described in the subsequent meeting notice.

- **Proof of notice.** An affidavit of publication by a newspaper editor or his/her designee showing the name of the newspaper and dates of publication affixed to a copy of the published notice is presumptive evidence of publication.[17] A similar affidavit by a person posting legal notice showing the time, place and manner of posting serves the same function for posted notices.[18]

Tips for Ensuring Compliance

Plan commission members should individually determine compliance with all aspects of the open meetings law. Prior to participating in a meeting or hearing, we recommend that you review the following procedures to ensure compliance:

1. **Determine proper notice.** At the beginning of a meeting, each member of the plan commission should determine whether proper notice was provided. If compliance is questionable, consult your county corporation counsel or municipal attorney.

2. **Limit closed sessions.** Members should vote against convening closed sessions that are not authorized by specific exemptions of the open meetings law. They should also insist that proper procedures be used to close and reopen sessions. Members who vote against convening in closed session may participate in a closed session without liability if it is held.

3. **Document proceedings.** A log or minutes documenting proper notice and recording motions, rationale, and any votes on abbreviated notice, amended agendas, or closed sessions is a useful defense against allegations of open meetings law violations (most often made by the media or persons displeased by a decision).

Members can be sued individually or as a group for alleged violations of the open meetings law. Forfeitures range from $25-$300 and may not be reimbursed by the municipality. A court may also void an action taken by a body at an illegal meeting if it finds that the public interest in enforcement of the open meetings law outweighs any public interest in sustaining the body's decision.

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[15] Memo from AG-Lautenschlager to Mr. Charles Rude, Mayor, City of Lake Geneva, March 5, 2004.
[16] 63 Op. Att'y Gen. 509, 512-3 (1974).
[17] Wis. Stat. § 985.12.
[18] Wis. Stat. § 985.02(2)(d).

Notice of Plan Commission Meeting and Agenda

Notice

The City of Badgerville Plan Commission hereby provides this written notice and agenda for a public meeting of the Plan Commission to be held on Monday, September 17, 2012 at 7:00 p.m. in City Hall, Room 100, on 1200 Bucky Blvd., Badgerville, Wisconsin. The City Clerk has provided communication of this meeting to the city's official newspaper and to other media that have requested it. The public may provide comments to the Plan Commission where noted on the agenda and upon recognition by the Plan Commission chairperson.

Agenda

1. Call to order.
2. Roll call and verification of quorum.
3. Certification of compliance with public notice requirements.
4. Approval of agenda.
5. Approval of minutes from August 20, 2012 Plan Commission meeting.
6. Public comments.
7. Review site plan for proposed rezoning of property located at 166 Badger Road from A-2 General Farming to B-5 Highway Business. Rezoning will allow existing building to be used for flower shop and storage and include parking for 6 cars. (Parcel # 1234-5678, Dan and Ann Sylvester, owners/applicants).
8. Discuss planning staff recommendations for revisions to the comprehensive plan.
9. Convene in closed session under Wis. Stat. § 19.85(1)(c) for performance evaluation and consideration of compensation of city planner. After completion of its business in closed session, the Plan Commission will reconvene in open session to complete the remaining items on this agenda.
10. Recommendation to the Common Council regarding salary adjustment for the city planner.
11. Set time, date and agenda for the next meeting.
12. Adjourn.

Note: Members of the City of Badgerville Common Council and members of other public bodies may attend this meeting to gather information and participate in discussion. However, no official action will be taken by these bodies.

Requests from persons with disabilities who need assistance to participate in this meeting should contact the City Clerk's office at 345-6789 at least 48 hours in advance.

Meeting notice has been published in the Badgerville Daily Herald and posted in the Badgerville Municipal Building, Post Office and Public Library.

Notice prepared by: Judy Heff, Plan Commission Secretary
Date: September 3, 2012

Adapted from *Understanding Wisconsin's Open Meeting Law, Appendix A: Sample Public Notice/Agenda*. 1994. Burt P. Natkins and James H. Schneider. Local Government Services, Inc.: Oregon, WI.; *Wisconsin Town Law Forms*, *19.84 Notice of Town Board Meeting and Agenda.* April 2012. State of Wisconsin.; and Agendas and Minutes for Local Government. [PowerPoint Presentation]. 2006. Dan Hill. Local Government Center.

◗ Voting

With limited exceptions, the plan commission must vote in open session.[19] In the absence of specific guidance provided in state statutes, local ordinances or rules of procedure, routine and non-controversial items may be approved by unanimous consent (i.e. "Is there any objection to approving the minutes as distributed? Hearing none, the minutes are approved.") A voice vote or roll call vote is recommended for taking action on resolutions, applications and petitions (i.e. "Those in favor say *aye*. Those opposed say *nay*.")[20] Generally, a simple majority of quorum is sufficient for the plan commission to decide an issue. However, some local ordinances require a supermajority or majority of the full plan commission to vote in favor of a specified measure.

◗ Minutes and Records

The plan commission is required to keep a record of its resolutions, transactions, findings, and determinations.[21] While it is not necessary to create an actual tape or transcript of most meetings, we recommend doing so in the case of quasi-judicial hearings. A transcript of the proceedings provides a record of the rationale for decisions and is useful for later legal review if a decision is appealed in court. Other records that should be preserved include the application, evidence submitted as part of the application (i.e. photos, sketches, letters, emails, audio tapes, video tapes), oral and written testimony, and other information that was considered in decision-making. Meeting minutes should also be taken for all plan commission meetings. The minutes should

record the subject matter of discussions, and all motions, seconds and votes, including absences and abstentions. To comply with the open meetings law, the minutes should also record proper notice and reasons for going into closed session. Responsibility for taking meeting minutes may be assigned to a plan commission secretary, designated staff person or municipal clerk.

Content of Meeting Minutes

Robert's Rules of Order recommends that meeting minutes include:

- Name and type of meeting.
- Date, time and place of meeting.
- Name of the chair and secretary or their substitutes.
- Names of members attending and whether a quorum was present.
- Names of guests and their subject matter. You may circulate a sign-in sheet and attach it to the minutes.
- Record of action taken on the minutes from the previous meeting.
- Exact wording of each main motion as it was voted on with the name of the motion-maker and whether the motion passed or failed. If the vote on the motion was counted, the count should be included.
- Reports should include the name of the person presenting the report, the subject of the report, and any action taken. If a written report is provided, it should be attached to the minutes or the minutes should describe where the report is located.
- Other actions, assignments, deadlines, resolutions, and recommendations can be briefly recorded.
- Secretary's signature once the minutes have been approved.

See Robert's Rules of Order Newly Revised, 11th Edition or www.rulesonline.com/rror-10.htm.

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[19] Wis. Stat. § 19.88(1)-(3). Unless specifically provided by statute, secret ballots may only be used to elect officers of the body. Any member of the plan commission may request that individual votes be recorded on a matter. Motions and roll call votes must be recorded and open to public inspection.

[20] *Voting Procedures for Local Government Bodies*. 2003. Larry Larmer. Local Government Center. http://lgc.uwex.edu/publications/publs.html.

[21] Wis. Stat. §§ 59.69(2)(c) and 62.23(2).

◗ Public Records Law

Wisconsin's public records law establishes rules and regulations concerning public inspection and copying of government records. The purpose of the public records law is to ensure that citizens have access to information regarding the affairs of government, consistent with the conduct of governmental business.

The law provides that any person has the right to inspect and obtain a copy of a public record. Public records include every form of information created or kept by a municipal department, office, committee, board, commission or officer. This includes handwritten and printed pages, maps, photographs, e-mail messages, audio and video recordings, and CD-ROMs. The public record does not include draft documents prepared for personal use or material that is purely personal property.

Noted exceptions to the public records law include:[22]

- Information connected with a complaint, investigation or other circumstances that may lead to an enforcement action or other litigation.
- Information that, if disclosed would endanger an individual's life or safety, identify a confidential informant or endanger the security of designated institutions.
- Some information from closed sessions. The records custodian may refuse to permit the inspection of a record from a closed session if the need for secrecy continues and if sufficient reason is given consistent with the law. However, once the underlying purpose for the closed session ends, the record must be released. Information from a closed session is not exempt simply because a valid closed session was held.

In most communities, the municipal clerk is designated the custodian of public records. If a record contains information that is subject to disclosure under the public records law as well as information that may be withheld, the custodian must delete or black-out the information not subject to disclosure before releasing the record. The custodian is not required to create a new record or document in response to a public records request. The custodian may also charge a reasonable fee for locating and duplicating a record.

Most public records must be kept for a period of seven years. However, tape recordings taken for the purpose of creating meeting minutes may be destroyed 90 days after approval of the minutes.[23]

> Advice on the open meetings and public records law is available from your county corporation counsel, municipal attorney or the Wisconsin Department of Justice: www.doj.state.wi.us. The full text of these laws may be found in *Wisconsin Statutes §§ 19.81-19.98* (open meetings) and *19.31-19.39* (public records) and may be accessed online: https://docs.legis.wisconsin.gov/statutes/prefaces/toc.

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[22] Wis. Stat. § 19.35(1) and 19.36.

[23] Wis. Stat. §§ 19.21(4)(b) & (7).

DUE PROCESS

Adoption of plans, ordinances and other legislative proposals related to land development standards are generally subject to intense public scrutiny because they affect private property rights, personal wealth and other closely held values. Our democratic system of government encourages public discussion of pending legislation. It is perfectly acceptable for individual community members and special interest groups to lobby elected officials for support or opposition of local legislative proposals. However, once proposed policies are adopted and become law, government bodies such as the plan commission must apply them in full view of the public following legal rules of fair play known as due process.

Quasi-Judicial Decision-Makers Must Follow the Rules of Procedural Due Process

Not all government actions require compliance with procedural due process principles. A rule or law that applies generally does not trigger due process guarantees. Instead, procedural due process requirements are demanded of government only in cases where the government makes an individualized determination affecting specific individuals or a limited identifiable class of people.[24] In other words, the rules of procedural due process apply to quasi-judicial decision-makers.

Due process is a basic concept of fairness in legal proceedings that has its roots in the decision making processes used by the Greeks and Romans. It is also reiterated in the constitutions of the United States and Wisconsin.[25] These constitutional provisions guarantee two distinct forms of due process: substantive and procedural. Substantive due process is concerned with the reasonableness of government action and focuses on assessing the rationality of a government decision. Procedural due process, the focus of this section, is concerned with the means employed to make a government decision.

When the plan commission makes a decision that affects specific individuals (i.e. conditional use, plat review, etc.), it must follow the rules of procedural due process. These rules include:[26]

- Providing adequate notice of pending decisions to affected persons.
- Ensuring that each decision maker is impartial and unbiased.
- Avoiding and disclosing ex parte contacts.
- Providing an opportunity to present at hearings.
- Basing decisions on clear, pre-existing standards and factual evidence in a record that is available for review.

◗ Ex Parte Communication
Commission members should not have conversations or receive correspondence regarding a quasi-judicial matter that is pending before the commission or which may come before the commission except during a noticed meeting or hearing on the matter. Such outside contacts are known as "ex parte communication." Ex parte communication

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[24] Blaesser, Brian W. et al. *Land Use and the Constitution: Principles for Planning Practice.* 1989. Planners Press. pp.42-43; Hunter, Ted and Jim Driscoll. "The Planning Commissioner as Judge." *The Commissioner*, Summer 1996; *Old Tuckaway Assocs. Ltd. Partnership v. City of Greenfield*, 180 Wis.2d 254, 509 N.W.2d 323 (Ct. App. 1993); Stephens, Otis and John Scheb. *American Constitutional Law, 3ed.* 2003. Belmont, CA: Wadsworth.

[25] Fourteenth Amendment to the U.S. Constitution and Article I, Section I of the Wisconsin Constitution.

[26] *Bi-Metallic Inv. Co. v. State Bd. of Equalization,* 239 U.S. 441, 36 S. Ct. 141, 60 L. Ed. 372 (U.S. 1915) and *Londoner v. Denver*, 210 U.S. 373, 28 S. Ct. 708, 52 L. Ed. 1103 (U.S. 1908) cited by Olson, Daniel M. "Procedural Due Process: The Basics plus Town of Castle Rock." *The Municipality*. December 2005. League of Wisconsin Municipalities.

may not be considered in decision-making unless it is disclosed and made part of the official record in the matter. The commission as a whole can then determine the admissibility of the information and individual members can determine its credibility and weight in deciding their vote on the issue.

The reason for exclusion of ex parte information is that parties are entitled to know and examine the source of information used by the commission in its decision-making. Outside discussion regarding procedural matters such as scheduling a meeting or explaining how to file an application is permissible. Ex parte communication is not a concern when enacting legislation (i.e. plan or ordinance adoption) or making administrative decisions (i.e. issuing simple zoning or building permits).

> **Ex Parte** - without the other party being present. Tips for handling ex parte communication are provided below:
>
> - Avoid ex parte communication by suggesting that members of the public present information in an open meeting or hearing or submit a written comment.
> - Disclose ex parte communication at an open meeting or hearing and make the information part of the record so that it can be considered in decision-making.

◗ Impartiality

Procedural due process requires that plan commission members acting in a quasi-judicial manner be impartial, that is, free of bias and conflicts of interest. Here are two examples of how the courts determined that a land use decision maker was not impartial:

- A zoning board member made negative comments about the applicant and her request, referring to it as a "loophole in need of closing." The court determined the applicant was deprived of a fair hearing and required a rehearing without the participation of the member.[27]

- A county zoning committee member, who was also a town board chair, co-signed a letter as town board chair expressing his positive opinion of a gravel company. The gravel company later applied to the county for a conditional use permit and included the town chair's letter as part of the application. When the town board chair/county zoning committee member voted to grant the conditional use permit, the court determined he was an advocate who had demonstrated an impermissibly high risk of bias.[28]

Local land use decisions are particularly vulnerable to concerns about impartiality because decision-makers are local residents with numerous social and economic ties to their community. It should be noted, however, that personal opinions about specific land use regulations or planning in general do not necessarily disqualify a plan commission member from participating in a matter.

◗ Recusal

For each request before the plan commission, individual commission members must decide for themselves whether their relationships or interests could bias their judgment or present an appearance of bias. We recommend that plan commission members use the "sniff test" when determining whether they are biased or impartial. If it would smell fishy for you to vote on the matter at hand, recuse yourself. Another way to determine if you are impartial *and* appear impartial is to think about whether you would be comfortable if the headline in your local newspaper described your background, your personal and professional

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[27] *Marris v. Cedarburg*, 176 Wis. 2d 14, 498 N.W.2d 842 (1993).

[28] *Keen v. Dane County Bd. of Supervisors*, 2004 WI App 26, 269 Wis. 2d 488, 676 N.W.2d 154.

relationships, and your participation or vote on the matter at hand. If you are unsure, you should discuss the matter with legal counsel.

If, as a plan commission member, you do not feel you can be and appear impartial in a given decision, the best approach is to recuse yourself. To recuse yourself, do not vote *and* do not have any discussion or involvement in the matter in question. We recommend that you physically remove yourself from the table where the plan commission is seated while the matter is discussed to make it clear you are not serving as a member of the commission. The

meeting minutes should reflect that you have recused yourself. If you have recused yourself on the matter, you may offer testimony as a member of the public.

> **Recuse** – to disqualify oneself from *all* official participation in a matter, usually because of a conflict of interest or prejudice. If you recuse yourself:
>
> - Do not vote AND
> - Do not discuss the topic as a member of the plan commission.

What rules apply when faced with the rezoning of an individual property?

Rezonings are a grey area of the law. In some states they are treated as quasi-judicial, but in Wisconsin they are viewed as legislative. The League of Wisconsin Municipalities recommends a conservative approach is to treat rezonings—particularly those that apply to individual properties—as quasi-judicial decisions.[29] This means that the rules of procedural due process apply, including the need for an impartial decision-maker.

In deciding whether to participate in a rezoning decision, the Local Government Center suggests analyzing whether an individual decision-maker would be affected by the rezoning to a greater extent than others in the community. If, for example, your next door neighbor is asking for the rezoning, you should abstain from any official involvement. If, however, the rezoning is for a major project that affects the entire area where you live and you are not affected more than others, it seems legitimate for you to take part in the decision.[30]

May a person vote on an issue twice when serving on both the plan commission and governing body?

A governing body member who serves on the plan commission is disqualified from participating in a quasi-judicial decision that comes before the governing body if the member voted on the matter when it was before the plan commission. A governing body member in the same circumstances would not be precluded from voting on a legislative matter, such as a rezoning, since the requirement of an impartial decision-maker does not apply to legislative decisions.[31]

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[29] Witynski, Curtis. "Impartiality in Zoning Decisions." *The Municipality*, May 2000. League of Wisconsin Municipalities.

[30] *Ethics & Conflicts of Interest—FAQs,* James H. Schneider, J.D. April 2008. Local Government Center. The Wisconsin Ethics Board (now GAB Ethics Division) has noted in recent opinions that common law principles may disqualify a member of a body from voting on a matter where the member has a direct pecuniary interest not shared by others similarly situated. See, e.g., *Wis Eth Bd* opinions 200309 and 200317 (citing *Board of Supervisors of Oconto County v. Hall*, 47 Wis. 208 (1879) and 36 *Op. Att'y Gen*. 45, 46 (1947)).

[31] League of Wisconsin Municipalities. Legal Caption 445. 3/31/00.

ETHICS AND CONFLICTS OF INTEREST

▶ **Statutory Conflicts of Interest**

Wisconsin Statutes contain specific conflict of interest provisions that apply to plan commission members and other local officials regardless of the type of the decision-making they participate in. Two primary provisions that apply to the plan commission include:[32]

- **Personal financial gain** – State law prohibits public officials from taking official action that substantially affects a matter in which the official, an immediate family member or an associated organization has a substantial financial interest. Similarly, an official may not use public office for financial gain or to gain anything of substantial value for the official, an immediate family member or an associated organization. Compliance with the statute will protect a member from prosecution under the statute but does not assure compliance with other fair play and due process requirements.

- **Private interests in public contracts** – State law also provides for felony prosecution of a public official who engages in specified activities related to public contracts in which the official has an interest. This is an issue, for example, where the commission decides conditional use permits or retains consulting services where a member has an interest. In certain cases abstention will not prevent a violation of the law and the official will have to choose between doing business with the governmental unit and serving as an officer.

> **In Summary:**
> - Don't participate in decisions that affect you financially.
> - Don't accept items or services offered to you because of your position.

▶ **Ethical Principles in Planning**

The American Planning Association maintains a set of ethical principles to guide the conduct of all who participate in the planning process as advisors, advocates and decision-makers. These principles should be used by certified and practicing planners, appointed and elected officials, and others who participate in the process of planning. The plan commission is urged to discuss and consider adopting these principles.

Key elements include:[33]

- Serve the public interest.
- Recognize the rights of citizens to participate in the process.
- Give full, clear and accurate information.
- Expand choice and opportunity for all persons, including the disadvantaged.
- Assist in the clarification of community goals, objectives and policies.
- Make information available to the public in advance of decisions.
- Protect the integrity of the natural and built environment.
- Pay attention to the interrelatedness of decisions and long-range consequences.
- Achieve high standards of proficiency and integrity.
- Exercise fair, honest and independent judgment.
- Disclose all personal interests, defined broadly.
- Abstain from participation when you have a personal interest.
- Seek no gifts or favors.
- Do not participate as an adviser, decision-maker, or advocate on a policy decision in which you have previously been an advocate.
- Do not use or disclose confidential information.
- Do not misrepresent facts.
- Do not participate unless you are prepared.
- Respect the rights of all persons.

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[32] Wis. Stat. §§ 19.59 and 946.13.

[33] www.planning.org/ethics/ethicalprinciples.htm.

Scenario — Conversations about Development

A plan commission member runs into a citizen at the local market who says, "Wildwood subdivision is really going to ruin that part of town." "Why?" asks the plan commissioner. "Well, it's going to break up a large area of winter deer habitat, and you'll be able to see all those houses from miles away." The plan commissioner replies, "We might not be able to do anything about this project, but perhaps we need to write some regulations that impose stricter controls on sensitive wildlife areas in town."

These are the types of conversations plan commissioners might have with their constituents in order to plan for the future. Part of planning for the future involves keeping land use regulations current with trends in land development and with the desires of the community.

However, if the same commissioner will be reviewing the subdivision as part of a plat approval process, the above conversation would be wholly inappropriate. In that context, the commissioner should simply say, "I'm sorry, I can't discuss this with you unless we're in an open public hearing. It's not fair to others who may be interested in the case for me to speak about it with you." This conversation might be difficult for plan commission members, particularly in small towns, but it's the only proper way to handle the situation should it arise.

Adapted from *Essentials of Planning and Regulation*, 2007, Vermont Land Use Education and Training Collaborative. www.vpic.info/pubs/essentials

Scenario — My Brother, the Developer

Your brother has made a small investment in a real estate development that will come before your commission for approval. No one knows that your brother is involved in the project. You believe it is a good proposal and that your brother's influence has led to a good design. What should you do?

1. Disclose the personal interest and recuse yourself from the case.
2. Disclose the personal interest, speak in favor of the proposal, but then abstain from voting.
3. Disclose the personal interest, but vote on the case because you do not benefit from it financially.
4. Vote on the request because you do not benefit from it financially.

Things to consider:
- You may not realize that your brother has influenced your opinion, since you are around him so much.
- Even if you decide not to participate, your relationship with board members might taint the opinions of others on the board or the public.
- If this is a good proposal, the commission will recognize that. There is no reason to jeopardize your credibility.
- American Planning Association's Ethical Principles in Planning require that you disclose all personal interests. APA recommends that potential benefits to a family member (even if not part of your household) should be considered a personal interest.
- Local bylaws regarding ethics and conflicts of interest may contain similar language.

Would your answer be different if it were not your brother, but a good friend or neighbor?

Adapted from *Indiana Citizen Planner's Guide: Part 6, Ethics*. K. K. Gerhart-Fritz, AICP. Indiana Planning Association. www.indianaplanning.org/associations/9760/files/6_Ethics_2005.pdf

RECOMMENDED RESOURCES

Local Government

Wisconsin Town Officer's Handbook. 2nd edition. 2006. 292 pages. James H. Schneider and Richard Stadelman (Eds). Available from the Wisconsin Towns Association at (715) 526-3157 or online: www.wisctowns.com.

Handbook for Wisconsin Municipal Officials. 2002. 315 pages. Available from the League of Wisconsin Municipalities at (608) 267-2380 or online: www.lwm-info.org.

Wisconsin County Supervisor's Handbook. 2009. 164 pages. Available from the Wisconsin Counties Association at (866) 404-2700 or online: www.wicounties.org.

Meeting Conduct

Public Participation in Local Government Body Meetings. 2006. 3 pages. Larry Larmer. Local Government Center (Fact Sheet #20). Available online: http://lgc.uwex.edu/publications/publs.html.

Agendas and Minutes for Local Government. 2006. Dan Hill. Local Government Center (PowerPoint Presentation). Available online: http://lgc.uwex.edu/publications/publs.html.

Voting Procedures for Local Government Bodies (FAQs). 2003. 2 pages. Larry Larmer. Local Government Center. Available online: http://lgc.uwex.edu/publications/publs.html.

Open Meetings

Wisconsin Open Meetings Law. 2010. 10 pages. James H. Schneider and Philip J. Freeburg. Local Government Center (Fact Sheet #1). Available online: http://lgc.uwex.edu/publications/publs.html.

Wisconsin Open Meetings Law: A Compliance Guide. 2010. 26 pages. J. B. Van Hollen. Wisconsin Department of Justice. Available online: www.doj.state.wi.us/site/ompr.asp.

Public Records

The Wisconsin Public Records Law. 2004. 10 pages. James H. Schneider. Local Government Center (Fact Sheet #7). Available online: http://lgc.uwex.edu/publications/publs.html.

Wisconsin Public Records Law: Compliance Outline. 2010. 55 pages. J. B. Van Hollen. Wisconsin Department of Justice. Available online: www.doj.state.wi.us/site/ompr.asp.

Ethics and Conflicts of Interest

Ethics & Conflicts of Interest (FAQs). 2008. 12 pages. James H. Schneider, J.D. Local Government Center. Available online: http://lgc.uwex.edu/publications/publs.html.

Advice on ethics and conflicts of interest are available from your county corporation counsel, municipal attorney or the Wisconsin Government Accountability Board (http://gab.wi.gov/ethics).

PLAN COMMISSION FORMS

The forms at the end of this chapter can be used by communities looking to establish or fine-tune the operation of their plan commission. Each form can also be downloaded in Microsoft Word format from the Center for Land Use Education website: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

Hearing Appearance Slip

Announcement of Hearing Proceedings

Plan Commission Code of Conduct

Plan Commission Rules of Procedures

Hearing Appearance Slip

Date: _____

Hearing name/number: _____

Regarding: _____

Name: _____

Address: _____

Representing: _____

- ❑ I wish to speak in favor of the application.
- ❑ I wish to speak in opposition of the application.
- ❑ I wish to speak for informational purposes only.

Comments: _____

_____

_____

_____

(Tear off this portion and deliver to the plan commission chair)

Instructions for Witnesses

- Complete a hearing appearance slip and deliver it to the plan commission chair.
- You will be recognized by the chair when it is your turn to speak.
- Your testimony may be sworn if required by plan commission rules.
- Direct all comments, questions and replies to the chair.
- When asked to speak:
  1. State your name and place of residence.
  2. Indicate whether you represent a group or association.
  3. Indicate whether or not you favor or oppose the application or are speaking for informational purposes only.
  4. Please state your qualifications to speak on this matter or the source of your information.
  5. Limit your testimony to facts relevant to the case at hand.
  6. Limit your comments to the time period specified by the chair.
  7. Avoid repetitive testimony.

Announcement of Hearing Proceedings

Role of the Plan Commission

The plan commission makes recommendations to the governing body on the adoption and amendment of community plans, official maps, ordinances and other matters. When considering a specific development proposal such as a conditional use, variance or other approval, the plan commission functions like a court. In this situation, the plan commission does not have authority to amend or repeal any provision of an ordinance. Its job is to apply ordinances and appropriate legal standards to the facts of each case. If site plan approval is required in addition to a zoning map or text amendment, that approval is a separate decision that will be considered if approved by the governing body.

Purpose of Public Hearing

The purpose of a public hearing is to give a full and fair hearing to any person affected by the plan, ordinance or other matter under consideration prior to a final governmental decision. Proposals can be changed before a final decision is made on the matter. Hearings are open to the public and prior notice of hearings is provided. A taped recording is being made of the proceedings (or a reporter is recording the proceedings).

Order of Events for Hearings

Each hearing will be opened with a summary of the petition for ordinance or plan amendment or a reading of the application or request. Time will then be provided for questions and answers to clarify the proposal. The site inspection report (if any) will then be read.   The applicant/appellant's statement and the staff report (if any) will each be followed by related commission questions. Witness testimony (from those who have submitted appearance slips and alternating among those in favor, those opposed, and those appearing to provide information) are next, followed by related commission questions and responses from the applicant and staff.

If the commission has all of the necessary facts, it will close the record and may deliberate and decide this matter before proceeding to the next hearing or may decide it at a later time. Decisions will be reduced to writing, filed in the planning and zoning office and mailed to parties in interest as soon as practicable. Minutes of commission meetings and decisions will be available in the planning and zoning office approximately (2 weeks) after the hearing.

Instructions for Witnesses

Anyone wishing to speak should complete a hearing appearance slip and deliver it to the plan commission chair/secretary. You must be recognized by the commission chair in order to speak. When called upon as a witness, you will be put under oath (if required by commission rules). Please address your comments and questions to the chair and state:

- Your name and place of residence,
- Whether you represent a group or association,
- Your qualifications to speak on this matter and the source of your information,
- Whether you favor or oppose the proposal or are only providing information, and
- Your concerns about the proposal and other pertinent information.

Please confine your testimony to facts related to the case at hand and avoid repetitive testimony. You will be limited to (5 minutes).

Any permission to develop granted by a decision of the commission must be authorized by obtaining the necessary building, zoning, and other permits. Construction must be substantially completed within (12 months) of the date of the commission's decision. This period will be extended if a court order or operation of law postpones the final decision and may be extended for other good cause. Permission to develop may be revoked for violation of any of the conditions imposed by the commission. The applicant will be given notice of the violation and an opportunity to be heard.

Appeal of Plan Commission Decisions

A decision of the plan commission regarding a conditional use or other approval may be appealed as provided by ordinance by filing an appeal stating reasons for contesting the commission's decision with the office of the (body) within (30 days) of notice of the decision. An applicant that commences construction prior to expiration of the appeal period assumes the risk of having the plan commission decision overturned.

Recommendations of the plan commission regarding plan or ordinance adoption or amendment cannot be appealed because they are not final governmental decisions. In these cases, members of the public should direct comments to both the plan commission and the community's governing body.

Contested Cases

[Modify the announcement above for hearings conducted as contested cases. For example, the commission may decide to conduct a hearing on a conditional use or other development approval as a contested case at the request of an applicant.]

A contested case is a proceeding in which:
- Testimony is taken under oath,
- Parties have a right to review and object to evidence presented by other parties,
- Objections are entered in the record, and
- Parties may cross-examine witnesses who present testimony.

In contested cases, a party may object to the introduction of written materials or photographs as evidence unless they are given an opportunity to question the writer/photographer and to provide a written reply regarding the evidence. Contested cases usually include a complete written record of the proceedings (often by a court reporter).

Plan Commission Code of Conduct

Appointed members of the City/Village/Town/County of _____ Plan Commission agree to abide by the following Code of Conduct.

As a member I will:

1. Represent the Plan Commission with dignity and pride by conducting myself in a business-like manner and respecting the rights and opinions of the public and other members of the Plan Commission.

2. Read, respect, and enforce the rules, policies, and guidelines established by the Plan Commission and the City Council/ Village Board/Town Board/County Board.

3. Read and become familiar with local plans, ordinances, and other documents which relate to Plan Commission functions.

4. Continue to gain knowledge and understanding of planning issues which affect the community through self-study, inquiries and appropriate training.

5. Attend meetings of the Plan Commission on a regular basis and provide prior notification of any necessary absences.

6. Read meeting material packets ahead of time and come prepared to participate in meetings.

7. Participate in Plan Commission deliberation at meetings and hearings and refrain from making decisions until adequate information has been provided.

8. Give full consideration to all aspects of a project and make decisions based upon the best interests of the entire community.

9. Represent the official position of the Plan Commission when authorized to speak on behalf of the Commission.

10. Treat fellow officials, staff and the public with courtesy, even when we disagree. Insulting, profane or excessively argumentative language or conduct will not be tolerated.

11. Refrain from situations which might appear to compromise my independent judgment (including but not limited to situations involving ex parte communication, conflicts of interest, voting on the same issue twice by virtue of serving on two different bodies, participating in a decision for which I previously served as an advocate, and accepting gifts).

12. Read and abide by the State of Wisconsin *Code of Ethics for Local Government Officials* (Wis. Stat. s. 19.59) and the American Planning Association *Ethical Principles in Planning* (available at: www.planning.org/ethics/ethicalprinciples.htm).

Signature _____ Date _____

Plan Commission Rules of Procedure

SECTION I   AUTHORITY AND PURPOSE

The following rules of procedure are hereby adopted by the City/Village/Town/County of _____ Plan Commission. The Plan Commission has been established pursuant to Section _____ of the Wisconsin Statutes and Section _____ of the City/Village/Town/County of _____ Ordinance, and assumes thereby, all responsibilities, duties and powers as provided therein. These rules supplement the provisions of state statutes and local ordinances as they relate to the procedures of the Plan Commission.

SECTION II   MEMBERSHIP

A.   <u>Selection of Members</u>. Members of the Commission are appointed by the Mayor/Village President/Town Board Chair/County Board Chair with input from the Governing Body and Plan Commission. The following criteria will be considered when selecting members: [Examples follow]

      1.   Geographic or jurisdictional diversity
      2.   Demographic diversity
      3.   Planning skills or expertise
      4.   Interpersonal and decision-making skills
      5.   Commitment to community service

B.   <u>Alternates</u>. [optional] Two alternates will be appointed to serve on the Plan Commission. The first alternate shall act when a regular member of the Plan Commission is unable to act due to conflict of interest or absence. The second alternate shall act when the first alternate or multiple members of the Plan Commission are unable to act. [Insert expectations for attendance, training, etc.]

C.   <u>Vacancies</u>. Plan Commission vacancies are filled for the remainder of a term. If a vacancy occurs, the City/Village/Town/County Clerk will announce the vacancy and the procedures and deadline for applying for the position. A committee comprised of the Mayor/Village President/Town Board Chair/County Board Chair and _____ (number) Plan Commission members will review the applications/letters of interest and/or interview the applicants. The Mayor/Village President/Town Board Chair/County Board Chair will make the final selection and appointments.

SECTION III   OFFICERS AND COMMITTEES

A.   <u>The Chairperson</u> shall be appointed by the Mayor/Village President/Town Board Chair/County Board Chair and shall preside at the meetings of the Commission, supervise the work of the Secretary, and decide all points of procedure unless otherwise directed by a majority of the Commissioners present.

B.   <u>The Vice-Chairperson</u> shall be elected by members / appointed by the Chairperson at the first meeting of the Commission in May of each year. The Vice-Chairperson shall act in the capacity of the Chairperson in his or her absence.

C.   <u>The Secretary</u> shall be elected by members / appointed by the Chairperson at the first meeting of the Commission in May of each year. The Secretary shall prepare all correspondence for the Commission; receive and file all referrals, applications, papers,

and records; prepare, publish, and mail all notices required; and prepare and keep all minutes and records of the Commission's proceedings.

D.   The Planning Director / Zoning Administrator / Building Inspector or his or her designee shall attend all meetings for the purpose of providing technical assistance when requested by the Commission.

E.   Standing or Special Committees may be appointed by the Chairperson. Committees shall be charged with duties of examination, investigation and inquiry related to one or more subjects of interest to the Plan Commission. No committee shall have the power to commit the Plan Commission to the endorsement of any plan or program without submission to the Plan Commission for consideration.

SECTION IV   CONDUCT OF MEMBERS

A.   Attendance. Plan Commission members shall notify the Chairperson or Secretary as soon as possible regarding an absence. If any member of the Commission is absent from _____ (insert number, i.e. 3) consecutive regularly scheduled meetings, that member shall be considered delinquent. Delinquency shall be grounds for the Governing Body to remove the member for nonperformance of duty or misconduct upon public hearing from the Commission. The Secretary or a designated recorder, shall keep attendance records and shall notify the Governing Body whenever any member of the Commission is absent from _____ (insert number, i.e. 3) consecutive regularly scheduled meetings, so the Governing Body can consider further action allowed under law.

B.   Participation. Plan Commission members shall participate in all proceedings except in the case of a conflict of interest, a disqualification, an excused absence, or other manifest inability to serve.

C.   Training. Members are encouraged / required to attend at least _____ (insert number, i.e. 2) hours of training per year with instruction from one or more of the following: Wisconsin Towns Association, Wisconsin Counties Association, League of Wisconsin Municipalities, Wisconsin Chapter of the American Planning Association, Center for Land Use Education, Local Government Center, County Planning & Zoning Offices, County Extension Offices, and other related organizations.

D.   Conflicts of Interest. Plan Commission members shall avoid issuing, deliberating, voting or reviewing cases which present a conflict of interest. As used here, a conflict of interest includes, but is not necessarily limited to situations:

1.   concerning the member or the member's spouse, child, step-child, grandchild, parent, brother, sister, grandparent, in-law, or household members.
2.   concerning work on land owned by the member, located adjacent to, or within _____ (insert distance, i.e. 300 feet) of one's property.
3.   which result in actions that have a financial benefit to the member.
4.   involving a corporation, company, partnership, or any other entity in which the member is a part owner, or any other relationship where the member may stand to have a financial gain or loss.
5.   where an employee or employer is an applicant or agent for the applicant, or has a direct interest in the outcome.

When a conflict of interest exists the Plan Commission member shall do all of the following immediately, upon first knowledge of the case and determining a conflict exists:

1. Declare that a conflict exists and recuse oneself from the portion of the meeting that presents a conflict, including all proceedings, deliberations and voting on the matter.
2. Leave the hearing room or the front table where members of the Commission sit until that agenda item is concluded.
3. The Plan Commission member may represent himself before the Commission for the purposes of providing testimony, but should do so as a member of the public.

E. Ex Parte Contact. Members of the Plan Commission shall attempt to avoid ex parte contact. As defined here, ex parte contact refers to communication regarding a pending quasi-judicial matter that will come before the Plan Commission. Members of the Plan Commission have a duty to not prejudge a case, and to base their decision only on the materials and facts presented at public meetings and hearings on the matter.

Despite one's best efforts it is sometimes not possible to avoid ex parte contact. If a Plan Commission member receives such communication, the member should immediately inform the contact that they may not discuss the matter while the matter is pending and terminate the conversation. The member should publicly report the content and context of the ex parte contact in full at the public hearing or meeting prior to the Plan Commission making a decision on the issue. The Plan Commission member may continue to participate in the matter, so long as they are of the opinion that their objectivity has not been influenced.

F. Not Voting On the Same Issue Twice. Members of the Plan Commission shall avoid situations where they are sitting in judgment and voting on a decision in which they had a part in making or previously served as an advocate.

When a member of the Plan Commission is in this situation, the member shall do all of the actions required by Section IV.D. of these Rules of Procedure for cases of conflict of interest immediately, upon first knowledge of the case and determining one's prior involvement.

SECTION V   MEETINGS

A. Meetings shall be held monthly, if needed. The Commission hereby establishes a regular meeting day of _____ (for example, the third Thursday of each month), at _____ (time). Meetings shall be held at _____ (place).

B. Special Meetings may be called by the Mayor/Village President/Town Board Chair/County Board Chair or upon the written request of _____ (insert number, i.e. 4) members of the Commission to the Chairperson. Notice of special meetings shall be provided to all Commission members and posted at least 24 hours prior to the special meeting.

C. Open Meetings. Meetings shall be open to the public.

D. Closed Sessions. The Commission may go into closed session for the purposes enumerated in Section 19.85 of the Wisconsin Statutes.

E.   <u>Quorum</u> shall consist of _____ members (generally, one-half of the members of a body, i.e. 4 members of a 7-member Commission or 3 members of a 5-member Commission). [Describe situations in which a greater number is needed for quorum.]

F.   <u>The Order of Business</u> at meetings shall be substantially as follows:

1.   Call to order.
2.   Roll call and declaration of a quorum.
3.   Reading and approval of minutes from the previous meeting.
4.   Communications and reports.
5.   Unfinished business.
5.   Review of Land Divisions.
6.   Review of Rezoning Petitions.
7.   Review of applications for Conditional Use Permits/Special Exceptions.
8.   Referrals from the Governing Body.
9.   New Business.
10. Miscellaneous.
11. Adjournment.

G.   <u>Voting</u>. Each regularly appointed Plan Commission member, and alternates that have been authorized to act in the place of a regular member, shall be entitled to one vote on any matter that comes before the Plan Commission.

H.   <u>Minutes</u> of the proceedings shall be kept by the Secretary or a designated recorder, showing the vote of each member upon each question, the reasons for the Commission's determination, and its findings. The minutes shall be immediately filed with the City/Village/Town/County Clerk and shall become a public record.

I.   <u>Parliamentary Procedure</u>. Parliamentary procedure in Commission meetings shall be informal. However, if required to keep order, Commission meetings shall be governed by *Roberts Rules of Order, Newly Revised* for issues not specifically covered by these Rules of Procedure.

SECTION VI   HEARINGS

A.   <u>Notice</u> of the time, date, and place of hearings required for petitions for changes and amendments to the comprehensive plan, plan components, zoning ordinance text or map, official map, subdivision ordinance, and applications for conditional use permits/special exceptions or subdivision approval shall be published in the official newspaper or posted, as required by law, and shall be mailed to Commission members, the Zoning Administrator, the applicant, and those parties specified in applicable local ordinances.

B.   <u>Appearances</u>. The applicant may appear in person or be represented by an agent. In the absence of an appearance by the applicant or agent for or against any petition or application, the Commission may table or take action to deny, authorize, or make the recommendation to deny or grant the petition or application.

C.   <u>The Order of Business</u> at hearings shall be substantially as follows:

1. Introduction by the Chairperson.
2. Explanation by the planning or zoning staff or Chairperson.
3. Hearing of the applicant or agent.
4. Report and recommendation by the planning or zoning staff.
5. Hearing of interested property owners or citizens.
6. Response of the applicant or agent.
7. Response of any opposition.

D.   Written Decision. The final disposition of all petitions or applications shall be in the form of a written resolution signed by the Commission Chairperson and Secretary and attached to the minutes. Such resolution shall show the reasons for the Commission's determination and its findings.

E.   Conditions imposed with respect to any conditional use permit/special exception shall be stated in the minutes embodying the Commission's decision and shall also be set forth upon the permit. Such permit shall be valid only as long as the conditions upon which it is granted are observed.

F.   Exhibits. All petitions, letters, photographs, sketches, drawings, documents, study reports or results, architectural and engineering renderings, and any item submitted by any persons, companies, agencies, local officials or staff prior to and/or during public hearings in order to qualify for consideration by the Commission, shall become exhibits for the related matter and shall be numbered, upon receipt, by the Secretary or recorder. Exhibits shall be immediately filed with the City/Village/Town/County Clerk and shall become a public record.

SECTION VII   SITE INSPECTIONS

A.   Site Inspections. Site inspections shall be performed by planning and zoning staff. If desired, no more than one member of the Commission may accompany staff on site. A written report of the site inspection shall be orally presented to the Commission, along with accompanying photographs, videos, or other exhibits.

[Alternate section] Site inspections shall be performed by individual members of the Plan Commission. No more than _____ (number less than quorum) members of the Commission shall visit a site at any given time.

[Alternate section] Site inspections shall be performed by the entire Plan Commission. The site inspection must be posted as a public meeting and the public is allowed to come on site.

B.   Authorization for site inspections shall be included as part of the application packet. Failure to authorize inspection of the site may be considered grounds for denying the application.

SECTION VIII   PER DIEM AND MILEAGE

Mileage and per diem may be paid to members of the Plan Commission at rates established by the Governing Body for attendance at Plan Commission meetings, hearings, site inspections, and authorized training events, if those members submit a bill for the same.   No mileage or per diem will be paid to any member unless authorized and budgeted for by the governing body.

SECTION IX   AMENDMENTS

These Rules of Procedure may be amended, suspended, or revoked by a majority vote of the full Commission at any meeting.

SECTION X   CONFLICT

Whenever any conflict occurs between these Rules of Procedure and the laws of the State of Wisconsin or local ordinances, the State laws and local ordinances shall prevail.

SECTION XI   EFFECTIVE DATE

These Rules of Procedure shall be effective upon adoption by a majority vote of the full Commission and filing with the City/Village/Town/County Clerk.

_____
Signature of Chairperson

_____
Signature of Secretary

Date Adopted_____

Date Filed_____

Chapter 3
Community Planning

OVERVIEW OF COMMUNITY PLANNING

When we take a close look at our communities we can see growth and change occurring on the landscape – more homes being built, more commercial areas to serve those homes, and less farmland, open space and wild areas. Between 1992 and 2010, for example, Wisconsin lost a total of 396,583 acres of farmland to urban development.[1] Between 1965 and 1995, the number of dwelling units on northern Wisconsin lakes increased threefold.[2] More recently, seasonal cottages on lakes and rivers have been converted to large, year round homes complete with suburban lawns and landscaping. While some communities welcome these changes, others find it difficult to deal with the consequences of growth such as an increased demand for urban services or loss of rural character.

Social, economic and demographic changes are also underway in our communities. After experiencing slow growth in the 1980s, Wisconsin's population rebounded forcefully in the 1990s growing by 10%. Population growth remained strong throughout the first part of the decade before declining in response to the 2008 financial crisis.[3] The Wisconsin Department of Administration projects that we will add a total of 717,000 new households or the equivalent of 1.3 million people between 2000 and 2035. Wisconsin's elderly population is projected to more than double during that time period.[4] Housing needs are also likely to change in response to a growing elderly population and more people living in smaller households.

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[1] *Losing Ground: Tracking the Rate of Farmland Loss in Wisconsin Counties 1992 to 2010*. April 2012. Aaron Thompson. Center for Land Use Education.
[2] *Northern Wisconsin's Lakes and Shorelands: A Report Examining A Resource Under Pressure*. January 1996. Wisconsin Department of Natural Resources.
[3] *Wisconsin Population Estimates Summary*. January 2011. Wisconsin Department of Administration.
[4] *Wisconsin Population 2035: A Report on Projected State and County Populations and Households for 2000-2035*. October 2008. Wisconsin Department of Administration.

◗ What is Community Planning?

Clearly, land use and demographic changes have serious implications for how we plan and build our communities. Through community planning, local governments can work collaboratively with residents and stakeholders to articulate how they want their communities to look, feel and function in the future. Planning helps us to answer questions such as: Where and how do we build new homes, schools, businesses, roads and public infrastructure? How do we deal with parts of the community that are overbuilt, deteriorating or otherwise inappropriate? How do we preserve those parts of the community that we value?

As a process, planning strives for an open, orderly approach to determine community needs, set goals and priorities, and develop a guide for local decision-making. Planning is also place-based, meaning that it focuses on the unique qualities of a place and attempts to include people from all walks of life in determining the future social, economic and physical development of the community.

Planning results in a specific product, a plan, that documents the community's past, present and future. The plan should be used by local officials, members of the plan commission, and private citizens to make informed decisions about the community. It can guide decisions related to land use, economic development, environmental protection, community revitalization, infrastructure and service provision, and other related matters.

◗ Benefits of Community Planning

Community planning entails a lot of time, work and resources. It includes making difficult decisions that are neither quick nor easy. Fortunately, there are numerous, tangible benefits to planning. Following are some of the most significant:

Education and engagement of the public. The planning process is an opportunity to learn and re-learn about the community, its residents and their hopes and wishes for the future. It can open up new or rejuvenated conversations about land use, development, conservation, and shared services. Planning can also ease concerns over contentious land use issues such as rezones or boundary disputes. As a process, planning strives to make local decision-making more open and democratic.

Vibrant rural and urban communities. Planning fosters a distinctive sense of place by regulating the design and location of new development and preserving those features a community feels are important. Planning strives to create places that are attractive, convenient, functional, safe and efficient.

Conservation of natural, historic and cultural landscapes. Planning can help to conserve landscapes that provide important public benefits such as wildlife habitat, storage of flood waters, groundwater recharge and view sheds which would be difficult and expensive to replace if damaged. Planning can also help to preserve historic or cultural resources which would be irreplaceable if lost.

Predictability regarding future development. Plans provide a factual and objective basis to support local decision-making. They provide local communities with guidance about where and what type of development is desired. Planning also provides consistency and fairness for those involved in the development review process.

Photos: Grabow, et. al., Principles of Community Placemaking, Graphic Library

A Sound Basis for Land Use Decision-Making

The plan commission should consult the plan when making the following types of decisions or recommendations:

- rezones and other land use permits
- annexations
- major public investments such as new roads and parks
- location or expansion of sewer, water and other infrastructure

Promotion of economic development. Communities that plan have an opportunity to manage new growth and take advantage of opportunities better than those that do not. For example, planning can provide information about existing businesses and industries and identify what kinds of businesses the community wants or needs in the future. Planning can also help to determine if the work force is sufficient to staff particular jobs or if local infrastructure and services are adequate to accommodate new development.

Efficient use of local services and infrastructure. Planning provides a means to coordinate individual land use decisions and prevent haphazard development. Well planned, orderly and phased development is generally more efficient and less costly to serve than low density or scattered development. These savings can be used to enhance public services and keep property taxes low.

Protection of private property rights. Good planning can protect property values and minimize negative impacts associated with new development. Without an appropriate planning and regulatory framework, new development can expose adjoining landowners to incompatible or nuisance land uses and loss of property values. Even though some property owners view land use regulations as an infringement upon their property rights, the purpose of such regulations is to protect those rights.

Photos: Grabow, et. al., Principles of Community Placemaking, Graphic Library

"There are two basic products that emerge from the planning process – plans and regulations. The first is a blueprint, while the second is a tool. Plans represent goals, things to be achieved, while regulations represent the vehicle to reach those goals."

– William Toner
Planning Made Easy

Principles of Community Planning

In the book, *"The Small Town Planning Handbook,"* authors Daniels, Keller, and Lapping stress a variety of important principles for community planning:

"…care for your town, its people, and those generations yet to be born."

Community plans and planning affect peoples' lives. Tough choices must be made about the natural, manmade, and financial resources in the community. Learning to care means that you have to adopt an attitude of fairness, that you listen to the opinions of others, and that you are willing to make compromises to ensure equal treatment.

"…look before you leap…"

Planning enables us to look before we leap and avoid costly and embarrassing mistakes. Through planning we come to understand where we are now and what must be done in the future to achieve our goals. We can then put together a plan of action to accomplish tasks on time.

"…serve the best interests of the community…"

Community planning is intended to serve the best interests of the community, which requires striking a balance between being recklessly innovative and stubbornly conservative. It should channel and guide market forces to foster growth and redevelopment in an efficient manner that follows the desires and guidelines of the community.

"…maintain a positive quality of life and revitalize the community."

The planning process is an opportunity to look at the current positive and negative aspects of the community. What is good about the community should be carefully nurtured and protected; what is bad should be addressed and changed; and, what is possible should be sought after and attained.

"…educate us about ourselves…"

The community planning process also helps us to educate us about ourselves, our attitude towards others, and our willingness to share a sense of community. It stimulates us to think and reminds us of the need to understand, tolerate, and even support, the opinions of others.

"…depends on local people…"

Successful community planning depends on local people and the key ingredient is local leadership. Community leaders need to be pro-active in knowing when to plan and have the will to follow through.

Excerpted from: Dortches Land Development Plan, Chapter I, Section A. "Introduction and Purpose." 2009. http://dortchesnc.govoffice2.com. Citing: Daniels, Thomas L., J. Keller, M. Lapping. *The Small Town Planning Handbook*, 2nd Ed., APA Planners Press, 1995.

PREPARING FOR THE PLANNING PROCESS

The plan commission is charged with the legislative function of preparing a community's comprehensive plan. Because most plan commission members are not planners and have little knowledge of planning per se, guiding a planning process and preparing a comprehensive plan or other community plan can seem a daunting task. The big question that most plan commission members often ask is: how do we get started? What are the first steps in preparing a plan?

◗ Determining the Need for Planning

The first step in initiating a new planning project is to identify your community's *need* for planning. There are three major reasons communities plan. The first and primary reason is to address issues of local concern. For example, a community may be struggling to site a new power line, control the loss of farmland, or prevent haphazard development. Planning enables communities to step back, examine local issues and alternatives, and devise a plan of action to guide local decision-making.

Another reason for planning is to update outdated or inconsistent plans. Planning documents can and do become out-of-date. A community's vision, goals, objectives and policies are likely to evolve as social, economic, technological and environmental conditions change. The factual content of a plan, such as current and projected population may also need to be updated on a fairly regular basis. Communities should review their plans on an annual basis and make substantive updates at least once every five or ten years as conditions warrant.

Legal requirements are another motivating factor for many communities to plan. The State of Wisconsin adopted a new comprehensive planning law in 1999 which requires new or revised zoning, subdivision and official mapping ordinances to be

consistent with an adopted comprehensive plan beginning in 2010. The content and process for adopting a plan are also described in the law. In 2009, the state adopted the Working Lands Initiative which requires counties to prepare updated farmland preservation plans by 2015. Both initiatives resulted in an unprecedented number of Wisconsin communities preparing new plans. In the future, we will likely see additional changes to planning laws and state agency rules which may spur additional planning.

To Plan or Not To Plan?

Planning is not right for all communities at all times. While some communities call for endless planning studies in order to avoid making controversial decisions or taking action, other communities initiate new planning studies for the sole purpose of complying with a legal mandate or garnering free grant money. These conditions often result in a community going through the motions and producing a plan that 'sits on the shelf.' Old plans that were never implemented are a good indicator that the community undertook planning for the wrong reasons or failed to secure support for the planning initiative.

◗ Diagnosing Your Community

There are several methods a community can use to assess their need, capacity and readiness for planning. A 'diagnostic study' generally begins by inventorying existing plans, studies and regulations. These items should be reviewed to make sure they are up-to-date, satisfy existing legal requirements, and are being implemented.

Next, the community should assess how well local plans and regulations meet the needs of local decision-makers and the community-at-large. A series of local meetings, interviews, focus groups or a survey can help to identify current planning issues, resources available

for planning, and concerns with previous planning efforts. An analysis of recent media coverage can also shed light on these issues.

Lastly, valuable lessons can be learned by consulting with county planning agencies, regional planning commissions, private consulting firms, and neighboring communities that have undertaken similar planning projects. Conversations with 'outsiders' can help to identify potential planning issues and challenges not readily apparent to those living in the community. After conducting a diagnostic study, your community should be able to answer the following questions:[5]

1. What are some of the current planning issues in your community? Does planning appear to be a priority in your community?
2. Is planning legally required in your community? Are there minimum requirements that a plan or process must satisfy? Do you have an existing plan that meets those requirements?
3. Does the content of existing plans reflect current issues, needs, desires and facts?
4. Have existing plans been implemented? Did the implementation effort produce the desired results?
5. What is the history of planning in your community? What factors contributed to the success or failure of past projects?
6. Are there significant social, economic or political conditions present in your community that should be considered in future planning efforts?

◗ Defining the Scope of the Planning Project

The next step is to determine the scope of the planning effort. The following questions can help you identify the audience, format and content of the plan:

1. Who is going to use the plan and how are they going to use it?
2. What are some broad topics that should be addressed in the plan?
3. What geographic area will the plan cover? Will this be a cooperative effort with neighboring communities?
4. What future time horizon will the plan address? (i.e. 10 years, 20 years, etc.)
5. What resources are available to prepare the plan (i.e. time, money, staff, etc.)? Who will prepare the plan?
6. Are you going to prepare a new plan or update an existing plan?

As part of the initial scoping process, your community should determine its budget for planning and its need for external assistance. The most common sources of planning assistance are private consulting firms, regional planning commissions, and county planning offices. If you decide to work with one of these groups, you should outline your desired scope of services in a concise request for proposals (RFP). The RFP may request a full-range of planning services or specific services such as data, mapping, survey analysis, or public process facilitation.

Who is Responsible for Preparing Plans?

Municipality 8%
County 13%
Consultant 46%
Regional Planning Commission 33%
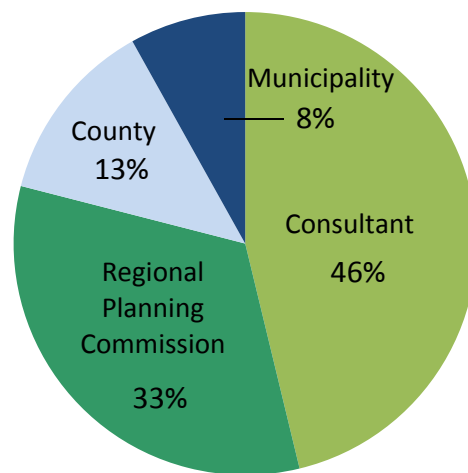
Source: Wisconsin Department of Administrtation, Library of Comprehensive Plans (Last updated 1/16/12). Note: plans prepared by multiple entities were attributed to a single entity using the following order: consultants, RPCs, counties, municipalities. For example, a plan prepared by both a county and a consultant was attributed to the consultant.

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[5] Joel S. Russell, Esq. "Diagnosing Your Community Before You Plan." *Planning Commissioners Journal*. Number 26, Spring 1997.

Working with Consultants

Do We Need to Hire a Planning Consultant?

The following questions can help your community decide if it should work with a planning consultant to prepare the plan:

1. What is the issue, problem or project that your community must address?
2. What is the intended end product or result?
3. Does your community have the necessary expertise in-house? What expertise is lacking?
4. What resources are available from the county or regional planning commission (i.e. planning assistance, land information data, etc.)?
5. Would it be practical to hire permanent or temporary staff to prepare the plan?
6. What is the estimated cost of hiring additional staff compared to hiring a consultant?
7. Would hiring additional staff carry with it the possibility of a longer-term commitment than what is justified?
8. Would hiring a consultant add objectivity, prestige or credibility to the project?
9. Is there political controversy connected with the project? If so, would the presence of a consultant help to defuse it?
10. Does the project require a detached, objective or innovative approach?

What Should We Look For?

If your community decides to work with a consultant, it should prepare a concise request for proposals (RFP) and interview a small group of planning firms. The following criteria can help you select a qualified consultant:

Professional qualifications. Consultants have varying levels of staff and expertise. Review the names, titles, years of experience and work responsibilities of all staff assigned to the project. This includes staff associated with the lead consultant and all sub-contractors.

Past experience. Review the consultant's work experience to make sure they have a proven track record on these types of projects and can complement the experience of existing staff and officials. Desired experience may include but is not limited to:

- Grant-writing.
- Preparation of comprehensive plans or other specific types of plans.
- Experience with marketing, public relations or public participation.
- Expertise in geographic information systems (GIS) and mapping.
- Preparation of land use codes.
- Other specialized knowledge such as real estate, historic preservation, architecture or community design.

Proposed work plan. Review the consultant's proposal to make sure the proposed planning process, work plan, deliverables and timeline meet the unique needs of your community. Capacity to accomplish the work in the required time is often a critical issue for many local communities.

Knowledge of local planning laws. Review the consultant's experience working in Wisconsin. Consulting firms with limited experience in the state should be able to clearly demonstrate their understanding of Wisconsin planning laws and related requirements.

For more information on hiring a planning consultant, including preparing a request for proposals, please see: *How to Hire a Planning Consultant: A Guide to Preparing a Request for Proposals*. 2001. Haines, et. al. UW-Extension and the Wisconsin Dept. of Administration. www.dot.wisconsin.gov/localgov/docs/landuse-hire.pdf

◗ Designing the Planning Process

Recognizing that the planning approach chosen by each community will differ, this chapter lays out a generic planning process. The process is broken down into three major stages with common steps and specific tasks assigned to each.

Stage 1: Pre-Planning

The first, and in some respects, the most important stage is 'pre-planning,' or preparing to plan. This stage consists of two steps: diagnosing the community and designing the planning process. Once local officials and the public understand the purpose, values and benefits of planning and agree on a process to prepare the plan, the following steps become much easier.

Community Diagnosis

- Determine your community's purpose, capacity and readiness for planning.
- Inventory existing plans, studies and tools.
- Explore preliminary issues and concerns.
- Identify potential planning participants and stakeholders.
- Build capacity for planning by providing education to local officials and residents.

Process Design

- Establish a budget for planning.
- Determine who will prepare the plan.
- Issue a request for proposals if you will be working with a consultant.
- Establish roles, responsibilities and membership of groups involved in planning.
- Identify preferred steps in the planning process and desired end products.
- Incorporate opportunities for public participation and education.

Stage 2: Planning

The second stage, 'planning' consists of five major steps. These include: data collection and analysis; issue identification; formulating goals and objectives; selecting policies and tools; and formally adopting the plan. The planning diagram on this page shows several positive feedback loops. This is meant to illustrate that planning does not always proceed in a linear fashion. At times, your community may need to revisit or reorder steps to respond to new data or unexpected reactions to a proposal. Some flexibility should be built into the process to accommodate these unknowns. Depending on how you choose to organize the planning process, your community may also

Pre-Planning — Community Diagnosis — Data Collection & Analysis — Issue Identification — Goal & Objective Formulation — Strategy Formulation — Plan Review & Approval — Implementation — Monitoring & Assessment — Post-Planning — Public Participation — Planning

Simplified Planning Process

The planning process can also be described as a four step process:

1. **Analyzing:** Where is our community now? How did we get here?
2. **Envisioning:** Where do we want to be?
3. **Planning:** How do we get there?
4. **Evaluating:** What progress have we made towards reaching our goals?

have more or less steps than what is shown. For example, many communities include a 'visioning' step. Others consider visioning a public participation technique and use it early on as a means to kick off the process. Public participation is shown at the center of this diagram to illustrate that the public should be included throughout the planning process. Chapter 4 provides additional detail on designing the public participation process.

Data Collection and Analysis

- Assess your community's data and information needs.
- Gather technical and spatial data from county, regional, state and federal sources.
- Gather public opinion data through surveys, focus groups or other means.
- Analyze and interpret data, making future projections where necessary.
- Present patterns and trends to local decision-makers and the public.

Issue Identification

- Involve local decision-makers and the public in identifying key community issues, challenges, opportunities and desires.
- Use local data and analyses to support or identify additional issues.
- Prioritize issues to be addressed in the plan.
- Identify a vision for the future development of the community.

Goal and Objective Formulation

- Develop goals and measurable objectives to help attain your community's vision.
- Develop indicators to monitor progress towards reaching goals and objectives.

Strategy Formulation

- Identify potential plan implementation strategies to satisfy goals and objectives.
- Evaluate impacts of alternative strategies and select preferred options.
- Recommend specific plan implementation policies, programs, actions and tools.
- Describe timeline and parties responsible for plan implementation.

Plan Review and Approval

- Present the plan for community residents and officials to review.
- Make changes to the plan to resolve inconsistencies or address issues of concern to local officials and the public.
- Take formal action to adopt the plan.

Stage 3: Post-Planning

The third stage, 'post-planning' consists of plan implementation, monitoring and evaluation. These topics are discussed in additional detail in Chapter 5. Options for updating the plan are provided at the end of this chapter.

Plan Implementation

- Adopt a specific course of action to implement the plan.
- Develop or amend local policies, programs and tools as recommended in the plan.

Monitoring and Assessment

- Monitor progress towards achieving stated goals, objectives and indicators.
- Review and revise plan according to schedule stated in the plan or in response to changing community needs.

A facilitator in St. Croix County works with local residents and plan commissioners to review land use maps.

Photo: Pete Kling, Town of Emerald Comprehensive Plan, 2011

PREPARING THE PLAN

Development of local plans is typically guided by the plan commission, the governing body, or an advisory committee created by the governing body to oversee preparation of the plan. This section describes types of plans prepared by local communities and offers guidance for preparing and adopting the plan.

◗ Types of Plans
Communities prepare many different types of plans, each with a different purpose. Three general types are described below.

Comprehensive Plan
A comprehensive plan is a guide to the physical, social and economic development of a community.[6] It contains background information on the local community and a statement of overall goals, objectives, policies and programs to guide the future development and redevelopment of the community over a 20-year period. The comprehensive plan should be thought of as a central organizing umbrella under which other plans, regulations and initiatives exist.[7]

In Wisconsin, if a community enacts or amends a zoning, subdivision or official mapping ordinance after January 1, 2010, the ordinance must be consistent with an adopted comprehensive plan. The comprehensive plan must also address nine different topics or "elements" including:

- Issues and opportunities
- Housing
- Transportation
- Utilities and community facilities
- Agricultural, natural and cultural resources
- Economic development

- Intergovernmental cooperation
- Land use
- Implementation

While the comprehensive planning law provides a framework for the content and adoption of local plans, communities have quite a bit of flexibility in tailoring the plan to meet their needs. Individual elements can be combined or split so long as all legally required issues are addressed. Optional topics or elements can also be incorporated. For example, the comprehensive plan might address topics such as community design, air quality, energy efficiency, climate change, public health or sustainability.

Functional Plans
Some communities prepare functional plans that are physically separate from, but linked by policy to the comprehensive plan. Functional plans are plans that address a specific topic, such as transportation or farmland preservation, and can be analogous to the elements of a comprehensive plan. Examples of functional plans include:

- Housing plans
- Redevelopment plans
- Disaster-mitigation plans
- Historic preservation plans
- Public health plans
- Economic development plans
- Tourism and resort plans
- Public facility plans
- Capital improvement plans
- Transit plans (bus, rail, subway, etc.)
- Transportation plans (highways, roads, bikeways, trails, etc.)
- Park and recreation plans
- Open space and natural resource plans
- Farmland preservation plans

Spatial Plans
Lastly, many communities prepare plans that focus on a particular geographic area. These plans typically address areas that have special needs or conditions that require more detailed

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[6] Wis. Stat. §§ 66.1001 comprehensive plan; 59.69(3) county development plan; 62.23(3) city, village or town master plan; and 66.0309(9) regional planning commission master plan.
[7] Duerksen, Dale and Elliot. 2009. *The Citizen's Guide to Planning*, 4th Edition. APA: Chicago.

analysis than what is provided in the comprehensive plan. Spatial plans can be incorporated into a comprehensive plan, either physically or by reference. Examples include:

- Site plans
- Neighborhood plans
- Corridor plans (travel, scenic, environmental, etc.)
- District plans (downtown, riverfront, etc.)
- Regional or intergovernmental plans

▶ Writing the Plan

A well-written plan is a valuable resource for citizens, local government decision-makers, consultants, and others. It can keep a planning process moving smoothly, advance policies, prevent misunderstandings, head off legal challenges, and even improve the public's perception of government. The following tips are provided to produce plans that are clear, concise, readable and accessible to a wide variety of audiences.[8]

Structure and Organization

Plans should be physically organized so that you can take away major points by skimming the plan or delve in for more detailed information. Consider the following tips to add structure and organization to your plan:

- Prepare an executive summary highlighting main points from the plan.
- Include a table of contents, glossary of key terms, list of acronyms, and topical index.
- Include page numbers and chapter titles on each page.
- Use bold text, larger font sizes, or colors to denote separate levels of text.
- Use bullets, text boxes, sidebars, illustrations and white space to break up large blocks of text and highlight key ideas.
- Include cross-references to related sections of the plan or other plans and regulations.

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[8] Adapted from: *Planning in Plain English: Writing Tips for Urban and Environmental Planners*. 2000. Natalie Macris. APA Planners Press: Chicago.

> *"Plans can easily be filled with jargon, acronyms, and just plain bad writing. When that happens, the citizens who live with the plan are less likely to know what it means. In addition, jargon excludes people, creating an inside group that knows all the catch phrases and a larger outside group that does not."*
>
> – Natalie Macris
> Planning in Plain English

Language and Grammar

Plans must convey a large amount of technical information to a lay audience. Following are some tips to make your plan more readable and accessible:

- Use appropriate language, style and tone for your reader and purpose.
- Write at or below the eighth grade level.
- Keep sentences short and to the point. In most cases, limit yourself to one idea per sentence.
- State your main ideas clearly, answering who, what, where, when, why and how.
- Avoid planning jargon. Clarify technical terms where they must be used.
- Write active rather than passive sentences.
- Ensure agreement in lists.
- Review for spelling, grammar, word choice, and other common errors. Thorough proofreading is essential.

Tip: Keep your plan to a readable length

If the plan is so long that nobody in your community will read it, it's too long. Lengthy plans only confuse, overwhelm and discourage the reader.

Graphics and Illustrations

Plans usually, but not always, consist of a combination of text and graphics. Graphics can be used to illustrate important points, summarize data, and convey large amounts of data quickly and concisely. They also add visual interest to a plan. Consider the following tips when including graphics in your plan:

- Include a balance of text and graphics to appeal to both visual and textual learners.
- Clearly label and explain each graphic in the text of the plan.
- Review all illustrations to make sure they are appropriate for the intended purpose and audience.
- Consider hiring a graphics consultant or editor if you have lots of illustrations.

Reviewing and Editing

Once you have completed your plan, have it independently reviewed. Select someone detached from the process that can offer constructive criticism on all aspects of the plan. This may be a planning consultant or professional editor. Also have citizens and laypersons read the plan for clarity. The review process should prompt questions that can be addressed in a revised draft.

Tip: Apply the conversation test

After you have finished writing the plan, read it aloud. Ask yourself if your intended audience would understand what you are trying to say. If your writing is stuffy, wordy or impersonal, rewrite it.

Some plans are heavily oriented towards policy and consist primarily of text. Others are oriented towards community design and the desired physical form of the community. These plans usually contain more maps, photographs and drawings. The following example from the Town of Grand Chute provides visual and text descriptions for five different desired patterns of development.

Town of Grand Chute Comprehensive Plan 2010-2030. December 2009.
www.grandchute.net/departments/community-development/plans-and-policies

◗ **Adopting or Amending the Plan**

In Wisconsin, the process to adopt or amend a comprehensive plan is outlined in state statutes.[9] We recommend following similar procedures for other types of plans, unless state statutes or local rules dictate otherwise.[10]

1. **Public participation.** Written procedures for public participation must describe methods to widely distribute proposed, alternative or amended elements of a plan, and procedures for the governing body to respond to public comments.

2. **Public notice and hearing.** At least one public hearing must be held prior to adopting or amending the plan.[11] Public notice requirements are described on page 15.

3. **Plan commission recommendation.** The plan commission may recommend adoption of the plan only by adopting a resolution by a majority vote of the commission.

4. **Governing body adoption.** The plan must be adopted by ordinance by a majority vote of the governing body.

5. **Publication and distribution.** Adopted ordinances and amendments must be published as a class 1 notice and take effect on the day after publication unless otherwise prescribed.[12] One copy of an adopted plan or amendment must be sent to the following entities:

   ▪ The Department of Administration
   ▪ The public library
   ▪ The regional planning commission
   ▪ Adjacent units of government

▪ Government bodies located in whole or in part within the government unit[13]
▪ The commanding officer of a military base or installation with at least 200 assigned military personnel or at least 2,000 acres, located in or near the government unit[14]

Distributing the Plan

Following are some common and innovative techniques to format and distribute your plan:

▪ Prepare a glossy, informational brochure highlighting main points from the plan.
▪ Prepare a short community video documenting the community's strengths, weaknesses and development history as described in the plan.
▪ Prepare and distribute a press release or other informational materials to local media and residents shortly after the plan has been prepared.
▪ Hang a copy of future land use maps and a summary of goals and objectives in local government meeting rooms.
▪ Place an electronic copy of the plan and plan summary on your local government website.
▪ Place hardcopies of the plan in local libraries, schools and government offices.
▪ Divide longer plans into two or more documents highlighting data and trends, important topics, or relevant policy recommendations.
▪ Publish the plan in a loose-leaf binder to facilitate easy updating.

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[9] Wis. Stat. §§ 66.1001(4), 62.23(3) and 59.69(3).
[10] Wis. Stat. § 91.10(3) requires county farmland preservation plans to follow the same procedures. Differences are noted in the text where appropriate.
[11] Wis. Stat. § 59.69(3)(d) requires a hearing on the county comprehensive plan to be held by the county zoning agency
[12] Wis. Stat. §§ 59.14, 60.80, 61.50, and 62.11(4). A class 1 notice means one newspaper publication at least one week before the act or event (Wis. Stat. § 985.07).

[13] Wis. Stat. § 66.1001(4)(b) defines a "governmental unit" as a city, village, town, county or regional planning commission. "Governmental body" is not specifically defined but may be interpreted broadly to include special purpose units of government such as school districts, sanitary districts, lake districts, etc.
[14] Wis. Stat. §§ 59.69(2)(f) and 62.23(3)(b) which applies to comprehensive plans, master plans and development plans, not farmland preservation plans.

Notice Requirements

Advance notice of a hearing to adopt or amend the plan must be provided to the following parties:[15]

- **Official newspaper.** Notice must be published in the community's official newspaper at least 30 days prior to the hearing. The notice must provide the date, time and place of the hearing; a summary of the plan or amendment; information on how to obtain access to the plan; and contact information for a local government employee. If a community does not have an official newspaper, it may provide notice to other media likely to give notice in the area.

- **Other news media.** Notice must also be provided in writing or by phone, fax or email to any news media that have filed a written request.

- **Interested property owners.** Notice must be provided to property owners that have submitted a written request to receive notice of action affecting their property at least 30 days prior to the public hearing. Notice may be provided by mail or another agreed upon method, and an appropriate fee may be charged.

- **Non-metallic mining interests.** Written notice must be provided to any person that has registered a marketable nonmetallic mining interest or applied for or obtained a nonmetallic mining permit at least 30 days prior to the public hearing.

- **Department of Agriculture, Trade and Consumer Protection.** Notice of the adoption or amendment of a county farmland preservation plan must be provided to DATCP for review and comment.

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[15] Wis. Stat. §§ 19.84; 66.1001(4)(d)-(f); and 91.10(5).

MONITORING AND UPDATING THE PLAN

▶ Monitoring the Plan

Good planning is not the result of a static document. Rather, it is a continued reflection of the plan's actual results and whether those results were satisfactory to the community. Reviewing the plan on an annual basis allows the community to take stock of current conditions, capitalize on existing assets, and take action to correct problems. Reviewing and updating the plan also creates the following opportunities:[16]

Review goals, objectives and policies to address new development issues. New issues often evolve that were not critical or foreseen when the plan was initially developed. For example, your community may be experiencing changing economic or demographic conditions or new land uses that were not contemplated in the original plan. Reviewing the plan in light of these issues allows you to assess the validity of the plan's goals, objectives and policies and make new recommendations as necessary.

Review the plan for errors or outdated information. Most plans rely heavily on information contained in data, maps and projections. Reviewing the plan on a regular basis allows you to incorporate new data and projections and updated land use maps. It also allows you to identify and correct errors that were made in the original plan.

Update the plan to incorporate new plan elements. Updating the plan allows you to expand existing plan elements or address new topics that were not addressed in the original plan. Emerging topics that you might wish to address include climate change, hazard mitigation, energy efficiency, sustainability, local food systems and public health.

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[16] Adapted from: *Revisiting the Comprehensive Plan: The Six Year Review.* 2000. Maryland Office of Planning. Available: www.mdp.state.md.us/PDF/OurProducts/Publications/ModelsGuidelines/mg20.pdf

Revise the plan concurrent with other local planning efforts. Reviewing the plan on a concurrent basis with other plans and programs allows you to identify inconsistencies and make use of limited resources to update multiple plans or programs. For example, many communities are currently reviewing their comprehensive plans in light of new shoreland management standards, farmland preservation plans, and other planning programs.

> *"Planning is a continuous process. Your plan should be thought of as a living document, continuously changing as it passes through the different life stages of creation, implementation, and update or revision."*
>
> – Schmidtke and Wegmann
> A Guide to Preparing the Intergovernmental
> Cooperation Element of a Comprehensive Plan

◗ Updating the Plan

A number of different options exist for updating local plans. Three options are presented here along with pros and cons of each.[17] Factors to consider when deciding how to update your plan include the structure and organization of the current plan, the extent to which the plan is outdated, and the time and resources your community is willing to devote to a plan update. The update should build off of an evaluation of the original plan – what works, what does not, and what has changed. Even with a 10-year-old plan, you may find that much of the content is still relevant.

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[17] Adapted from: *Updating Your Comprehensive Plan.* Maine State Planning Office. May 2003. Available: www.maine.gov/spo/landuse/docs/compplanning/updatemanual.doc

Option 1: Write an Entirely New Plan
Sometimes the best approach is to replace the current plan with an entirely new document. The new document may reference or use some of the old information, but otherwise, is an entirely new document integrating old and new content in a coherent fashion. To retain some degree of connection to the earlier plan, the plan might discuss what policies and strategies were revised and why.

Writing a new plan avoids the time-consuming and sometimes tedious task of trying to revise existing plan language and incorporating new components so that they work with existing ones. It may be particularly appropriate if your current plan lacks coherent organization or has other major problems.

A disadvantage of this approach is that it involves a considerable amount of time and resources. Communities that decide to undertake a complete rewriting of their plan should try to focus on the strengths of the existing plan and incorporate lessons learned from previous planning processes.

Option 2: Selectively Update the Old Plan
Rather than writing an entirely new plan, some communities opt to selectively revise and update specific sections of their plan. This approach has the advantage of focusing the plan update on those portions of the plan that truly need updating. It is generally more cost-effective and less time consuming than a total rewrite.

The focus of an update may be providing new data, maps or projections, revising plan goals or objectives, or updating the plan's implementation strategy. The revised plan should document what changes were made and why.

Selectively updating an existing plan works best when the plan being updated is well-written and organized. If the original plan has significant weaknesses in organization or

content, using it as a template for an update may merely perpetuate the earlier plan's weaknesses.

Conversely, selectively revising an existing plan may have the effect of hampering efforts to take a fresh look at issues or problems or embrace new policies. For example, a community may opt to leave existing plan language alone, even though it is of limited usefulness or relevance. Selectively updating and revising existing language can be more cumbersome than rewriting a plan and has the potential to lead to a less coherent product.

Option 3: Prepare a Plan Addendum

Some communities evaluate their existing plans and determine that they are working quite well. Instead of substantially revising the existing plan or writing a whole new one, your community may choose instead to develop a plan "addendum" that highlights the information and policies that have been changed from the existing plan. Under this approach, the original plan is retained in its current form and the addendum serves as an appendix or supplement to the original.

This may be the easiest and least costly approach to updating the plan. It allows the community to build on its current plan, but avoids the need to integrate new information into an existing document. It also provides the community with flexibility to organize the

addendum in a way that seems most effective and user-friendly.

Unless carefully structured, this approach could result in an overall format that is difficult or confusing to use. The reader may need to jump back and forth between the original plan and the addendum to ascertain what information is still current and what policies are still in force. This limitation might be overcome by making the addendum a more comprehensive distillation of relevant policy-related components from the previous plan. Preparing a plan addendum is an appropriate choice if your existing plan is relatively recent and effective, but you wish to make minor adjustments or focus in on a particular issue or topic area.

How Frequently Should You Update the Plan?

According to state law, a comprehensive plan must be updated at least once every ten years. Likewise, a county farmland preservation plan must be recertified every ten years. Other plans may be updated at the discretion of local units of government. We recommend reviewing local plans on an annual basis to determine if and when updates are needed.

Wis. Stat. § 66.1001(2)(i)
Wis. Stat. § 91.16(2)(a)

Two Scenarios: Reflecting on Planning

Think of two examples of poor development – these could be in your community or a neighboring community. What is the problem with the development? Why was it approved? Who was harmed by the development? Who benefitted?

Think of two Wisconsin communities that have a distinctive character. How would you describe that character? What factors (historic, political, environmental, etc.) helped shape each community? What role did planning play in this process?

RECOMMENDED RESOURCES

Planning

Guide to Community Planning in Wisconsin. Brian W. Ohm. 1999. 275 pages. Department of Urban & Regional Planning, University of Wisconsin-Madison/Extension. Available online: www.lic.wisc.edu/shapingdane/resources/planning/library/book/contents.htm

Comprehensive Planning and Citizen Participation. 2006. 72 pages. Grabow, Hilliker and Moskal. UW-Cooperative Extension Publishing. G3810. Available: http://learningstore.uwex.edu

Comprehensive Planning Elements

The following comprehensive planning element guides are available electronically from the Center for Land Use Education: www.uwsp.edu/cnr-ap/clue/Pages/ComprehensivePlanning.aspx or the Wisconsin Department of Administration: www.doa.state.wi.us (keyword: comprehensive planning). Some guides may also be available in print by contacting the authoring organization.

Housing Wisconsin: A Guide to Preparing the Housing Element of a Local Comprehensive Plan, 2nd edition. Brian W. Ohm, John Merrill, Joni M. Herren and Erich Schmidtke. 2003. 79 pages. UW–Extension.

Transportation Planning Resource Guide: A Guide to Preparing the Transportation Element of a Local Comprehensive Plan. 2001. 86 pages. Wisconsin Department of Transportation.

Planning for Agriculture in Wisconsin: A Guide for Communities. Douglas Jackson-Smith. 2002. 97 pages. UW-Cooperative Extension and Wisconsin Department of Agriculture, Trade, and Consumer Protection.

Planning for Natural Resources: A Guide to Including Natural Resources in Local Comprehensive Planning. Brian W. Ohm, et. al. 2002. 85 pages. UW–Madison/Extension and Wisconsin Department of Natural Resources.

A Guide to Smart Growth and Cultural Resource Planning. Richard A. Bernstein (Ed). 2003. 66 pages. Wisconsin Historical Society.

A Guide to Preparing the Economic Development Element of a Comprehensive Plan. 2003. 54 pages. Wisconsin Economic Development Institute, Inc.

Intergovernmental Cooperation: A Guide to Preparing the Intergovernmental Cooperation Element of a Local Comprehensive Plan. Erich Schmidtke and Jonquil Wegmann Johnston. 2002. 77 pages. Wisconsin Department of Administration.

Land Use Resource Guide: A Guide to Preparing the Land Use Element of a Local Comprehensive Plan. Anna Haines, et. al. 2005. 124 pages. Center for Land Use Education.

Implementation Element Guide: A Guide to Preparing the Implementation Element of a Local Comprehensive Plan. Anna Haines, Amy Emery, Kassandra Walbrun and Larry Ward. 2006. Center for Land Use Education.

Wisconsin Comprehensive Planning Implementation Guide Toolkit. 2007. Available online or in CD format by contacting the Wisconsin Department of Administration at (608) 267-3369.

Working with a Consultant

How to Hire a Planning Consultant: A Guide to Preparing a Request for Proposals. Anna Haines, Merritt Bussiere, Kassandra Walbrun and Jonquil Wegmann Johnston. 2001. 56 pages. Available online: www.dot.wisconsin.gov/localgov/docs/landuse-hire.pdf

Sample Agreement for Consultant Services for Developing a Comprehensive Plan. Thomas W. Harnisch. No date. 28 pages. Wisconsin Towns Association. Available online: www.doa.state.wi.us/dir/documents/ExampleAgreement_WTA.pdf

Data Resources

Wisconsin Department of Administration, Demographic Services – www.doa.state.wi.us
   Contains population and housing estimates and projections for all Wisconsin towns, villages, cities and counties.

Applied Population Laboratory, GetFacts – http://getfacts.wisc.edu/mapping.php
   Contains thousands of Wisconsin demographic and economic variables at state, county and local government levels.

American Fact Finder – http://factfinder2.census.gov
   The data dissemination tool for accessing and mapping American Community Survey, Decennial Census, and other U.S. Census data.

Mapping Resources

Citizen's Guide to Future Land Use Mapping. Douglas Miskowiak. 2006. 32 pages. Center for Land Use Education. www.uwsp.edu/cnr/landcenter/pubs-bulletins.html

Wisconsin Land Information Clearinghouse – www.sco.wisc.edu/wisclinc
Wisconsin Local Government Web Mapping Sites – http://coastal.lic.wisc.edu/wisconsin-ims/wisconsin-ims.htm
Wisconsin DNR, Planning Data and Maps – http://dnr.wi.gov/org/es/science/landuse/plan/data.htm

Survey Resources

Designing & Conducting Survey Research. Louis Rea and Richard Parker. 2005. 283 Pages. Jossey-Bass. May be ordered at libraries and bookstores or online: www.planning.org/apastore

How to Conduct Your Own Survey. Priscilla Salant and Don Dillman. 1994. 232 Pages. John Wiley & Sons. May be ordered at libraries and bookstores or online: www.planning.org/apastore

University of Wisconsin Survey Center – www.uwsc.wisc.edu
UW-River Falls Survey Research Center – www.uwrf.edu/src
UW-Milwaukee Center for Urban Initiatives & Research – www.uwm.edu/Dept/CUIR

SAMPLE PLANNING DOCUMENTS

Sample Goals, Objectives and Policies

In this section, the goals, objectives, and policies for each of the Comprehensive Plan's nine major elements are presented. Definitions for goals, objective and policies are given below.

Goal: An **ideal future condition** to which the community aspires. It is usually expressed in general terms and is not quantifiable.

Objective: An **intermediate step** toward attaining a goal that is measurable and attainable.

Policies: Principles of land use design and management of development derived from the goals and aimed specifically at what the Village of Campbellsport can do to attain the goals. Policies typically use "shall" and "should" in describing actions and are often expressed as specific standards.

From the Agricultural, Natural, and Cultural Resources Element

Goal

To conserve, protect, and improve the agricultural, natural, and cultural resources of the Village of Campbellsport and the surrounding area.

Objectives
1. Ensure that the environmental and aesthetic qualities of the community are considered when planning for future development.

2. Protect environmentally sensitive areas such as floodplains, drainageways, wetlands, and wooded areas from urban development.

3. Develop and adopt a stormwater management plan.

4. Mapping of environmentally sensitive areas and wildlife habitat areas should be consulted during the review of proposed developments.

5. Be actively involved in maintaining the attainment designation for air quality.

6. Be proactive in the preservation and restoration of historically significant structures and buildings.

7. Develop a site plan review process to help maintain and improve the visual quality and physical design of the Village of Campbellsport.

Policies
1. The Village of Campbellsport shall use zoning and shoreland-wetland ordinances to protect environmentally sensitive areas from urban development.

2. The Village of Campbellsport shall use the Site Plan Review Process to review all multi-family residential, commercial, and industrial developments.

Village of Campbellsport Comprehensive Plan, 2006-2026. Available: http://campbellsport.govoffice.com

Sample Community Survey Results
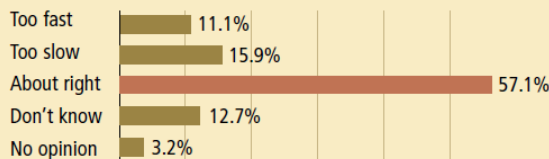# Town of Rock Elm
Community Attitudes Survey • HIGHLIGHTS

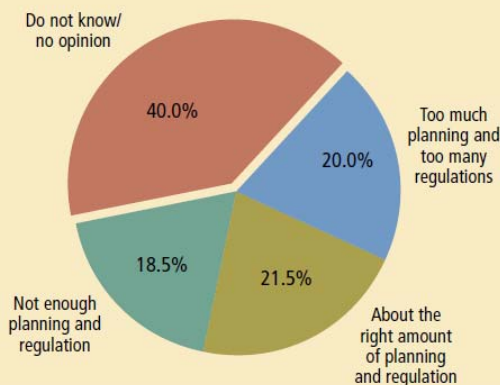**How would you describe the pace at which development is occurring in <u>PIERCE COUNTY</u>?**

Too fast	27.7%
Too slow	7.7%
About right	36.9%
Don't know	16.9%
No opinion	10.8%
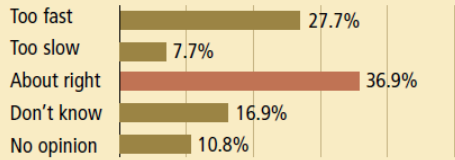
How would you describe the pace at which development is occurring in the <u>TOWN</u> in which you live?

Too fast	11.1%
Too slow	15.9%
About right	57.1%
Don't know	12.7%
No opinion	3.2%

How would you rate current efforts by <u>PIERCE COUNTY</u> to regulate and guide development?

- Too much planning and too many regulations — 30.3%
- About the right amount of planning and regulation — 16.7%
- Not enough planning and regulation — 13.6%
- Do not know/no opinion — 39.4%
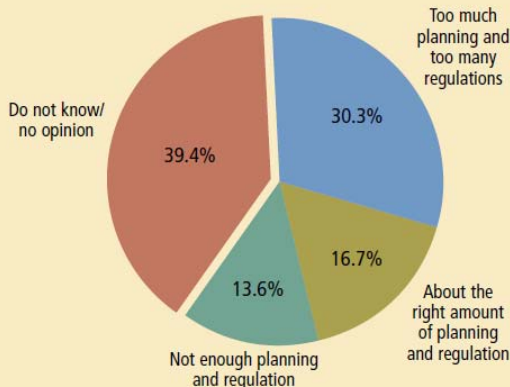
How would you rate current efforts by your <u>TOWN</u> to regulate and guide development

- Too much planning and too many regulations — 20.0%
- About the right amount of planning and regulation — 21.5%
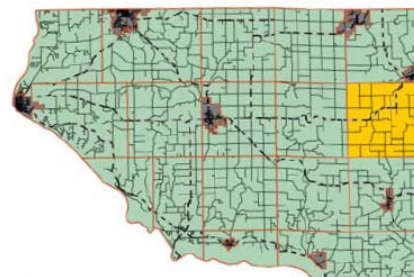- Not enough planning and regulation — 18.5%
- Do not know/no opinion — 40.0%

Which of the following statements best reflects your opinion of where new housing should be located in the County?

- Market forces and property owner's desires should decide how much housing development occurs. — 40.6%
- The County/Town should promote more housing development in Pierce County. — 4.7%
- The County/Town should limit the amount of housing development that occurs. — 46.9%
- I have no opinion on housing development. — 7.8%
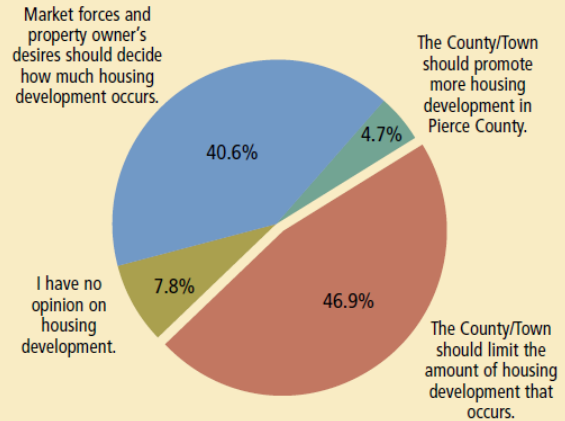
What additional land use regulation would you support?

Limit lot creation on ag land	50.7%
Larger minimum lot sizes	20.9%
Smaller minimum lot sizes	16.4%
Bluff protection regulations	37.3%
Habitat protection regulations	47.8%
Mandated open space	19.4%
Groundwater protection	55.2%
Feedlot siting	28.4%
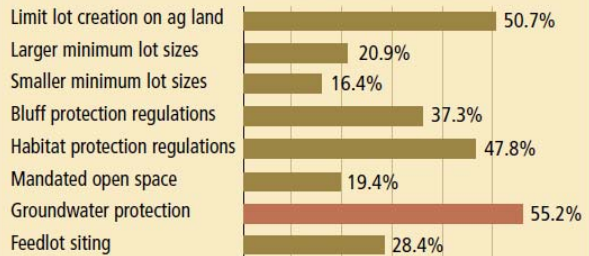
NOTE: Results are based on Town data only – survey excluded cities and villages.

Town of Rock Elm

Number of surveys mailed: 216
Number of surveys returned: 69
Response rate: 31.9%

Rock Elm Township Comprehensive Plan, 2011, Community Attitudes Survey. Available:
www.co.pierce.wi.us/Land%20Management/Comp_Plan-Final/Town_Comp_Plans/Rock_Elm_Comp_Plan.pdf

Sample Comprehensive Plan Map Amendment Application

APPLICATION FOR COMPREHENSIVE LAND USE MAP AMENDMENT
Community Development Department
100 N. Appleton St.   PH: 920-832-6468
Appleton, WI 54911   FAX: 920-832-5994

www.appleton.org

Stamp date received

PROPERTY OWNER	APPLICANT (owner's agent)
Name	Name
Mailing Address	Mailing Address
Phone Fax	Phone Fax
E-mail	E-mail

PROPERTY INFORMATION

Property Tax # (31-0-0000-00)

Site Address/Location

Legal Description of Land (may be attached as separate sheet)
Please submit an electronic copy of the legal description on a disk in Microsoft Word format.

Current Land Use Designation	Proposed Land Use Designation
Current Zoning	Proposed Zoning
Current Uses	Proposed Uses

PLEASE STATE REASON(S) FOR COMPREHENSIVE LAND USE MAP AMENDMENT REQUEST

Please attach a location map of the property or portion of the property in question and documents and facts to support the request.

_____

_____

_____

Date	Owner/Agent Signature (Agents must provide written proof of authorization)

OFFICE USE ONLY

FILE #_____   Application Complete _____   ___/___/___   Date Filed ___/___/___

Reasonable accommodations for persons with disabilities will be made upon request and if feasible. 7/10

City of Appleton, Application for Comprehensive Land Use Map Amendment. Available:
www.appleton.org/i/d/community_development/comp_plan_amendment_710.pdf

Sample Comprehensive Plan Text Amendment Application

PETITION FOR TEXT AMENDMENT
DOOR COUNTY COMPREHENSIVE PLAN 2030

To: Door County Board of Supervisors
    Door County Government Center
    421 Nebraska Street
    Sturgeon Bay, WI 54235

Mail to: Door County Planning Department
    Door County Government Center
    421 Nebraska Street
    Sturgeon Bay, WI 54235

The undersigned hereby petitions your honorable body for an amendment to the text of the Door County Comprehensive Plan 2030 to effect a change in Volume I, Vision and Goals:

Chapter Name _____

Chapter Number _____ Page Number _____

to read as follows:

_____

_____

_____

_____

_____

_____

Dated this _____ day of _____, 20_____.

Respectfully submitted,

_____
Name

_____
Address

_____

_____
(Legal Signature)

_____
(Date)

Action Taken:

    (By County Planning Committee)

DATE: _____
    Approved   Denied

    (By Board of Supervisors)

DATE: _____
    Approved   Denied

DATE FILED: _____

FEE PAID (Date): _____
                             ($900.00)
(Make check payable to: Door County Treasurer)

3/01/10

Door County, Comprehensive Plan 2030, Petition for Text Amendment. Available:
http://map.co.door.wi.us/planning/comp_planning.htm

PLANNING WORKSHEETS

The worksheets at the end of this chapter can be used by communities looking to initiate or design a new planning process. Each worksheet can also be downloaded in Microsoft Word format from the Center for Land Use Education website:
www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

Worksheet 1: Need for Planning
Use this worksheet to assess your community's need for planning.

Worksheet 2: Capacity for Planning
Use this worksheet to assess your community's strengths and weakness related to planning

Worksheet 3: Plan Process Design
Use this worksheet to help design the planning process.

Worksheet 4: Detailed Work Plan
Use this worksheet to prepare a detailed work plan for the planning process.

Worksheet 1: Need for Planning
Use this worksheet to assess your community's need for planning.

Instructions:
1) Identify existing planning documents your community.
2) Identify minimum legal requirements for planning.
3) Identify important community issues, values and concerns.
4) Use the decision chart to assess your community's need for planning.

Identify existing planning documents:

Title: Year: Up-to-date: (✓)
_____
_____
_____
_____
_____
_____
_____
_____

Identify minimum legal plan requirements:
(ex. content requirements, adoption/updating procedures, etc.)
_____
_____
_____
_____
_____
_____
_____
_____

Identify important community issues, values and concerns that could be addressed through planning:
_____
_____
_____
_____
_____
_____
_____
_____

Would a plan help to address local issues, values or concerns? → **Yes** → Does your community have an existing plan? → **Yes** → Is the plan up-to-date? Does it meet legal requirements? → **Yes** → Has the plan been implemented? Did it produce the desired result? → **Yes** → No current need for planning

Would a plan help to address local issues, values or concerns? → **No** → Is a plan legally required? → **Yes** → (to: Does your community have an existing plan?)

Is a plan legally required? → **No** → No current need for planning

Does your community have an existing plan? → **No** → Develop new plan

Is the plan up-to-date? Does it meet legal requirements? → **No** → Develop new plan or update existing plan

Has the plan been implemented? Did it produce the desired result? → **No** → Revisit plan implementation strategy or effort

No current need for planning

Worksheet 2: Capacity for Planning
Use this worksheet to assess your community's strengths and weakness related to planning.

Instructions: Read through the following sets of questions to identify strengths and weaknesses of your community. Make notes in the space provided below each factor or on a separate piece of paper. If your community performed strongly across many areas, you will likely do well with planning. If not, you may need to take a step back from planning to build capacity or provide additional education. Community leaders should use their judgment to determine if the community is ready to move forward with planning and at what pace.

	Strength	Weakness
Purpose and Motivation		
Can you clearly articulate the purpose for planning in your community? Did the desire to plan initiate locally, from a perceived need, or externally, as a result of a mandate, funding source or collaborative opportunity? What are some local planning issues? Is planning a priority locally?		
Political Support		
Who are the local decision-makers in your community? Are they aware of and willing to support planning, financially and otherwise?		
Community Support		
Are community members generally aware of and supportive of planning? Are they prepared for controversies that may surface or changes that may occur as a result of planning? Are they willing to commit time, energy and resources to planning?		
Financial Resources		
Does your community have financial resources to support planning? Are there members of the community with experience in grant writing or fiscal management?		
Physical Resources		
Does your community have the physical resources necessary to support planning? Do you have local facilities able to accommodate large public meetings? Is the space centrally located and considered 'neutral turf'? Do you have adequate equipment and supplies?		

	Strength	Weakness
Human Resources		
Does your community have the human and organizational capacity to initiate and carry out a planning process? Does your community have local planning staff or a plan commission? Are there local departments, organizations or citizen volunteers willing to work on planning?		
Skills and Expertise		
Do members of your community (plan commission, staff, residents) have facilitation, meeting management, group process, mediation, budgeting, and other skills necessary for planning? Can you identify those with expertise in local planning issues?		
Leadership		
Can you identify the formal and informal leadership structure of your community? Would existing leaders be willing to act in support of planning? Are they able to influence the general public and local and non-local decision-makers? Can you identify strategies to identify and develop diverse leadership to sustain the project over time?		
Civic Involvement		
Do community members have a strong history of civic involvement? Would they be willing to participate in a planning project? Can you identify strategies to involve a wide range of residents and community groups?		
Communication		
Can you identify the formal and informal modes of communication in your community? Do you have access to these networks? Are local media willing to cover area events?		
Support Network		
Does your community have access to external support systems? Have you worked in the past with neighboring communities, local colleges or universities, the Extension system, county, state or federal agencies, or other support organizations? Does your community trust 'outsiders'? Do you know who to contact for help and what to ask for?		

Worksheet 3: Plan Process Design
Use this worksheet to help design the planning process.

Instructions: 1) Define major stages and steps of the local planning process.
2) Identify tasks to be completed at each stage.
3) Identify parties responsible for completing each task.
4) Identify timeline for completion.

Planning Steps	Planning Tasks	Responsible Party	Timeline
Example Data Collection and Analysis	1. Identify data and information needs	Plan commission, Consultant	August 2012
	2. Gather technical and spatial data	Consultant	December 2012
	3. Verify data for accuracy	Plan commission, Town board, Citizens	December 2012
	4. Analyze data for patterns and trends	Consultant	April 2013
	5. Provide information to citizens and local decision-makers	Plan commission, Consultant	June 2013
Issue Identification			
Goal and Objective Formulation			
Strategy Formulation			
Plan Review and Approval			

Worksheet 4: Detailed Work Plan
Use this worksheet to prepare a detailed work plan for the planning process.

Instructions: 1) Describe specific planning tasks, parties responsible for taking action, and expected outcomes.
2) Describe resource requirements, strategy for obtaining needed resources, and potential challenges.

Planning Task	
Description	Party responsible for taking action
Expected start/completion dates	Others who need to be involved
Expected products or outcomes	

Resource Requirements	Have (✓)	Need (✓)
Financial		
Facilities, equipment, supplies		
Skills, expertise		
Data, information		
Other		
Strategies to obtain needed resources		
Expected challenges		

Chapter 4
Public Participation

WHY INVOLVE THE PUBLIC?

One of the most critical elements of a successful planning or plan implementation effort is public participation. Studies show that public participation results in stronger plans and planning proposals that are more likely to be implemented.[1] Additional returns that can be expected from public participation include:

- Building knowledge of local issues and processes
- Identifying what citizens value in the community
- Capitalizing on local talents and resources
- Improving general trust in government
- Creating a sense of ownership and support for plans and regulations
- Satisfying legal requirements
- Reducing costs associated with not involving the public

Clearly, the returns are numerous. However, public participation is not always easy – it takes a great deal of time, resources and hard work. Many would describe the process as "messy." Developing and carrying out a public participation program should be thought of as an art rather than a science.

This chapter takes some of the guesswork out of developing a public participation program. It takes you step-by-step through designing the process, including identifying planning tasks, identifying stakeholders, setting objectives for public participation, selecting tools and techniques, and removing barriers to participation. Documentation and evaluation, two critical but often forgotten components of public participation are also discussed.

Objectives for Public Participation

Following is a list of objectives developed by Marathon County to guide the development and adoption of their comprehensive plan.

- That all residents of Marathon County become fully aware of the importance of participating in the development of the plan.
- That the public participation process is designed to engage people of all races, ethnic backgrounds and income levels.
- That the public has opportunities to provide their input (both formally and informally) to the County, their local plan commission and local governing body.
- That the public has access to all technical information and any analyses performed throughout the planning process.
- That members of the County and participating municipalities have input from the broadest range of perspectives and interests in the community possible.
- That such input is elicited through a variety of means (electronic, printed, and oral) in such a way that it may be carefully considered and responded to in a timely fashion.
- That the process of public involvement strengthens the sense of community present in the municipalities of Marathon County and furthers the vision of active and positive participation by all aspects of the community in the decision making and civic life of the municipality over the long term.

Public Participation Plan for the Marathon County Comprehensive Plan. 2002. Marathon County, Wisconsin.

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[1] Based on a study of 60 local government planning processes. "Making Plans that Matter: Citizen Involvement and Government Action." Raymond J. Burby. *Journal of the American Planning Association*, Vol. 69, No. 1, Winter 2003.

DESIGNING THE PROCESS

A well-designed public participation process should be meaningful to participants and functional for planning. Literature suggests there are five key choices to make when designing a public participation program:[1]

1. **Choice of Timing:** Involve the public early and continuously.
2. **Choice of Whom to Target:** Seek participation from a broad range of stakeholders.
3. **Choice of Objectives:** Provide information, listen to, and empower citizens by providing opportunities to influence decision-making.
4. **Choice of Techniques:** Use a number of techniques to give and receive information and to provide opportunities for dialogue.
5. **Choice of Information:** Provide information that is clear, easy to understand, and free of technical jargon.

Of these, the single most effective step you can take to secure broader involvement is simply inviting a variety of groups to take part in the planning process. Beyond that, local officials can increase public participation by providing citizens with information about problems and alternatives and creating opportunities for dialogue. Communities that do not follow these recommendations often find that relatively few people choose to participate.

> *"The single most effective step you can take to secure broader involvement is simply inviting a variety of groups to take part in the planning process."*
>
> – Raymond J. Burby,
> Making Plans that Matter

▶ Identify Planning Tasks
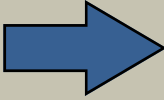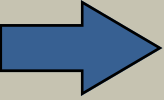
One of the first steps in designing a public participation program is to define what needs to be accomplished at various points in the process. The public can be involved in different ways at different times throughout the process. The challenge is to ensure that they are involved in ways that are meaningful to them and beneficial to the project. A good place to start thinking about public participation is with the planning process itself.

Planning steps illustrate the broad path where planning is headed. They describe generally what happens first, next, and last. Typical steps in the planning process include identifying planning issues, analyzing data, setting goals and objectives, formulating strategies, and selecting the desired course of action.

Planning tasks are specific assignments that must be completed during each step of the process. For example, specific tasks associated with data analysis include identifying data needs, gathering data, analyzing the data for patterns and trends, and sharing the results.

Public participation techniques are the means by which the public learns about and influences local planning and decision-making. Common techniques include meetings, workshops, advisory committees, surveys, and the like.

Pages 4 and 5 show a sample planning process complete with steps, tasks and techniques. When designing your own process, give careful consideration to the timing and sequencing of tasks, and the decision points at which various parties need to be involved. While some tasks are best completed by local officials and staff, others may be enhanced by involving the public. The following sections will help you refine your public participation plan by focusing on whom to involve, for what purpose, and by what means.

Stages	Pre-Planning			
Planning Steps	Community Diagnosis	Process Design	**Step 1** Data Collection & Analysis	**Step 2** Issue Identification
Planning Tasks	▪ Determine your purpose, capacity and readiness for planning ▪ Inventory existing plans, studies and tools ▪ Explore preliminary issues and concerns ▪ Identify potential planning participants and stakeholders ▪ Build capacity for planning by providing education to local officials and residents	▪ Establish budget ▪ Determine who will prepare the plan ▪ Issue a request for proposals if working with a consultant ▪ Establish roles, responsibilities and membership of groups involved in planning ▪ Identify preferred steps in the process and desired products ▪ Incorporate public participation and education	▪ Identify data and information needs ▪ Gather technical and spatial data ▪ Gather public opinion data ▪ Analyze and interpret data, making future projections where necessary ▪ Present patterns and trends to local decision-makers and the public	▪ Involve local decision-makers and public in identifying key community issues, challenges, opportunities and desires ▪ Use local data and analyses to support or identify additional issues ▪ Prioritize issues to be addressed in plan ▪ Identify a vision for the future development of the community
Public Participation Techniques Awareness (A) Education (E) Input (I) Interaction (N) Partnership (P)	▪ **Plan commission workshops (E)** provide education on community planning ▪ **Plan commission & local government (P)** review previous planning efforts and develop budget for current effort	▪ **Plan commission & local government (P)** approve the plan process, develop public participation plan, and negotiate consultant contract ▪ **Newspaper article (A)** provide background story on planning effort ▪ **Youth contest (A)** create plan slogan or logo to promote general awareness of planning process	▪ **Website (A)** post data, maps, analyses and planning documents ▪ **Kickoff meeting (E)** provide general education on the planning process and preliminary data ▪ **Citizen experts (I)** field check data ▪ **Informational display (A, E)** reach general audience by locating at county fair and other public venues	▪ **Mail survey (I)** identify citizen-based issues, opportunities and desires ▪ **Focus groups (I)** identify expert-based issues, opportunities and desires ▪ **Open house (E, I)** provide planning education, review data and trends, identify issues, opportunities and desires ▪ **Newspaper article (A)** provide summary of work completed to date

Planning			Post-Planning	
Step 3 Goal & Objective Formulation	**Step 4** Strategy Formulation	**Step 5** Plan Review & Approval	Implementation	Monitoring & Assessment
▪ Develop goals and measurable objectives to help attain your community's vision ▪ Develop indicators to monitor progress towards reaching stated goals and objectives	▪ Identify potential plan implementation strategies to satisfy goals and objectives ▪ Evaluate impacts of alternative strategies and select preferred options ▪ Recommend specific plan implementation policies, programs, actions and tools ▪ Describe timeline and parties responsible for plan implementation	▪ Present plan for community residents and officials to review ▪ Make changes to resolve plan inconsistencies and reflect public concerns ▪ Take formal action to adopt the plan	▪ Adopt a specific course of action to implement the plan ▪ Develop or amend local policies, programs and tools as recommended in the plan	▪ Monitor progress towards achieving stated plan goals, objectives and indicators ▪ Review and revise plan according to schedule stated in the plan or in response to changing community needs
▪ **Radio interview (A)** discuss planning progress and advertise workshops ▪ **Workshops (E, I, N)** provide planning education, review data and trends, develop goals and objectives ▪ **Comment cards (I)** solicit additional feedback at end of workshops ▪ **Plan commission (P)** refine goals and objectives and begin to discuss broad policy options	▪ **Educational sessions (E)** provide overview of goals and objectives and introduce land use strategies ▪ **Interactive GIS (N)** modify planning strategies based on citizen input ▪ **Plan commission (P)** select preferred land use strategy and policies	▪ **Radio interview (A)** discuss planning progress and advertise open house ▪ **Open house (E, I)** provide overview of plan and gather public input ▪ **Plan commission (P)** recommend final draft of plan for adoption ▪ **Public hearing (I)** solicit final input before plan is adopted by governing body	▪ **Advisory committee (P)** refine and recommend plan implementation tools for adoption	▪ **Plan commission (P)** continually monitor citizen comments and help bring issues to the table for discussion and potential action ▪ **Citizen watchdog group (I)** provide comments to the plan commission and staff regarding land use issues and opportunities

◗ **Identify Stakeholders**

Another critical step in designing a public participation program is identifying the people that should be involved. A stakeholder is an individual or group that has an interest or "stake" in an issue, decision-making process, or activity because they are likely to be affected by or have some influence over its outcome. Individuals who are familiar with the local community—including members of the plan commission, local officials, staff and community members—can help to identify stakeholders, strategies for involving each group, and key contacts. A typical stakeholder analysis might include the following questions:

- Who are the individuals and groups that have an interest in, are affected by, or may be able to influence the decision?
- What are their goals, motivations, and interests?
- What level of knowledge do they have about the project? Is it accurate?
- Are they likely to support or oppose the project or decision?
- How much power and influence do they have over the decision? Over other stakeholders?
- What resources can they bring to the table?
- What strategies should be used to communicate with and involve each group?
- What strategies are needed to manage negative involvement?

A stakeholder analysis is important because it allows you to better understand your target audience and tailor the public participation program accordingly. Many communities find it is useful to include key stakeholders in the design of the planning and public participation process itself. At a minimum, a draft public participation plan should be distributed to stakeholders for review and input. While these steps may add time to the overall process, they foster a sense of ownership and generally result in better participation.

A perennial challenge of public participation is identifying and getting input from a broad cross section of the community. Make sure to include techniques to connect with under-represented groups and the community-at-large. Neglecting to reach out, inform, and offer to engage with the broader community runs the risk of excluding those who are not represented by a targeted stakeholder group or those who are not aware of their interests.

Is Participation Representative of Your Community?

Many communities find differences in participation on the basis of gender (more men than women), age (less involvement by the very young and very old), ethnicity (less participation by ethnic minorities), political persuasion (more participation by those on the left), and education (more participation by the well-educated). What differences exist in your community? What steps can you take to encourage more representative participation?

"Critical Factors for Enhancing Municipal Public Hearings." Baker, Addams and Davis. *Public Administration Review*. Vol. 65, No. 4, 2005.

◗ **Select the Level of Involvement**

Another step is to decide what objectives you have for public participation. It is helpful to think of public participation as a social contract or promise to the public. Only ask for input that you are willing to incorporate in your decisions. Be very clear about the purpose of each meeting and explain how the public process will be used to influence the decision. For each step in the planning process, choose one or more types of participation from the following list to satisfy your objectives:[2]

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[2] Adapted from *Comprehensive Planning and Citizen Participation.* Grabow, Hilliker and Moskal. 2006. University of Wisconsin Cooperative Extension. G3810. A similar typology has been developed and is used by the International Association for Public Participation.

1. Awareness – to make the public aware of the issue, process or decision.
2. Education – to provide balanced and objective information to help the public better understand.
3. Input – to obtain public feedback on the issue, process, alternatives or decision.
4. Interaction – to work with the public to make sure their input is understood and considered in the decision.
5. Partnership – to provide a formal role in the decision-making process.

▶ Select Public Involvement Techniques

Once you have a clear understanding of the planning tasks, stakeholders, and objectives for participation, the next step is to select tools and techniques to use at particular points in the planning process. Matching information needs with public involvement techniques is an opportunity for creativity. The following table identifies common public participation tools and related objectives. The glossary and reference list at the end of this chapter provide additional detail on these and other tools.

Techniques for Public Participation

Method	Awareness	Education	Input	Interaction	Partnership
Public Notice	✖				
Direct Mail	✖	•			
Mass Media	✖	•			
Internet Technology	✖	•	•		
Exhibits and Displays	✖	✖			
Open House	✖	✖	•		
Field Trip	•	✖			
Visual Simulation	•	✖	•		
Educational Programs	•	✖			
Public Meeting		•	✖	✖	
Workshop or Charrette		•	✖	✖	
Public Hearing			✖		
Opinion Survey			✖		
Focus Group			✖		
Referenda			✖		✖
Advisory Committee			✖	✖	✖

✖ Primary objective – almost always able to achieve this objective

• Secondary objective – may be able to achieve this objective if structured appropriately

Take a Closer Look:
Orbits of Participation

Public participation does not require everybody to participate. This is unrealistic, given resource constraints and the lack of desire on the part of many stakeholders to be actively involved. Despite your best efforts to involve citizens, some will chose not to participate. Others will participate at different levels depending upon their level of interest, concern or availability. You can think of these levels as "orbits of participation." Throughout the course of a planning process, a person can move from one level of participation to a more active level, but it requires a greater investment of time, resources and energy. Individuals at different levels or "orbits" of participation have been described as follows:

Unsurprised Apathetics are those who choose not to participate. They may be too busy at work or very active in some other aspect of community life, but have little interest in your issue. The qualifier 'unsurprised' means that you have made efforts to provide them with information so that they are unsurprised or uninterested when a decision is made. What distinguishes them from people completely outside of the public participation realm (the 'uninformed') is that they have made the choice not to participate.

Interested Observers are people who read newspaper articles or public informational documents about the process. Unless they become very concerned with what they see going on, you will not hear from them. They are nonetheless an important part of public opinion. If they grow concerned about the direction that things are going or if the project loses its transparency, they may choose to become active participants.

Commenters and Reviewers are very interested in the issue but also have to deal with all the other things going on in their lives. They might comment by speaking at a meeting or sending a letter, but won't take the time to participate in an advisory group. This group also includes members of local departments and agencies who serve as technical reviewers. Their involvement may be limited, but it is nonetheless important.

Active Participants are the people who commit time and energy to have an influence on a decision. They may participate in an advisory group, attend workshops or meetings, or engage in other ways. They care about the issue, and it is in your best interest to channel their energy and commitment into the public participation program. If you leave an active participant out of the public participation process, they may show up late and undercut what you've done, or they may make themselves heard in another fashion, such as through a political channel or in the courtroom.

Co-Decision Makers are those who make the final decision or have veto power over a decision. Co-decision makers often include members of the plan commission, governing body, neighboring communities, funding agencies, and higher levels of government. In situations where the plan commission makes a recommendation to the governing body, it is very important to keep the governing body informed throughout the process so that they understand and buy-in to the final decision.

Orbits of Participation

- Co-Decision Makers
- Active Participants
- Reviewers/Commenters
- Interested Observers
- Unsurprised Apathetics
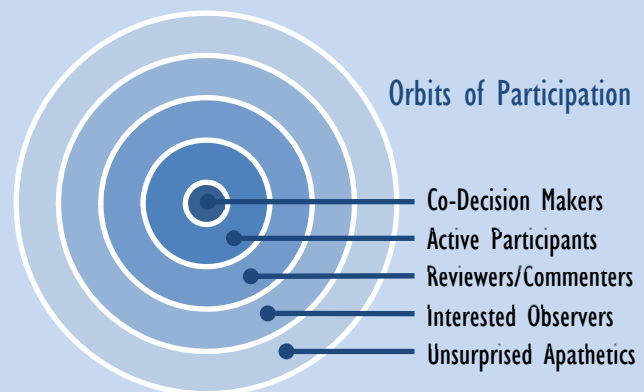
Adapted from *The Public Participation Handbook: Making Better Decisions Through Citizen Involvement.* James L. Creighton. 2005. John Wiley & Sons. Based upon work by Lorenz Aggens, 1983.

▶ Remove Barriers to Participation

The last step in designing the public participation program is anticipating barriers to participation and removing them in advance. There are several things that may limit an individual's ability or desire to participate in local planning decisions. Some view public involvement as "mere politics" and believe that their contributions will not be taken seriously. Others find the complexity of local government overwhelming. In many cases, the timing or logistics of attending a meeting presents the biggest challenge. Common barriers to participation and suggestions for overcoming them include:

- **Meeting times** – consider holding meetings at a variety of times including days, nights and weekends.
- **Meeting locations** – hold meetings at a variety of locations considering where people live, work and play.
- **Transportation** – make sure events are accessible via public transportation.
- **Geography** – provide opportunities to participate from a distance (i.e. internet, webinar, telephone, writing, etc.).
- **Work and family obligations** – consider providing meals or child care on-site or adjusting meeting times and locations to accommodate busy schedules.
- **Political sensitivities** – hold meetings on "neutral" turf. Consider a mediator if issues are particularly sensitive.
- **Cultural or ethnic differences** – work with leaders of ethnic communities to understand and accommodate cultural differences. If needed provide interpreters or materials in multiple languages.
- **Language and reading skills** – provide materials in a variety of formats using clear, easy to understand language, free of jargon (see the checklist at right).
- **Procedures** – describe complex procedural rules at the beginning of meetings and hearings. Allow plenty of time for questions and answers.

Making Technical Language Accessible
- ✓ Use short sentences and vocabulary that is familiar to the target audience.
- ✓ Clearly state why the information is relevant to the target audience.
- ✓ Use visuals, examples and analogies.
- ✓ Avoid jargon and acronyms. When they must be used, define them in simple language.
- ✓ Use language similar to what you would in a conversation with stakeholders.
- ✓ Do not "dumb down" the language. The purpose of creating accessible information is to educate and inform, not to oversimplify concepts that are inherently complex.

Adapted from *Public Participation in International Waters Management*. 2007. Environmental Law Institute.

No two planning projects are exactly alike, and public participation tools and techniques should be selected to reflect the particular characteristics of each project—the planning process, stakeholders, objectives for public participation, barriers to participation, successes and failures of previous efforts, and so forth. While not everyone will be interested in participating in a planning process, the plan commission should foster an attitude of openness and be creative in selecting methods to encourage as many people as possible to participate.

Sample Public Participation Plan
The sample public participation plan at the end of this chapter illustrates the public participation process designed for the Ozaukee County Farmland Preservation Plan update. The plan describes why the process is occurring, why people should care, and how they can get involved. A full-length public participation plan is referenced within the document and is available online.

INVOLVING THE PUBLIC

Encouraging public participation in community meetings is an important commission function. Citizens are more likely to attend meetings that are productive and accomplish objectives stated in the agenda. Commission actions before, during and after the meeting will determine levels of public participation and confidence in commission decisions.

▶ Before The Meeting
- Choose a date, time and place convenient to the majority of interested citizens. Avoid conflicts with other scheduled local meetings.
- Choose a location with sufficient space, adequate parking and reliable heating, cooling, lighting and audio systems.
- Make arrangements for meeting refreshments, nametags, informational handouts and audio-visual equipment.
- Arrange for presenters and trained facilitators.
- Develop an agenda and meeting materials that clearly state the purpose of the meeting and tasks to be accomplished. Consider starting the meeting with routine items or non-controversial issues to build momentum for decision-making.
- Provide public notice necessary to satisfy legal requirements. Provide additional publicity necessary to assure that those likely to be affected by the policy or decision are aware of the meeting.

▶ During The Meeting
- Arrive early to make sure that the meeting location is open and arranged to meet your objectives (i.e. presentation, face-to-face discussion, interaction, etc.).
- Help participants feel at ease and encourage their participation by providing nametags, introductions and handouts for all in attendance.
- Call the meeting to order on time.

- Announce the purpose of the meeting and the agenda to those in attendance.
- Describe ground rules for participation (see suggestions below). If the meeting gets off track the chairperson or facilitator can remind participants of the rules.
- Ask questions to stimulate discussion and obtain the information necessary to make decisions.
- Take a break to provide time for informal discussion and refreshments.
- At the end of the meeting, summarize the meeting findings, discussions and any decisions that were made.

Ground Rules to Guide Meeting Conduct
Ground rules are guidelines for discussion that participants agree to abide by during a public participation process. Ground rules are meant to create a safe space for all participants. They may be developed by the meeting facilitator, participants, an advisory group, or some combination thereof. Common ground rules include "practice active listening," "try not to interrupt," and "respect differing opinions." Additional ground rules can be found at the following link.

"Sample Ground Rules for D&D Processes." National Coalition for Dialogue and Deliberation. December 2008. http://ncdd.org/rc/item/1505

▶ After The Meeting
- Prepare meeting minutes to inform those who were unable to attend. A record of the meeting should include the rationale for decisions which will be helpful in the case of later legal review or policy interpretation.
- Set the date, time, location and agenda for the next meeting.
- Assign tasks for members of the plan commission or staff to complete before the next meeting.

DOCUMENTING AND EVALUATING THE RESULTS

An often forgotten, yet critical component of public participation is documenting and evaluating the results. Documentation provides a record of public involvement and allows the public to see how their involvement was used in the decision-making process. Evaluation is used to gauge how well the process is working and to adjust as needed. Documentation and evaluation can occur throughout the process—for example, at the end of individual participation activities, following the completion of major stages of the planning process, or at the conclusion of the public participation program. Sample evaluation questions and tools are provided below.

▶ Sample Evaluation Questions

Stakeholder participation – Have all individuals and groups with a stake in the process and its potential outcomes been given an opportunity to participate in the process? Is participation representative of all viewpoints? Who is not participating? Why?

Participation techniques – Were the tools and techniques selected appropriate for the audience and level of participation desired? Are there other techniques that would have worked better? Do people seem satisfied with the opportunities for public participation?

Program implementation – Is the program being implemented as planned? What external factors are affecting the process? What could have been done differently or better? What key learning experiences should be transferred to future projects?

Participation goals – Did we achieve the goals we established for public participation? Is the public aware of our efforts? Did they gain a greater understanding of local issues and processes? Did we build trust and develop relationships?

Influence on decision-making – Was the information collected from the public useful? Was it used to influence the decision? Did it contribute towards developing more innovative solutions or making a better decision?

Community impact – Did the effort result in any changes to local plans, policies, laws or practices? Did it influence individual behaviors? Did it result in any long-term changes to social, economic or environmental conditions? What, if any, are the negative or unintended consequences of participation?

▶ Tools for Documentation and Evaluation

- Participant log (e.g. sign in sheet, website counter, etc.)
- Informal discussion with participants
- Comment cards collected at the end of an event
- Staff debriefing following an event
- Interviews with opinion leaders and non-participants
- Telephone or mail survey of a random cross-section of the community
- Content analysis of planning documents or media coverage
- Professional observation and evaluation
- Written case study

Sample Evaluations

The evaluation components of two public participation plans are contrasted on the next page. The first example focuses on documenting public participation activities. It uses the number of public participation activities as a gauge for success. The second example focuses on how well the process is working. It looks to measures such as task completion, increased participant knowledge, and satisfaction of participants and officials.

Activity-Based Evaluation Plan

The Public Participation Plan will be reviewed and evaluated at least every four years (more frequently if warranted), and will be amended as necessary. The MPO will determine if all possible resources are being used to involve the public and if those resources are being effectively used. Effectiveness is ultimately determined by how many citizens take the opportunity to make comments or suggestions or that come to public meetings. The evaluation will consist of examination of the following information:

- Number and list of locations where public notices are posted or published.
- Number and variety of opportunities for public involvement.
- Number of days from public notice announcement to planning activity.
- Number of days for public review and comment.
- Number of local newspaper stories.
- Number of public comments and suggestions.
- Number of citizens at public meetings.
- Number of individuals and groups on mailing list.
- Number of locations where documents are placed for public review (determine if they are centrally located places and the hours that they are open for business).
- Quality of comments received (i.e. whether comments were original comments as opposed to mass produced comments or petitions, and whether they provide a rationale for their position as opposed to merely agreeing or disagreeing with proposed recommendation).

Public Participation Plan, Sheboygan Metropolitan Planning Organization, 2007.

Process-Based Evaluation Plan

The Marquette County Comprehensive Planning Steering Committee will perform a written evaluation and review of the Citizen Participation Plan on a quarterly basis throughout the planning process:

- Has each task been implemented?
- Are the partnerships still intact and functional?
- Are citizens finding the educational opportunities helpful and appropriate?
- Have citizens increased their level of understanding about various aspects of land use planning?
- Are citizens providing input? If so, what communication method is being utilized the most? If not, why?
- Are County officials satisfied with the steps that are being taken to address citizen participation?
- Do County officials and residents feel that the information gathered is useful?

Evaluation methods

- Review of participation documents
- Evaluation forms
- Observations and feedback from key informants
- Personal interviews
- Zoning Committee review
- Web site usage, website feedback and online survey
- Feedback from Land Use Advisory Committee

Marquette County Comprehensive Plan, Citizen Participation Plan, 2002.

RECOMMENDED RESOURCES

Public Participation

Comprehensive Planning and Citizen Participation. (G3810). Steven H. Grabow, Mark Hilliker and Joseph Moskal. 2006. 70 pages. Available from UW-Extension Publications at (877) 947-7827 or online: http://learningstore.uwex.edu/Assets/pdfs/G3810.pdf.

Crafting an Effective Plan for Public Participation. Douglas Miskowiak. 2004. 24 pages. Center for Land Use Education. Available online: www.uwsp.edu/cnr-ap/clue.

The Public Participation Handbook: Making Better Decisions through Citizen Involvement. James Creighton. 2005. 288 pages. Jossey-Bass. Available from libraries, bookstores and online: www.planning.org/apastore.

Visioning

Building Our Future: A Guide to Community Visioning. (G3708). Gary Green, Anna Haines and Stephen Halebsky. 2000. 276 pages. Available from UW-Extension Publications at (877) 947-7827 or online: http://learningstore.uwex.edu/Assets/pdfs/G3708.pdf.

Meeting Management

Successful Public Meetings: A Practical Guide. 2nd Edition. Elaine Cogan. 2000. 134 pages. APA Planners Press. Available from libraries, bookstores and online: www.planning.org/apastore.

Dispute Resolution

Dealing with an Angry Public: The Mutual Gains Approach to Resolving Disputes. Lawrence Susskind and Patrick Field. 2010. 288 pages. The Free Press. Available from libraries, bookstores and online: www.planning.org/apastore.

Survey Research

Designing & Conducting Survey Research. Louis Rea and Richard Parker. 2005. 283 Pages. Jossey-Bass. Available from libraries, bookstores and online: www.planning.org/apastore.

How to Conduct Your Own Survey. Priscilla Salant and Don Dillman. 1994. 232 Pages. John Wiley & Sons. Available from libraries, bookstores and online: www.planning.org/apastore.

Professional Assistance

Survey Research Centers

University of Wisconsin Survey Center – www.uwsc.wisc.edu

UW-River Falls Survey Research Center – www.uwrf.edu/SurveyResearchCenter

UW-Milwaukee Center for Urban Initiatives & Research – www.uwm.edu/Dept/CUIR

Public Participation Organizations

International Association for Public Participation – www.iap2.org

International Association of Facilitators – www.iaf-world.org/index.aspx

Wisconsin Association of Mediators – www.wamediators.org

GLOSSARY OF PUBLIC PARTICIPATION TOOLS

This glossary contains brief descriptions of tools and techniques commonly used for community planning and plan implementation in Wisconsin. Resources are cited at the end of the glossary for those interested in learning more about these or other techniques.

Legend

Participation Objective: Awareness, Education, Input, Interaction, Decision-Making

Resource Commitment: $ minimal, $$ moderate, $$$ high

Time Commitment: ☺ minimal, ☺☺ moderate, ☺☺☺ high

Scope of Participation: 👤 small group, 👪 large group

Direct Mail | Objectives: Awareness, Education | $$$ ☺ 👪

Direct mail is used to provide a specific message to a target audience. A mailing can take many forms including a newsletter, postcard, letter, brochure or other promotional or informational piece. This technique works best when you have a simple message and an easily identifiable audience. It can reach a large number of people and requires little time commitment on the part of citizens. Be creative in crafting and delivering your message as it may be easy to overlook in the large volume of mail received by most people. The primary costs involved with this technique include design, printing and mailing.

Photo: Lake Country, BC, 2010

Mass Media | Objectives: Awareness, Education | $ ☺ 👪

Media campaigns involve the use of local radio, newspaper, and television coverage to generate public awareness on issues, to disseminate specific information, and to influence and reflect public views. Media campaigns should consider the various forms of media available in a community, assess their coverage and credibility, and seek coverage suitable to the task at hand. Some of the more common uses of media include press releases, letters to the editor, media interviews, and public interest stories.

Photo: Jeff Miller, UW-Madison, 2007

Internet Technologies

Objectives: Awareness, Education, Input $ ⊕ ♟♟♟

A variety of internet technologies are available to enhance the ability of citizens to participate in local issues. Some of the more common techniques include virtual bulletin boards, web postings of the latest drafts of documents, an email listserv of people interested in the process, and an email address or website where citizens can send comments. If well-timed and well-designed, these techniques can help to keep the public informed about a planning project. They work best to provide resources to the public for review at their own pace and on their own time. Depending on the availability and use of computers,

Photo: Michael Forster Rothbart, UW-Madison, 2003

these techniques can reach a moderate to large number of people. However, they are unlikely to reach populations that are uncomfortable with or do not have access to computers.

Exhibits and Displays

Objectives: Awareness, Education $$ ⊕⊕ ♟♟♟
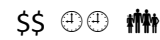
Exhibits and displays can be used to inform the public and stimulate people that might not otherwise participate. They can be set up in publically accessible spaces (i.e. shopping mall, town hall), at community events (i.e. county fair, sporting event), or within the context of other public participation events (i.e. workshop, open house).   Exhibits and displays are most effective when staffed by a knowledgeable person able to answer questions or supplemented with a hand-out containing background information and contact information. Displays can often be reused multiple times, thereby reducing costs.

Photo: Michael Forster Rothbart, UW-Madison, 2005

Field Trip

Objectives: Education, Awareness $ ⊕⊕ ♟
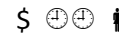
Also known as a site visit or walk-through, a field trip is an organized, instructional tour of one or more sites by local officials, staff, consultants, residents and other stakeholders. Sites may be selected to illustrate specific project conditions, design concepts, or local issues and concerns. Observational analysis may be used to record the main features of the site, both successful and unsuccessful. Visual documentation, such as photographs, annotated sketches, and plans can provide an instrument for ongoing discussion and monitoring. Field trips are an excellent tool for developing a common understanding of an issue and

Photo: Stephanie Judge, UW-Madison, 2000

initiating group discussion, particularly when followed by a meeting or workshop.

Visual Simulation

Objectives: Education, Awareness, Input $$$ ☺☺☺ 👫

Visual simulation techniques are used to present information in clear and easily understood formats such as maps, pictures and displays. The results can be simple or complex and include interactive maps and graphs, artist's drawings, photo-simulations, three-dimensional renderings, and animations such as walk-throughs, drive-throughs and fly-throughs. Visualization techniques can be used to simulate proposed changes to an existing situation or to analyze the effects of a range of future planning scenarios. Visualization techniques can take advantage of common hardware and software or utilize more advanced techniques such GIS, CAD, photogrammetry, and specialized planning applications. The use of visual simulation can serve to inform, educate and interest the public in local planning decisions. It can also stimulate discussion and help citizens make more informed decisions.

Photo: Jeff Miller, UW-Madison, 2007

Educational Programs

Objectives: Education, Awareness $$ ☺☺ 👫

Educational programs are conducted to improve public understanding of an issue, to present technical information in an easily understood format, and to improve communication between citizens and decision-makers. Education may be conducted formally through seminars, workshops or lectures, or less formally through simulation games, brown-bag lunches, publications or audiovisual materials. When held in concert with other public participation techniques, education can help citizens feel less intimidated and more likely to express their views, especially when they differ from those of professionals or other participants.

Photo: Jeff Miller, UW-Madison, 2009

Public Meeting

Objectives: Input, Interaction, Education $ ☺ 👫

The term *public meeting* is used as an umbrella descriptor for all types of meetings, including town-hall style discussions, educational forums, open houses, workshops and public hearings. Public meetings can be used to disseminate information, provide a setting for public discussion, and get feedback from the community. Meetings may differ in terms of size, composition, audience, format or purpose. In general, they should follow a set agenda and be facilitated or chaired by a designated person. Minutes should be kept to record discussion items and decisions.

Photo: Jeff Miller, UW-Madison, 2007

Take a Closer Look:
Wisconsin's Open Meeting Law

In Wisconsin, all meetings of government bodies, including the plan commission are subject to the Open Meetings Law. The law requires that meetings are open and accessible to the public and that advance notice of meetings is provided. The notice should cite the time, date, place and subject matter of the meeting in sufficient detail to apprise members of the public of the content of the meeting. The notice should be posted in at least 3 public places at least 24 hours in advance of the meeting. It must also be provided to the official newspaper and to news media that have requested it. In some cases, additional timing or publication requirements may apply. For more information on Wisconsin's Open Meetings Law, please refer to Chapter 2.

Public Hearing

Objective: Input $ ⏱ 👥

A public hearing is a specific type of meeting usually conducted in response to a statutory, ordinance or administrative requirement. The primary purpose of a public hearing is to provide the public with an opportunity to provide input on a pending application, petition or policy proposal. A public hearing is usually conducted in a much more formal manner than other public meetings. It must incorporate a public comment period during which participants may submit oral or written testimony. All proceedings become part of a public record that is available for review. To make the most out of public

Photo: Bryce Richter, UW-Madison, 2011

hearings, it can be helpful to hold a public informational session prior to the hearing, present a summary of the issue at the beginning of the hearing, allow time for questions and answers, and provide a break so that participants can absorb the information presented at the hearing and reflect on their reactions prior to providing input.

Open House
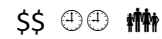
Objectives: Awareness, Education, Input $$ ⏱⏱ 👥👥

An open house provides an informal meeting setting for citizens to interact with local planning officials and learn about an issue or proposal. An open house is usually held for an extended period of time with an open invitation for citizens to drop by at their convenience. A common element of many open houses is a series of educational or informational displays. Displays should be staffed by people who are knowledgeable about the issue and able to answer questions. Citizens may be able to provide feedback directly to staff or through another mechanism such as a comment card or survey. If

Photo: Jeff Miller, UW-Madison, 2008

well-advertised and held in a central location, an open house has the potential to reach a moderate to large number of people.

| Workshop / Charrette | Objectives: Input, Interaction, Education | $$ ☺☺ 👥 |

A workshop is an interactive meeting format in which participants work in small groups to perform an assigned task. Workshops may be open to all community members or limited to invited participants from key stakeholder groups. Simple tasks may require only one workshop, while large, complex or controversial tasks may justify a series of workshops. The ultimate goal may be the development of a shared vision, analysis of alternative scenarios, generation of design concepts, or completion of other community planning tasks. Workshops often require a significant time

Photo: International Association for Public Participation (IAP2)

commitment from participants and facilitators, but usually result in tangible work products. A charrette is an intensive multi-day workshop that focuses on producing a community design solution.

Take a Closer Look:
Fostering Community Dialogue

Meetings, workshops and educational programs often incorporate a number of small and large group processes. Following are some techniques that can be used on their own or within one of these settings to foster community dialogue and deliberation.

World Café
A World Café enable groups of people to participate together in evolving rounds of dialogue with three or four others while remaining part of a single, larger, connected conversation. Small, intimate conversations link and build on each other as people move between groups, cross-pollinate ideas and discover new insights into questions or issues that really matter to them.
www.theworldcafe.com/tools.html

Open Space Technology
Open Space Technology is a self-organizing practice that invites people to describe topics they are passionate about and participate in activities or discussions based on those topics. This technique encourages participants to learn from one another, fosters leadership, and inspires creativity.
www.openspaceworld.org

Appreciative Inquiry
Appreciative Inquiry involves the art and practice of asking questions. It encourages participants to discover the best aspects of their communities, dream about what could be, and design a desired future. http://appreciativeinquiry.case.edu

Study Circle
Study Circles consist of small groups of people that agree to meet several times to explore a topic of interest, address community issues, or work together on a public problem. Study circles bring together people of differing incomes, races, ages and political viewpoints to effect social, political or policy change. www.cpn.org/tools/manuals/Community/studycircles1.html

Opinion Survey

Objective: Input

$$$ ☺☺☺ 👥

A survey is systematic tool for determining the views and opinions of community members on a particular topic. If given to a large enough sample size, the results are considered indicative of the larger community. A survey may take the form of a written questionnaire or structured interview and may be administered in person, by phone, or by electronic media. It can be used to collect both quantitative and qualitative data. In some instances, it can also be used to generate interest and involvement in a project. Costs will vary based on the media chosen and the ability of in-house staff to design, administer,

Photo: Jeff Miller, UW-Madison, 2007

tabulate and present the results. While surveys provide an objective basis for planning and future action, they may overlook important citizen concerns unknown to those designing the survey.

Focus Group

Objective: Input

$ ☺☺☺ 👤

Focus groups are conducted with small groups of participants that are selected either randomly or to represent a particular segment of a community. Participants are presented with ideas or proposals, after which they are asked for their reactions to what they have heard. Focus groups are very useful for uncovering issues and concerns, understanding the values, beliefs and attitudes that underlie positions, testing degrees of difference or consensus, and identifying the language that people use to talk about an issue. Because focus groups do not have statistical validity they are not helpful in predicting the number

Photo: Vernon Research Group

of people in the larger community that will take a particular position. Focus group selection and facilitation requires a trained facilitator.

Citizen Advisory Committee

Objective: Input, Interaction

$ ☺☺☺ 👤

A citizen advisory committee is a small group of people (usually less than twenty-five) selected to represent various interests, points of view, or expertise in a community. Advisory committees are often charged with helping to update a comprehensive plan, review significant policy proposals, or study issues in-depth. They bring time, energy, expertise and perspective that may not be available elsewhere. They can also help to provide a degree of political insulation for elected and appointed officials. Serving on a committee takes a considerable amount of time. Therefore, local

Photo: Ozaukee County Comprehensive Plan Citizen Advisory Committee

officials should be careful to make the best use of members' time and to absolve the committee once its purpose has been fulfilled. Advisory committees work best when the government is genuinely willing to partner with citizens in the planning process.

Referendum	Objectives: Input, Decision-Making	$$ ◔◕ ♟♟♟
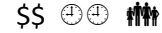
A referendum is a form of direct democracy in which citizens provide a vote for or against a particular decision. There are two types of referenda: With a binding referendum, citizens make policy decisions by a simple majority vote without the advice or consent of the local government. With an advisory referendum, citizens advise the governing body on a policy decision, but the governing body makes the final decision. A referendum works best when the government faces an "either-or" decision. Highly complex or technical issues are better served by other methods. Given the high-profile nature of a

Photo: Michael Forster Rothbart, UW-Madison, 2004

referendum, it has the potential to engage a relatively large number of participants.

References and Additional Resources

- International Association for Public Participation: www.iap2.org. Provides practitioner tools including a public participation spectrum and toolbox.
- Community Toolbox. National Park Service, Northeast Region Philadelphia Office: www.nps.gov/nero/rtcatoolbox/index_comtoolbox.htm. Provides an index of public participation tools organized by function.
- Public Involvement Techniques for Transportation Decision-Making. 1996. U.S. Department of Transportation: www.fhwa.dot.gov/reports/pittd/contents.htm. Provides an index of public participation tools organized by function.
- CommunityPlanning.Net: www.communityplanning.net/methods/methods.php. Provides a toolbox of public participation methods, helpful forms and checklists, and other resources.

Public Participation Plan
for the
Ozaukee County
Farmland Preservation Plan

In 2009, the State of Wisconsin passed the Working Lands Initiative Legislation, which completely overhauled the State's farmland preservation program.

According to Chapter 91 of WI State Statutes, one of the requirements of the legislation is that *all counties must complete a farmland preservation plan*. Ozaukee County must complete its plan by the end of 2011. The plan will help the County develop strategies for balancing growth with agricultural land preservation.

WHY SHOULD WE BE CONCERNED WITH THE PRESERVATION OF AGRICULTURE AND FARMLAND?

The Ozaukee County population continues to grow. Over the past 20 years, the County population grew by almost 19%, from 72,831 residents in 1990 to 86,395 residents in 2010. It will be important to provide *food for the growing population.*

Farming produces food. Agriculture also *contributes to the economy* of Ozaukee County. In 2002, Ozaukee County farms combined to produce agricultural products with a market value of over $38 million.

Additionally, 57% of respondents to the 2010 Countywide Public Opinion Survey indicated that *preservation of rural and small town character* should be a future priority for the County.

What is a Public Participation Plan?

The public participation plan for the Ozaukee County Farmland Preservation Plan is intended to serve two purposes. First, it will help answer the most basic planning questions, "What do the citizens, agricultural producers, and landowners of Ozaukee County want their County to look like?" An effective way to identify public values within the County is to provide opportunities for public involvement throughout any planning process.

Second, this public participation plan is intended to actively engage Ozaukee County residents, agricultural producers, landowners, business owners, and interest groups in shaping the future of farmland preservation and the agriculture industry in Ozaukee County. This is based on the premise, *"Tell me, I forget. Show me, I remember. Involve me, I understand."*

The public participation plan for the Farmland Preservation Plan must be consistent with the public participation plan developed for the Multi-Jurisdictional Comprehensive Plan for Ozaukee County: 2035. To view that public participation plan, please visit: *www.co.ozaukee.wi.us/SmartGrowth/PublicParticipation.htm*

How Can I Participate in the Planning Process?

Ongoing efforts to involve the public are proposed to take place throughout the farmland preservation planning process and include:

- Planning materials at the County Planning & Parks Department, located in the Ozaukee County Administration Center, 121 W. Main Street, Port Washington
- Press releases
- Presentations to special interest and community groups
- Meetings with local governments including plan commissions, town boards, common councils etc.
- Display booths at public events including Breakfast on the Farm and the Ozaukee County Fair
- Notice to non-metallic mining operators during the amendment to the Multi-Jurisdictional Comprehensive Plan for Ozaukee County: 2035
- Meetings of the Ozaukee County Land Preservation Board (LPB)
- Meetings of the Ozaukee County Comprehensive Planning Board (CPB)
- Meetings of the Ozaukee County Farmland Preservation Plan Citizen Advisory Committee (FPP CAC)
- Multiple public forums and informational meetings on the planning process, plan inventory, and plan recommendations
- Ongoing collection of public comments through phone calls, email, or mail
- The Ozaukee County Planning & Parks Department website

For additional information on the Ozaukee County Farmland Preservation Plan, please visit our website:
www.co.ozaukee.wi.us/PlanningParks/PlanningParks_Planning.asp

Ozaukee County Farmland Preservation Plan
Public Participation Plan

Public Involvement Opportunities

Working Lands Initiative Information Meetings: March and April 2010

Three Working Lands Initiative Information Meetings will be held in March and April 2010. The first meeting, to be held jointly with Washington County on March 25, 2010 at Riveredge Nature Center, will be targeted toward local government elected officials and staff of Ozaukee and Washington Counties. The second meeting, to be held on April 1, 2010 at the Sauk-ville Town Hall, will be targeted toward Ozaukee County agricultural producers and landowners. The last meeting, a First Friday Forum to be held on April 2, 2010 at the Ozaukee County Administration Center in Port Washington, will be geared toward the general public. Attendees will have the opportunity to learn about the State's new Working Lands Initiative legis-lation, Ozaukee County's timeline for completing its Farmland Preservation Plan, and an example of a successful land preser-vation effort from Dakota County, Minnesota. Each of these meetings will feature presentations by staff from the Ozaukee County Planning & Parks Department and UW-Extension. Representatives from the Wisconsin Department of Agriculture, Trade & Consumer Protection (DATCP) and a speaker from Dakota County will also present at select meetings.

Kickoff Meetings: September 2010

Two Ozaukee County Farmland Preservation Plan Kickoff Meetings will be held on September 27 and 29, 2010. The meetings will be held at two different locations in the County, the first at the Fredonia Village/Town Hall, and the second at the Ozau-kee County Administration Center in Port Washington. Attendees of the kick-off meetings will learn more about the State's Working Lands Initiative, including planning, tax credits, PACE, and AEAs, and the Ozaukee County Farmland Preservation Plan timeline, process, and public participation opportunities. Staff from the Ozaukee County Planning & Parks Department, UW-Extension, the Southeastern Wisconsin Regional Planning Commission, and the Department of Agriculture, Trade & Con-sumer Protection (DATCP) will give presentations and be on hand to answer questions.

Countywide Public Opinion Survey: September 2010

A Countywide public opinion survey on farmland preservation and natural resources issues will be prepared in summer 2010. The mail-out survey will be administered to a statistically significant sample of the Ozaukee County population in September 2010. The full survey report, to be prepared by UW-River Falls Survey Research Center, will be available in December 2010. The survey is funded in part by Department of Agriculture, Trade & Consumer Protection (DATCP) Farmland Preservation Planning Grant.

Farmland Preservation Plan Citizen Advisory Committee: January-December 2011, monthly

The Ozaukee County Farmland Preservation Plan Citizen Advisory Committee (FPP CAC) will be comprised of 16 local govern-ment representatives (one from each municipality in the County) and 16 at-large citizen appointments. The FPP CAC is tasked with reviewing Plan chapters, including developing inventory recommendations and strategies for preserving farmland and agriculture in Ozaukee County. Members of the public are invited to attend meetings of the FPP CAC. The FPP CAC typically meets the fourth Tuesday of the month from 4:30-6:30 PM in the Ozaukee County Administration Center Auditorium in Port Washington. Please check the County website at *www.co.ozaukee.wi.us/Agenda/* for the most FPP CAC current meeting date, time, location and agenda.

Strengths, Weaknesses, Opportunities, and Threats (SWOT) Analyses: March and April 2011

The Farmland Preservation Plan Citizen Advisory Committee (FPP CAC), Land Preser-vation Board (LPB), and Comprehensive Planning Board (CPB), will all have the opportunity to participate in a strengths, weaknesses, opportunities, and threats (SWOT) analysis relating the farmland preservation and agriculture in Ozaukee County to be held on March 29, April 14, and April 20, 2011 respectively. The results of all three SWOT analyses will be taken into account during the FPP CAC efforts to develop the Farmland Preservation Plan vision statement and recommendations and the LPB and CPB efforts to refine those recommendations.

Ozaukee County Farmland Preservation Plan
Public Participation Plan

Public Involvement Opportunities Continued...

Agricultural Stakeholder Focus Groups: April 2011

In April 2011, the Ozaukee County Planning & Parks Department and UW-Extension will be hosting focus groups for anyone engaged in farming and agriculture in Ozaukee County. These focus groups will be targeted both toward traditional production agriculture and niche farming. This will be one of the primary opportunities for the County's agricultural community to share their thoughts on farmland preservation efforts and the future of agriculture in Ozaukee County. The first focus group will be held at the Hawthorne Hills Golf Course Club House in Saukville on April 19, 2011 and the second focus group will be held at the Ozaukee County Administration Center Auditorium in Port Washington on April 20, 2011.

Town of Dunn Tour: May 2011

On May 13, 2011, the Land Conservation Partnership for Ozaukee County (LCP OZ) and the Gathering Waters Conservancy will sponsor a tour of the Town of Dunn, located in Dane County. The Town has a successful purchase of development rights (PDR) program that has preserved vast tracts of quality agricultural land close to the City of Madison. LCPOZ, FPP CAC, LPB, CPB, and other County Board members will be invited to attend the tour to learn more about the Town of Dunn's land preservation efforts.

Countywide Public Information Meetings: August/September and October/November 2011

The County will hold public information meetings in August/September to share the Farmland Preservation Plan inventory and the results of the Countywide public opinion survey. The County will then hold public information meeting in October/November to share the recommendations of the Ozaukee County Farmland Preservation Plan. Times, dates, and locations to be determined. The public will have the opportunity to both learn about and comment on the Plan at these meetings.

First Friday Forum: Fall 2011

In fall 2011, the Ozaukee County Farmland Preservation Plan will be the primary topic of discussion at a First Friday Forum. The First Friday Forum series, which is typically hosted at the Milwaukee Area Technical College (MATC)-Mequon Campus, features timely presentations and discussions on current public policy issues. This Forum will be an opportunity for members of the public to learn more about the inventory, projections, and recommendations of the Ozaukee County Farmland Preservation Plan and their impacts on the future of farming and agriculture in Ozaukee County.

County Plan Public Hearing: Winter 2011

The County will host a public hearing on the Ozaukee County Farmland Preservation Plan prior to County Board adoption of the Plan and the FPP as an amendment to the Multi-Jurisdictional Comprehensive Plan for Ozaukee County: 2035. The public will have the opportunity to comment on the Farmland Preservation Plan during this public hearing. Time, date, and location to be determined.

Public Comments: Ongoing

Public comments regarding the Ozaukee County Farmland Preservation Plan will be accepted throughout the entire process by:

1.) Calling Nicole Sidoff at 262.284.8289
2.) Emailing comments to nsidoff@co.ozaukee.wi.us
3.) Mailing written comments to:
   Nicole Sidoff
   UW-Extension
   PO Box 994
   Port Washington, WI 53074
4.) Visiting the Ozaukee County Farmland Preservation Plan website at:
   www.co.ozaukee.wi.us/PlanningParks/PlanningParks_Planning.asp

Overview of Public Involvement Opportunities			
Year	Month	Public Involvement Opportunity	Target Audience
2010	March/April	Working Lands Initiative Meetings	Elected officials, farmers, general public
2010	September	Kickoff Meetings	Farmers, general public
2010	September	Countywide Public Opinion Survey	General public
2011	March/April	SWOT Analyses	FPP CAC, LPB, CPB, general public
2011	April	Agriculture Focus Groups	Agricultural producers
2011	May	Town of Dunn Tour	LCPOZ, FPP CAC, CPB, & LPB members
2011	Aug./Nov.	Public Information Meetings	General public
2011	Fall	First Friday Forum	General public, elected officials
2011/2012	Winter	Public Hearing	General public
Ongoing	Ongoing	Public Comment	General public
2011	Monthly	FPP Citizen Advisory Committee (FPP CAC)	FPP CAC members, general public
Ongoing	Bi-Monthly	Comprehensive Planning Board (CPB) & Land Preservation Board (LPB) meetings	CPB & LPB members, general public

The general public is encouraged to participate in all public involvement opportunities and to attend all meetings related to preparation of the Ozaukee County Farmland Preservation Plan.

Prepared By:

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Available: www.co.ozaukee.wi.us/planningparks/FPP_Files/FPP%20PPP%20APPROVED%20072811.pdf

PUBLIC PARTICIPATION WORKSHEETS

The worksheets at the end of this chapter can be used by communities looking to develop, implement or evaluate a public participation program. Each worksheet can also be downloaded in Microsoft Word format from the Center for Land Use Education website:
www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

Worksheet 1: Stakeholder Identification
Use this worksheet and the accompanying exercise to identify stakeholders to include in the planning process.

Worksheet 2: Stakeholder Analysis
Use this worksheet and the accompanying exercise to analyze important stakeholder characteristics such as power, influence and support.

Worksheet 3: Public Participation Strategy
Use this worksheet to develop a strategy for public participation, including methods, timing and audience.

Worksheet 4: Barriers to Participation
Use this worksheet to refine the public participation strategy by identifying barriers to participation and potential solutions.

Worksheet 5: Communication Strategy
Use this worksheet to develop a communication strategy for public participation, including key information to relay to the public and preferred techniques.

Worksheet 6: Event Logistics
Use this worksheet to plan for individual public participation events, including facility, room setup and equipment needs.

Worksheet 7: Event Debrief
Use this worksheet to evaluate the strengths and weaknesses of individual public participation events and transfer lessons to future activities.

Worksheet 8: Documentation and Evaluation
Use this worksheet to document resources invested in public participation and evaluate the program's overall success.

Worksheet 1: Stakeholder Identification

Use this worksheet and the accompanying exercise to identify stakeholders to include in the planning process.

Instructions:　1) Identify the broad topic or specific issues to be addressed by planning.
　　　　　　　　2) Identify types of stakeholders potentially interested in or affected by the issue.
　　　　　　　　3) Identify specific individuals or groups that should be involved.

Identify Potential Stakeholders	Identify Potential Issues				
	Example Transportation	Economic Development	Housing	Agriculture	Natural Resources
Example Local Government - Elected officials - Local departments - Regional government - State government - Federal government - Quasi-public agencies	Public works Highway dept Planning dept RPC / Metro planning org DOT	Community development Econ dev corporation Chamber of commerce WEDC	Housing authority WHEDA HUD	Land and water conservation Extension DATCP	Parks and recreation Land and water conservation DNR
Community Members - Age - Gender - Race/ethnicity - Income/employment - Housing status - Familial status - Geographic location - Political view - Opinion leaders					
Organizations - Civic - Cultural - Religious - Business - Geographic - Special Interest					
Private Sector - Health - Education - Business - Retail/services - Manufacturing - Construction - Agriculture - Forestry - Other					

Exercise 1: Stakeholder Relationship Mapping

Use the following space or a large sheet of paper to identify stakeholders and their relationships to local planning issues and/or each other. If desired, make notes directly on the paper or use different symbols or lines to identify important relationships (i.e. common interests, influence, etc.). This type of exercise is useful for identifying stakeholders, brainstorming potential issues, and uncovering hidden relationships.
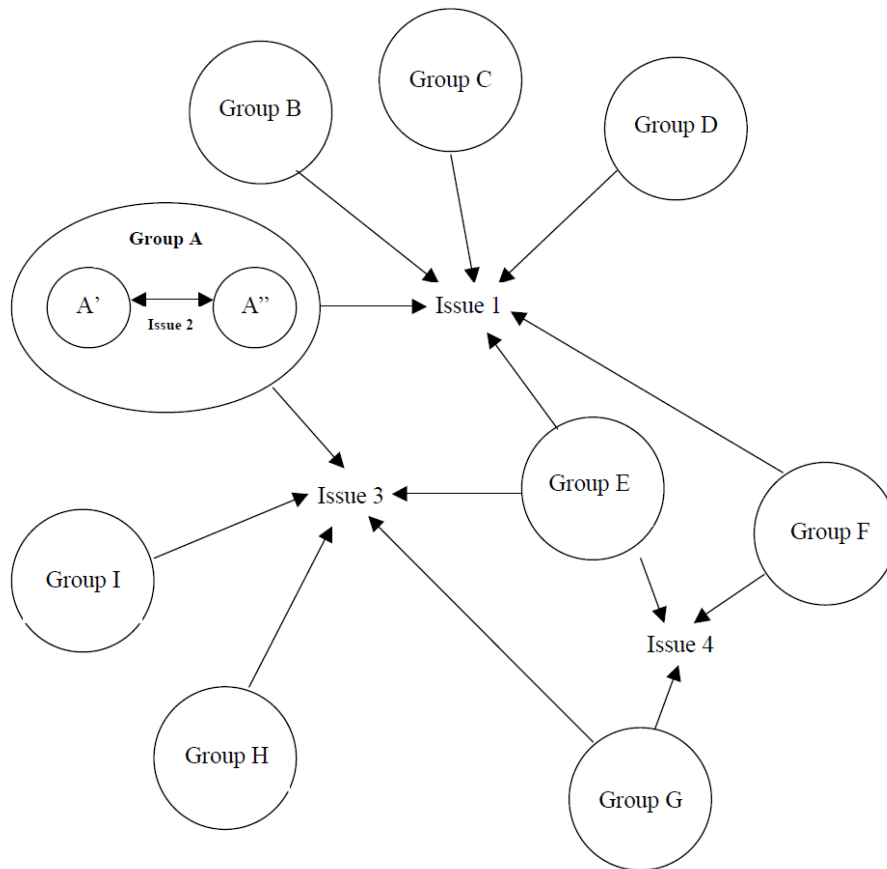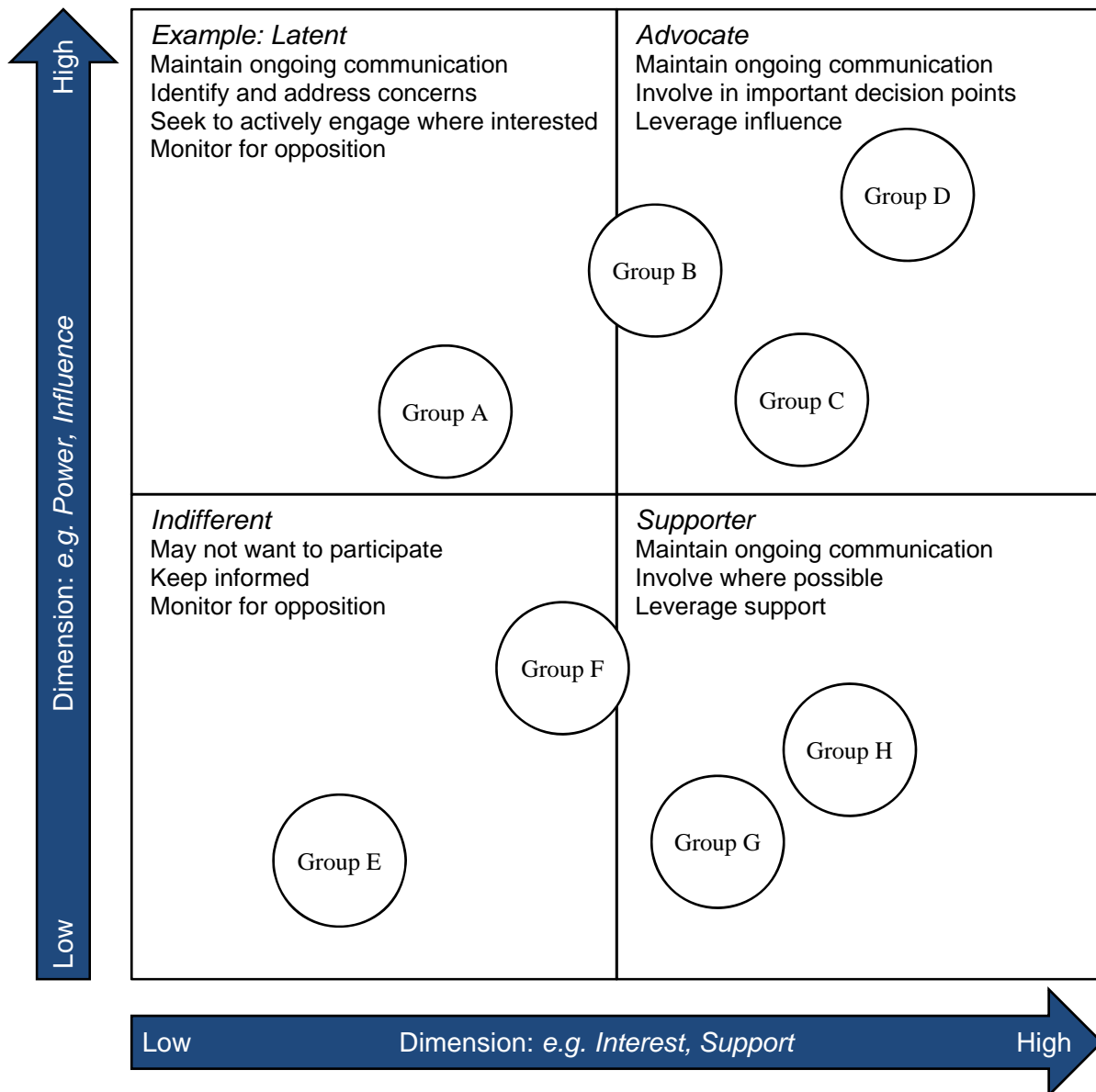

Examples:
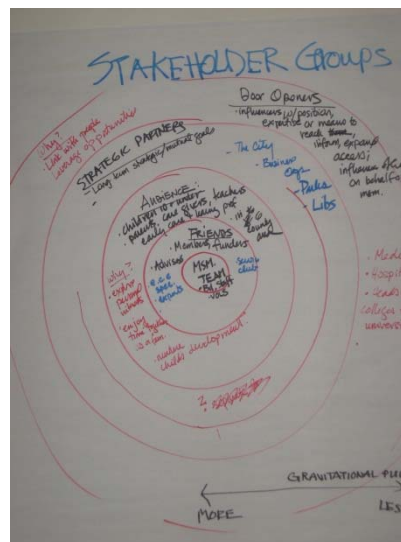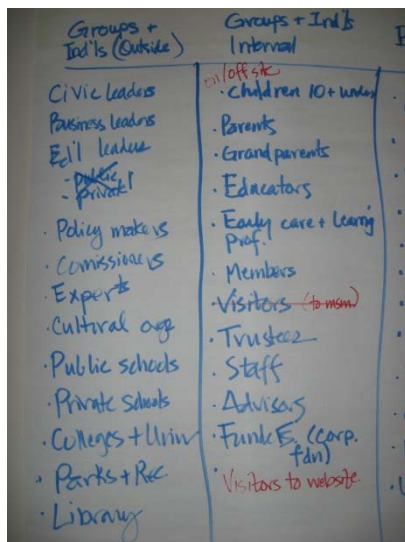
Graphic from Bryson, 2004 and Bryant, 2003. Photos 1 and 2 from Stakeholder Analysis, Museum Notes Blog, February 7, 2011. Photo 3 from Stakeholder Interests, Sustainable Sanitation and Water Management, 2010.

Worksheet 2: Stakeholder Analysis
Use this worksheet and the accompanying exercise to analyze important stakeholder characteristics and begin to identify a strategy for involvement.

Instructions: 1) Make a list of potential stakeholders (see Worksheet 1).
2) Note how each stakeholder is interested in, able to influence, and likely to participate in the process. Describe additional characteristics as needed.

List Potential Stakeholders	Goals, motivations and interests	Power and influence	Knowledge, resources and support
Example Citizens for a greener tomorrow	Interested in preserving urban biodiversity by establishing a network of trails and open space.	No official power but able to influence and inform a large number of members.	Knowledgeable and supportive of previous planning efforts. Able to provide volunteers.

Exercise 2: Stakeholder Analysis Matrix

Use the following space or a large sheet of paper to identify and classify stakeholders according to selected dimensions. Represent one stakeholder dimension along each axis. If desired, use different symbols, colors, sizes or lines to represent a third dimension (i.e. size of symbol = degree of influence). Begin to make note of potential strategies to involve each group. This type of exercise is useful for analyzing how stakeholders relate to an issue or process, and identifying methods to engage stakeholders.

Dimension: *e.g. Power, Influence* (vertical axis, Low to High)

Example: Latent
Maintain ongoing communication
Identify and address concerns
Seek to actively engage where interested
Monitor for opposition

Advocate
Maintain ongoing communication
Involve in important decision points
Leverage influence

Group D

Group B

Group A

Group C

Indifferent
May not want to participate
Keep informed
Monitor for opposition

Supporter
Maintain ongoing communication
Involve where possible
Leverage support

Group F

Group H

Group E

Group G

Dimension: *e.g. Interest, Support* (horizontal axis, Low to High)

Stakeholder Dimensions:

Power: the power a stakeholder has over the decision
Influence: the ability of a stakeholder to influence other stakeholders
Impact: the degree to which the decision will impact each stakeholder
Interest: the perceived level of interest that each stakeholder has in the decision
Support: the degree to which a stakeholder supports or opposes the project
Resources: the level of resources a stakeholder is able to bring to the process
Knowledge: the level of knowledge a stakeholder has about the project

Adapted from *Tools for Institutional, Political and Social Analysis of Policy Reform: Annex*. 2007. The World Bank.

Worksheet 3: Public Participation Strategy

Use this worksheet to develop a strategy for public participation, including methods, timing and audience.

Instructions:
1) Identify tasks to complete during each major step of the planning process.
2) Identify objectives for public participation at various points in the process.
3) Identify tools and stakeholders appropriate for each task.

Identify Planning Tasks	Identify Participation Strategy				
Example	Awareness	Education	Input	Interaction	Decision
Data Collection and Analysis	✓	✓	✓		
1. Identify data and information needs			Plan commission		
2. Gather spatial and technical data					
3. Verify data for accuracy			Data review committee of citizen/experts		
4. Analyze data for patterns and trends					
5. Disseminate information	Press release targeting general public	Kickoff mtg. targeting general public			
Issue Identification					
1.					
2.					
3.					
Goal and Objective Formulation					
1.					
2.					
3.					
Strategy Formulation					
1.					
2.					
3.					
Plan Review and Approval					
1.					
2.					
3.					

Adapted from *Crafting an Effective Plan for Public Participation*, Miskowiak, 2004. Center for Land Use Education.

Worksheet 4: Barriers to Participation
Use this worksheet to refine the public participation strategy by identifying barriers to participation and potential solutions.

Instructions: 1) Identify barriers to participation based on knowledge of stakeholders (Worksheets 1 and 2) and previous participation experience (Worksheet 7).
2) Identify potential solutions, noting audience, timing and methods as appropriate.

Barriers	Solution
Example Geography - woodland and lakefront property owners live outside of region	• Send survey and mailings to permanent residence • Hold weekend meetings during prime visitor season • Provide webinars to capture those unable to travel • Post all relevant project information on website
Transportation	
Language or reading skills	
Cultural or ethnic sensitivities	
Political sensitivities	
Family/work obligations	
Level of interest	

Worksheet 5: Communication Strategy
Use this worksheet to develop a communication strategy for public participation, including key information to relay to the public and preferred techniques.

Event: _____

Participation objective: _____

Target audience: _____

Date: _____ Time: _____

Key Information	Responsible party	Target completion
Identify the key information you will relay to the public.		

Technical Information	Responsible party	Target completion
Identify technical and background information needed to ensure meaningful participation.		

Communication Techniques	Responsible party	Target completion
Identify techniques to communicate with the public.		

❑ Public notice (posting, newspaper, etc.)

❑ Mass media (press release, letter to the editor, interview, etc.)

❑ Internet (email, calendar of events, Facebook, etc.)

❑ Print (postcard, factsheet, handout, etc.)

❑ Display (poster, map, photos, scale model, etc.)

❑ Audiovisual (PowerPoint presentation, video, etc.)

❑ Other:

Worksheet 6: Event Logistics

Use this worksheet to plan for individual public participation events, including facility, room setup and equipment needs.

Event: _____

Participation objective: _____

Target audience: _____

Date: _____ Time: _____

Facility	Responsible party	Target completion

Name: _____

Location: _____

Contact person: _____

Phone: _____ Email: _____

Rental fee: _____ Capacity: _____

Features: ❑ Adequate parking ❑ Restrooms ❑ Handicap accessible ❑ Other: _____

Equipment	Responsible party	Target completion

❑ Directional signage

❑ Name tags

❑ Sign-in sheet

❑ Presentation materials (maps, posters, PowerPoint presentation, etc.)

❑ Facilitation materials (flipchart, markers, paper, pens, post-it notes, sticky dots, etc.)

❑ A/V equipment (laptop, projector, screen, cart, extension cord, microphone, speakers, etc.)

❑ Refreshments (food, beverages, serving ware, tablecloth, waste/recycling, etc.)

❑ Handouts

❑ Evaluation forms

Room Setup	Responsible party	Target completion

❑ Tables: (registration, refreshments, handouts, displays, etc.)

❑ Chairs:

❑ Other:

❑ Room arrangement:

The physical arrangement of a room sets the tone for public participation. Use the following diagrams to select an arrangement that is appropriate for the intended event. Consider the number of participants, level of interaction and meeting goals.

Circle

A plain circle of chairs is useful when the full involvement of each individual is required. This arrangement encourages discussion and interaction among peers and downplays the role of the leader. Use of audiovisuals or a flip chart may be difficult. If needed, tables can be used to remove the sense of vulnerability some participants may experience. Ideal for up to 20 participants.

Conference Table

Ideal for small groups where close interaction and a lot of discussion are expected. Sharing a single table creates unity but may also suggest formality or hierarchy. Most effective with groups of 6-15 where participants can see and hear each other easily. If the group gets too large, people at the far end of the table may feel left out and form a separate group. Participants may need to move their chairs to properly view a presentation.
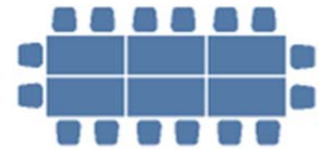
U-Shape

Popular set-up for groups where close interaction or collaboration is necessary. Gives participants a sense that they are equal in status. Group size should be limited to about 20 people so that participants can easily see and hear each other. Front area can be used for audiovisuals and center area for simulations or role plays. A table could be added to the front of this arrangement to create additional seating, but may limit functionality.
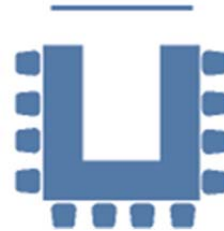
Classroom

A classroom-style setup provides a work surface for note taking and reference materials. It is ideal for one-way communication such as audiovisual presentations and lecture style programs. Though not ideal, participants can also break out into small groups at their tables or turn to the table behind them. Visibility and group interaction can be enhanced by arranging furniture in a semi-circle. Sound amplification may be needed in larger rooms.

Banquet

Ideal for small group discussion and project work within a larger group setting. Participants are seated at round or small rectangular tables. To maximize visibility, tables can be arranged in a semi-circle and seating limited to one side of the table. Small groups can easily return to the large group to focus on a speaker or audiovisual presentation. Sound amplification may be needed in larger rooms. A meal can be easily incorporated into this setup.

Theater

Ideal for one-way communication to large groups. Examples include audiovisual presentations and lecture style programs. Visibility can be enhanced by providing tiered seating or by placing chairs in a semi-circle. Note taking is cumbersome without tables. Sound amplification may be needed in larger rooms. Microphones placed throughout the room can be less intimidating than requiring speakers to come to the front of the room to provide input.

Graphics from MICE International, Conference Meeting Room Configurations. www.mice-group.com/venues.htm

Worksheet 7: Event Debrief
Use this worksheet to evaluate the strengths and weaknesses of individual public participation events and transfer lessons to future activities.

Event: _____

Participation objective: _____

Target audience: _____

Date: _____ Time: _____

Strengths

What worked well? (timing, location, venue, activities, etc.)
- For specific audiences
- To achieve specific objectives

Weaknesses

What could have been improved?
- Barriers to participation
- Unanticipated events

Lessons Learned

What key learning experiences should be transferred to future events?

Worksheet 8: Documentation and Evaluation
Use this worksheet to document resources invested in the public participation program and evaluate its overall success.

Inputs: Document and evaluate resources invested in public participation		
Resources *Example* • Time • Money • Equipment • Technology • Staff • Volunteers • Partners	**Evaluation Questions** • Were sufficient resources allocated to the public participation program? What else was needed? • Did the results justify the costs?	**Evaluation Results**

Outputs: Document and evaluate public participation activities and involvement		
Activities • Notices • Educational materials • Meetings • Small group activities	**Evaluation Questions** • Were there a range of opportunities to participate, both in-person and remotely? • Were the locations convenient and accessible? • Was the information distributed clear and easy to understand? Was it timely?	**Evaluation Results**
Involvement • Number of participants • Diversity of participants • Attainment of objectives • Quality of input • Public satisfaction		

Outcomes: Document and evaluate short, medium and long-term results of public participation		
Short-term results • Increase knowledge • Obtain feedback • Resolve conflicts • Gain consensus • Influence decision-making	Evaluation Questions	Evaluation Results
Medium-term results • Adopt plan • Create policies, programs • Change behavior		
Long-term impacts • Change social conditions • Change economic conditions • Change environmental conditions		

Chapter 5
Plan Implementation

TYPES OF PLAN IMPLEMENTATION TOOLS

A wide variety of tools including plans, programs, policies, guidelines, actions, budgets, and regulations are available to implement community plans. This chapter identifies six broad categories of tools including:

1. **Information** – tools for gathering or disseminating information.
2. **Cooperation** – tools that encourage intergovernmental cooperation or communication.
3. **Investment** – tools for investing or recovering public dollars.
4. **Incentive** – tools that encourage a desired behavior.
5. **Regulation** – tools that prescribe a required outcome.
6. **Design** – tools that encourage a particular pattern of development or design.

A description of each category and sample tools are provided below. The glossary at the end of this chapter provides additional resources on these and other tools.

◗ Informational Tools

Informational tools are used to gather or disseminate information. Tools designed to gather information include special purpose plans, studies and impact analyses. Tools designed to disseminate information include factsheets, brochures and educational campaigns. Just as public participation tends to result in plans that are more reflective of citizen desires, education can increase the rate of acceptance, participation and overall success of other plan implementation tools.

◗ Intergovernmental Tools

Intergovernmental tools are designed to foster cooperation and communication among two or more units of government. Intergovernmental efforts involve the coordination of plans, policies and programs to address issues of mutual interest. Communities may also agree to enter into formal intergovernmental agreements. For example, communities may agree to consolidate services, share buildings or equipment, hire joint staff, share revenues, or address long-standing boundary issues.

◗ Public Investment Tools

Public investment tools are tools designed to invest or recover community dollars. The most common form of public investment is the construction of public facilities such as roads, trails, parks, government buildings, and public utilities. Many communities use capital improvement plans to identify and prioritize capital spending. Public investment tools designed to recover public dollars include impact fees, special assessment districts, and tax increment financing districts. Community decisions about public investment significantly impact the location, timing and rate of private development.

◗ Incentive-Based Tools

Incentive-based tools rely on the use of rewards or disincentives to encourage a particular type of behavior. While some tools use financial incentives to encourage a desired behavior, others rely on the intrinsic motivation of residents to take actions that benefit the community. Incentive-based tools are becoming popular for encouraging landowners and developers to conserve open space, develop away from sensitive areas, develop at higher densities, or provide other public benefits. Examples include conservation easements, purchase or transfer of development rights, density bonuses, tax incentives, and inclusionary housing.

◗ Regulatory Tools

Regulation is the most common form of plan implementation used by local government. Regulatory tools provide clear provisions about what can and cannot be done in a community. At the same time, they often lack

flexibility in dealing with unique development situations. The two most common regulatory tools in Wisconsin are zoning and subdivision regulations. Other tools include conservation subdivision regulations, planned unit developments, urban growth boundaries, and adequate public facilities ordinances.

▶ Design-Based Tools

Design tools are used to encourage a particular pattern of development or design. While some design guidelines and policies can stand on their own, others need to be implemented through targeted public investment, regulations or incentives. Examples of design-based tools include low-impact development, transit-oriented development, conservation subdivision design, and transportation demand management.

Range of Plan Implementation Efforts

Plan implementation recommendations for two communities are shown below. The Town of Waubeek, located in rural Pepin County, chose to focus on just three plan implementation recommendations using a single tool, zoning. These recommendations reflect the limited resources and rural nature of the town. Standing in sharp contrast, the Town of Plymouth in Sheboygan County included well over 100 plan implementation recommendations in its plan. The town is located in close proximity to three major metropolitan areas and surrounds the City of Plymouth. Clearly, the issues and resources present in each town are different. These differences are reflected in the scope of their recommendations.

Recommendations for Plan Implementation

Immediate Recommendations

Following is a prioritized list of items recommended by the Town of Waubeek Plan Commission for immediate implementation.

1. Update the existing official zoning map adopted in 1978 to a digital format. Research all zoning land use changes that have been adopted by the Town Board and include them in the updated zoning map.
2. Establish a system to track and include future land use zoning changes approved by the Town Board into the official zoning map.
3. Review and update the current Town of Waubeek Zoning Ordinance to remove ambiguous language, unused land types and conflicting land use classifications.

Future Recommendations

As the Town of Waubeek continues to develop and land use concerns change, the following items could be added to the Comprehensive Plan and Zoning Ordinance:

- Additional subdivision requirements
- Purchase or Transfer of development rights
- Conservation subdivisions
- Cluster developments
- Planned urban developments
- Municipal sewer and water service
- Tax increment financing

Town of Waubeek Comprehensive Plan, 2009, Pepin County. http://co.pepin.wi.us/communities/waubeek

Recommendations for Plan Implementation

The six categories of plan implementation tools are illustrated below. The party responsible for implementation and an expected timeline are provided along with each recommendation.

Activity	Lead Entity	Cooperators	Timeline
INFORMATION			
Develop a brochure or pamphlet to distribute to new residents considering building or moving into the Town of Plymouth. The brochure will describe farming conditions, the towns' support of the agricultural atmosphere, and expectations of residents who build or move into the town.	Town Board	Plan Comm. Town Clerk	Mid-Term
COOPERATION			
Establish a formal policy to use the 20-Year Potential Land Use Maps contained in the City of Plymouth and Town of Plymouth comprehensive plans to provide official guidance for growth patterns in the transition area between the municipalities. These maps will be used in lieu of a formal boundary agreement.	Town Board	Plan Comm. C. Plymouth	Immediate
INVESTMENT			
Continue to utilize the WISLR pavement management system to monitor the physical condition of roadways. Tie this data into a long-term maintenance schedule, using a capital improvement program and outside funds to address ongoing needs.	Town Board	WisDOT Town Clerk	Ongoing
INCENTIVE			
Help landowners become aware of potential tax deduction options offered by local land trusts and conservation organizations for land preservation.	Town Clerk	Town Board Plan Comm. Land Trusts	Ongoing
REGULATION			
Consider maximum driveway lengths or maximum front yard setbacks for new residential and commercial development in rural areas in order to limit land fragmentation.	Plan Comm.	Town Board Cnty Planning	Ongoing
DESIGN			
Continue to work with developers to approve hours of operation, signage, lighting, parking, and landscaping requirements to meet the town's desire for well planned growth and rural character preservation.	Town Board	Plan Comm. Town Clerk Developers	Ongoing

Adapted from Town of Plymouth Comprehensive Plan, 2009, Sheboygan County.
www.co.sheboygan.wi.us/html/d_planning_comp_T-Lima_Ply_Sheb_ShebFallsplangrp.htm

SELECTING TOOLS BASED ON AVAILABLE RESOURCES

Communities vary considerably in the ways that they implement their plans. The recommendations of a small town, village or county might look very different from those of a city, village or urbanizing town or county. Just as planning efforts should be scaled to the community, plan implementation efforts should reflect the overall vision for the community, available resources, and political will to implement the plan.

The glossary at the end of this chapter can be used by communities looking to identify potential plan implementation tools. Questions are also provided below to help you assess your community's ability to implement each tool. After working through these questions, you should have a better idea of the human and financial costs associated with each tool, concerns regarding social or political support, and tradeoffs involved in selecting one tool over another.

1. **Resources** – Will the implementation strategy demand additional staff or funds? If so, what is the likelihood that staff or funds will be provided now and in the long-term?

2. **Public Support** – How is the implementation strategy perceived by the public? Was the public involved in selecting the strategy? Will they support the strategy through implementation?

3. **Political Support** – Who will be responsible for implementing the selected strategy? Were they involved in developing the strategy? Will they champion the selected strategy on to implementation?

4. **Equity** – How does the selected strategy affect various segments of the community (i.e. the general public, developers, interest groups, etc.)? Do the public benefits of implementing the strategy outweigh individual costs? Can the strategy be implemented in a way that it is fair and equitable to most people involved?

5. **Administration** – How difficult is it to manage, monitor and enforce the tool? What is a realistic timeframe for implementation given existing budget and staff constraints? How will the tool work with other existing or proposed tools?

As communities grow and change, they will have to look to a variety of tools, old and new, to attain their respective community visions. Tool selection should be based on the goals and objectives outlined in the plan and an assessment of the community's available resources.

Implementation Tool Factsheets

The Center for Land Use Education has developed a series of plan implementation factsheets which are available online: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/Plan-Implementation.aspx.

Each factsheet contains a brief description of the tool, instructions for adopting and administering the tool, and examples of Wisconsin communities that are using the tool. A report card also ranks the tool based on the assessment questions described on this page. While these factsheets can provide valuable insights on the strengths and weaknesses of each tool, the rankings should be considered in light of local resources and political realities. A sample report card for impact fees is shown on the next page.

Report Card: Impact Fees

Cost	Money or staff resources required to implement tool.
A	Staff and monetary resources are needed upfront to create an impact fee program. A consultant may be required to assist with creating the public facilities needs assessment, capital improvement plan, or fee schedule. Assessment of fees can be tied to an existing permitting process, thereby reducing staff time and costs. Impact fees pay for capital costs of public facilities but do not cover operation or maintenance costs.
Public Acceptance	The public's positive or negative perception of the tool.
B	Existing residents are generally supportive of impact fees because they limit tax increases due to new development. Developers, new homebuyers and businesses are generally less supportive because they must pay the impact fee. Those that feel the impact fees are too high could locate elsewhere.
Political Acceptance	Politician's willingness to implement tool.
B	Politicians that are faced with increasing development costs and limited revenues are generally willing to examine the use of impact fees. Approximately one hundred Wisconsin municipalities administer impact fee programs, showing they are well-accepted.
Equity	Fairness to stakeholders regarding who incurs costs and consequences.
A	Impact fees benefit local communities by providing income without raising local taxes. While they do not alter the total cost of providing services or infrastructure, they shift capital expenses from taxpayers-at-large to the developers and new homebuyers generating the costs. Depending on market conditions, studies show that impact fees can increase the cost of new housing or restrict housing supplies. However, state statutes allow communities to reduce or eliminate fees for low-cost housing. To be considered equitable, impact fees must be closely tied to development costs.
Administration	Level of complexity to manage, maintain, enforce, and monitor the tool.
A	The difficulty of administering an impact fee ordinance varies with the pace of new development, the clarity of local ordinances, and the reasonableness of local fees. Fees are generally considered reasonable if they are based on a needs assessment, bear a rational relationship to a need resulting from the development, and recover a proportional share of the capital costs of new facilities.
Scale	The geographic scale at which tool is best implemented.
Municipal	Only cities, villages and towns may use impact fees in Wisconsin. (2005 Wisconsin Act 477 prohibited county use of impact fees).

Graphic from *Planning Implementation Tools: Impact Fees*. Rebecca Roberts. 2008. Center for Land Use Education.
www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/Plan-Implementation.aspx

DEVELOPING AN IMPLEMENTATION STRATEGY

Given the number of issues typically addressed in community plans, implementing a newly adopted plan can seem overwhelming. A well-written plan implementation strategy can help to ease these concerns. The strategy should identify plan implementation recommendations in order of priority, a realistic timeframe for completion, parties responsible for implementation, and potential funding sources.

▶ Timeline and Priorities

A sample plan implementation legend is shown at right. This example establishes priorities on the basis of short, medium, long-term and ongoing activities. Short-term priorities are defined as items that are either time-sensitive to address or relatively easy to implement and can be handled within one to three years. Medium-term priorities are not as time sensitive or may be more difficult to implement due to funding constraints or complexity. Long-term priorities are preceded by higher priorities and may be addressed as human, political or financial resources become available. Ongoing activities are continuing in nature or do not lend themselves well to target completion dates.

▶ Responsible Party

Parties responsible for implementation are also shown in this example. A local government does not need to rely solely on its own resources to implement a plan. In addition to local departments, boards and commissions, the plan commission should consider how to involve and leverage the resources of the broader community. For example, conservation organizations, lake districts, business associations, and other similar groups are often well-equipped and may be eager to assist with plan implementation. In most cases, responsibility for plan implementation should be divided among a number of entities.

Plan Implementation Legend

Timeline/Priority
O - Ongoing **1** - Short Term (0 to 3 years) **2** - Medium Term (4 to 6 years) **3** - Longer Term (7 to 10 years)

Responsible Party
LG - Local Governing Body **PC -** Plan Commission **P&Z -** Planning and Zoning **DEV -** Community Development **PARK -** Parks and Recreation **LCD -** Land Conservation **HWY -** Highway Department **HHS -** Health and Human Services **DPW -** Public Works **EMS -** Emergency Services **FIN -** Finance Department/Committee **LEG -** Legal Counsel **UWEX -** University Extension **LAKE -** Lake Management District

▶ Funding

An important, yet often overlooked part of preparing an implementation strategy is considering how the community will finance the recommendations included in its plan. Funding recommendations for an outdoor recreation plan are illustrated on the next page. Cost estimates are provided for each recommendation along with potential funding sources.

A variety of funding mechanisms are available to implement community plans, including taxes, fees, loans, grants and other programs. A good place to look for grants is the Wisconsin Catalog of Community Assistance. This online database provides a comprehensive description of all State of Wisconsin grant and loan programs: www.doa.state.wi.us/dir/wcca.asp.

Funding for Plan Implementation

The Village of Menomonee Falls Outdoor Recreation Plan provides cost estimates and potential funding sources for each plan implementation recommendation.

Action	Priority	Target Date	Cost	Funding Sources
Remove invasive species and stabilize shoreline at Village Park	High	Ongoing	Varies	Village funds, volunteers, partners
Develop new public plaza in main street revitalization area	Medium	2012-2020	$423,735	TIF funds, Park impact fees, Land and water conservation fund, Stewardship grant
Install educational signs at Tamarack Preserve	Medium	2014	$500/sign	Recreational trails program, Village funds, Non-profit groups
Develop Menomonee River Parkway Trail north of Arthur Avenue	Low	None	$18-$25/lineal foot	Recreational trails program, Village funds

Graphic adapted from Village of Menomonee Falls 2011 - 2015 Comprehensive Outdoor Recreation Plan. www.menomonee-falls.org/index.aspx?nid=100

IMPLEMENTING THE PLAN

▶ Involving the Public
Professional and citizen planners face challenges when implementing community plans. One of the greatest challenges is gaining acceptance of new codes, policies and other tools when the consequences of implementing the tools is unknown. Communities can ease these concerns by involving the public at the onset of the planning process, explaining the tools that will best serve the community, and showing real examples of where they have been successfully employed.

Sometimes an outside consultant can assist in this process by providing visual examples from a broad sample of work. Other communities may choose to host trips for the plan commission to see first-hand the results of a particular planning tool in action in another community. Inviting municipal officials to speak from jurisdictions that have implemented the tool can also be helpful.

▶ Measuring Progress
Communities with successful plan implementation programs measure progress towards achieving their goals. Prior to adopting a plan, a community should discuss how it will measure success. Even if a particular goal cannot be precisely measured, the process of discussing how progress will be evaluated is extremely valuable.

Performance benchmarking is one technique for eliciting desired future conditions and measuring progress towards achieving those goals. Sample performance measures for a bicycle master plan are shown on page 9.

Plan Implementation Progress

The City of Austin Bicycle Master Plan includes target performance measures, an assessment of current progress, and a plan for future data collection.

Performance Measure	Baseline Data	Target Benchmarks	Data Collection Frequency
Percentage of bicycle network completed	34% of network currently exists as recommended	60% by 2015 70% by 2020 100% by 2030	Parks Department will provide annual report
Number of bicycle maps and safety brochures distributed each year	4,004 distributed in 2008	Distribute 5,000 each year	Parks Department will provide annual report
Percentage of all commute trips made by bicycle	Central City: 3.23% Citywide: 0.96%	Central City: 8% by 2015, 10% by 2020 Citywide: 2% by 2015, 5% by 2020	Transportation survey conducted every two years

Graphic adapted from City of Austin 2009 Bicycle Plan Update.
www.ci.austin.tx.us/publicworks/downloads/05_implementation_funding.pdf

Each measure includes baseline data, a target benchmark that is specific, measurable and objective, a data source, and a timeline for tracking progress. [1]

An annual report may also be used to measure plan implementation progress. The report should document planning activities that took place over the past year, identify strengths and weaknesses of the planning program, and chart a course for future action. The report may be prepared by the plan commission, planning staff, or an oversight committee comprised of individuals responsible for plan implementation

If a community has made significant progress towards reaching its goals, it should take time to celebrate success. If not, the assessment process should be used as an opportunity to reenergize the community's plan implementation efforts.

Sample Reporting Requirements

Within [3] months of the end of each fiscal year, the plan commission shall prepare an annual report to the legislative body and the chief executive officer. The report shall summarize actions taken by the plan commission during the preceding year, including the number of development proposals and plans reviewed. The report shall recommend programs, plans, and other measures for future action and shall monitor progress towards plan implementation. The report shall also provide other information that is relevant to the local plan commission's powers and duties. The local planning agency shall assist the plan commission in preparing the report which must be published and made available to the public.

Growing Smart Legislative Guidebook, Chapter 7-107, Annual Reports of Local Planning Agency and Local Planning Commission. Available: www.planning.org/growingsmart/guidebook.

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[1] Additional sample benchmarks may be found in the *Growing Smart Legislative Guidebook*, Chapter 7-504. www.planning.org/growingsmart/guidebook.

GLOSSARY OF PLAN IMPLEMENTATION TOOLS

This glossary contains brief descriptions of tools and techniques commonly used for plan implementation in Wisconsin. Resources are cited at the end of each glossary entry for those interested in learning more.

Legend

Information: Tools for gathering or disseminating information.
Examples: planning, analysis, and education tools

Cooperation: Tools that encourage intergovernmental cooperation or communication
Examples: boundary, revenue and service sharing agreements

Investment: Tools for investing or recovering public dollars
Examples: land acquisition, public construction projects, impact fees

Incentive: Tools that encourage a desired behavior
Examples: tax incentives, density bonus, conservation easement

Regulation: Tools that prescribe a required outcome
Examples: ordinances, policies and standards

Design: Tools that encourage a particular pattern of development or design
Examples: design standards, development techniques

Adequate Public Facilities   Type: Regulation, Investment

An Adequate Public Facilities Ordinance (APFO) ties development approval to the availability and adequacy of public facilities such as roads, sewer systems, schools, and water supply and distribution systems. This tool can be used by any level of government but is most common among those experiencing high rates of development.

- Adequate Public Facilities Factsheet (CLUE, 2009) www.uwsp.edu/cnr-ap/clue

Active Living   Type: Design

Active Living is a design approach that encourages the integration of physical activity into daily routines by providing walkable and bikeable neighborhoods, a variety of public transit options, accessible park and recreation facilities, and a safe and pleasant living environment.

- Wisconsin Department of Health Services, Active Community Environments Resource Kit www.dhs.wisconsin.gov/health/physicalactivity/Sites/Community/ACEs
- Model Ordinances for Active Communities (APA, 2006) www.planning.org/research/smartgrowth/pdf/section48.pdf

Image: Fit 2 Live, North Little Rock

Capital Improvement Plan

Type: Investment, Information

A Capital Improvement Plan (CIP) outlines major expenditures for the next five to ten years for the repair and new construction of streets, sewer and water lines, parks, and other public facilities. This budgetary tool can be used by any level of government but is most common among cities and villages.

- Capital Improvement Plan Factsheet (CLUE, 2008) www.uwsp.edu/cnr-ap/clue

Cluster and Conservation Development

Type: Design, Regulation

Cluster and Conservation Development techniques attempt to concentrate buildings on specific areas of a site to allow remaining land to be used for recreation, common open space, natural resources protection, farmland or other uses. Development standards are typically incorporated in a zoning or subdivision ordinance and may be required or encouraged through the use of a 'Density Bonus.' This tool may be used by any level of government that seeks to preserve open space or the natural features of a site.

- Conservation Design Factsheet (CLUE, 2006)
  www.uwsp.edu/cnr-ap/clue
- Model Conservation Subdivision Ordinance (UWEX, 2000)
  http://urpl.wisc.edu/people/ohm/consub.pdf
- Model Zoning Ordinance For Rural Cluster Development (SEWRPC, 2002) www.sewrpc.org/SEWRPC/communityassistance/EducationalServices2.htm
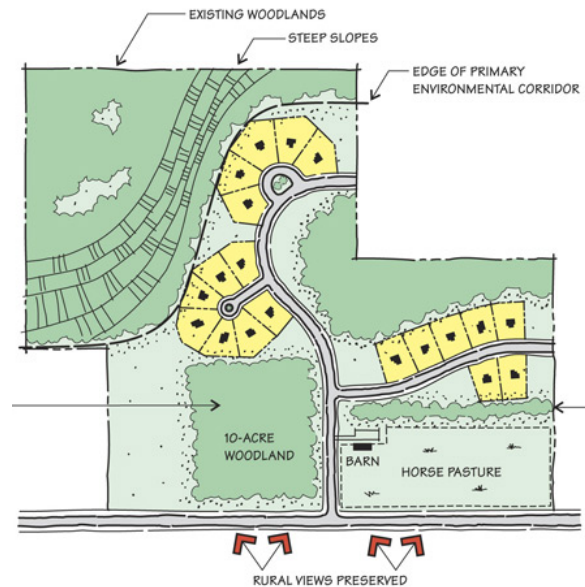
Image: Southeastern Wisconsin Regional Planning Commission

Compact Development

Type: Design

Compact Development promotes the development of buildings, parking areas, streets, driveways, and public spaces in a way that maximizes proximity and connectivity and facilitates alternative transportation options. This technique is most commonly used by cities and villages.

Conservation Easement

Type: Incentive

A Conservation Easement is a recorded legal agreement between a landowner and a qualified conservation agency or unit of government to transfer development rights from the owner to the agency to protect natural, agricultural, cultural or historic features. A conservation easement is the principal legal mechanism in a 'Purchase of Development Rights' (PDR) program. See Wis. Stat. § 700.40.

- Conservation Easement Factsheet (CLUE, 2006)
  www.uwsp.edu/cnr-ap/clue
- Gathering Waters Conservancy, statewide service center for Wisconsin land trusts www.gatheringwaters.org

Image: Ducks Unlimited

Cooperative Boundary Agreement

Type: Cooperation

A Cooperative Boundary Agreement is a formal, contractual agreement between two or more government entities to maintain or change boundaries over time. Boundary agreements are typically made by a city or village together with adjacent town(s). See Wis. Stat. § 66.0307.

- Wisconsin Dept. of Administration, Municipal Boundary Review http://doa.wi.gov/municipalboundaryreview
- Factsheet (LGC, 2000) -- note, statutory references are out of date http://lgc.uwex.edu/program/pdf/fact14.pdf
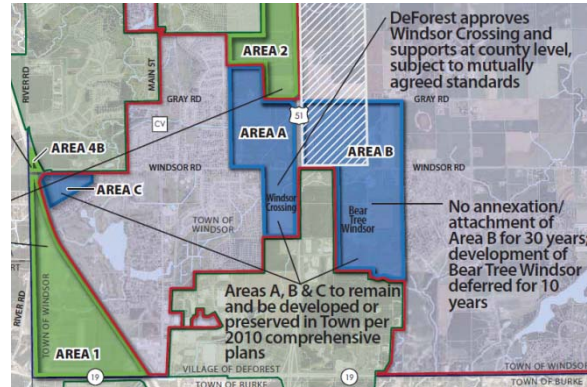
Image: Village of DeForest / Town of Windsor Cooperative Plan, 2010

Density Bonus

Type: Incentive

A Density Bonus is an incentive allowing developers to build more units or at a greater density than would otherwise be permitted by a local ordinance in exchange for open space preservation or other community goals. This tool can be used by any level of government but is most common among municipalities. See also 'Incentive Zoning.'

- Density Bonus Factsheet (CLUE, 2006) www.uwsp.edu/cnr-ap/clue

Driveway and Road Access Standards

Type: Regulation

Driveway and Road Access Standards regulate the placement and construction of driveways in order to, minimize road access points, prevent dangerous driveway locations, maintain adequate emergency vehicle access, control drainage, and promote other public health and safety goals. Appropriate for use by all levels of government.

- Model Public Road Access Ordinance (Foth, 2003)
  www.co.clark.wi.us/SOPhotos/comp_planning/Model_Public_Road_Access_Ordinance.pdf

Extraterritorial Zoning

Type: Cooperation, Regulation

Extraterritorial Zoning (ETZ) refers to a city or village's authority to zone areas outside its boundaries. Under Wisconsin law, the extraterritorial jurisdiction of a 1st, 2nd, and 3rd class cities extends 3 miles beyond the municipality's corporate limits. The jurisdiction of a 4th class city or village extends 1½ miles. Adoption of an extraterritorial zoning ordinance and development proposals within the district must be approved by a joint extraterritorial zoning committee composed of three members from the city or village and three members from each town. See Wis. Stat. § 62.23(7a).
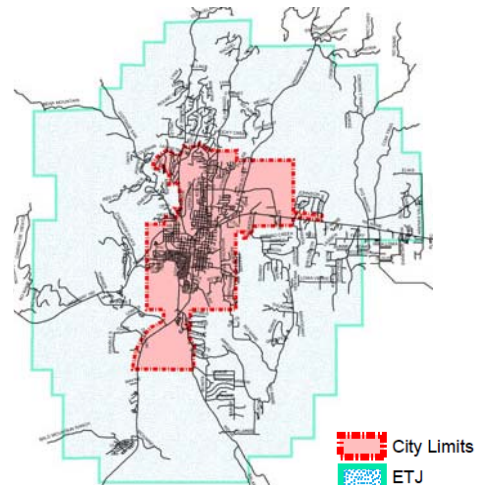
Image: Silver City ETJ Map

Floodplain Zoning

Type: Regulation

Floodplain Zoning creates development standards to protect human life, health and property from flooding. Floodplain zoning is required of Wisconsin counties, cities and villages that have been issued maps designating flood prone areas by the state. See Wis. Stat. § 87.30.
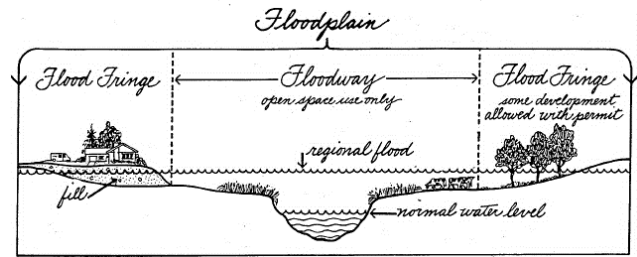
Image: Wisconsin DNR

- Wisconsin DNR, Floodplain Management Program http://dnr.wi.gov/org/water/wm/dsfm/flood
- Model Floodplain Zoning Ordinance (DNR, 2012) http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm

Floating Zone

Type: Regulation

A Floating Zone is a zoning district that is described in a zoning ordinance but "floats" until an application is made to apply the new district to a certain parcel. Floating zones can be used to provide more flexibility in the zoning ordinance in terms of permissible densities, intensities, land uses and overall development design opportunities. See also 'Planned Unit Development' and 'Zoning.'

Historic Preservation

Type: Design, Regulation

Historic Preservation involves the designation of an area, by ordinance, which possesses a historic character. Development approval in historic districts is subject to review by the plan commission or historic preservation commission. Cities, villages and towns with village powers are authorized to adopt historic preservation ordinances under Wis. Stat. § 62.23(7)(em). Counties and towns may also regulate historic resources using the general zoning authority outlined in Wis. Stat. §§ 59.69(4)(L) and 60.64.

Image: J K Janiga Architects

- Wisconsin Historical Society, Historic Preservation Ordinances and Commissions in Wisconsin
  www.wisconsinhistory.org/hp/handouts/hpordinances_commissions.pdf

Housing and Building Codes

Type: Regulation

Housing and building codes specify allowable building construction methods and materials for new structures and maintenance standards for existing structures, including rental housing. Wisconsin provides minimum standards for the design, construction, maintenance and inspection of homes and buildings. See Wis. Stat. Ch. 101, and Wis. Admin. Code, Chs. SPS 320-325 (uniform dwelling code), 360-365 (commercial building code), and 375-379 (historic building code).

- Wisconsin Dept of Safety and Professional Services, Buildings Division http://dsps.wi.gov/sb/SB-HomePage.html

| Impact Fee | Type: Investment, Regulation |

An Impact Fee is a cash contribution, contribution of land or interests in land, or any other item of value that is imposed on a developer by a political subdivision to offset the community's capital costs resulting from the development. Only cities, villages and towns may use impact fees in Wisconsin. See Wis. Stat. § 66.0617.

▪ Impact Fee Factsheet (CLUE, 2007) www.uwsp.edu/cnr-ap/clue

| Impact Analysis | Type: Information |

An Impact Analysis is a study that provides additional information about the potential social, economic, environmental, fiscal, traffic or other impacts associated with a proposed development.

▪ Community Guide to Development Impact Analysis (Edwards, 2000) www.lic.wisc.edu/shapingdane/ facilitation/all_resources/impacts/analysis_background.htm
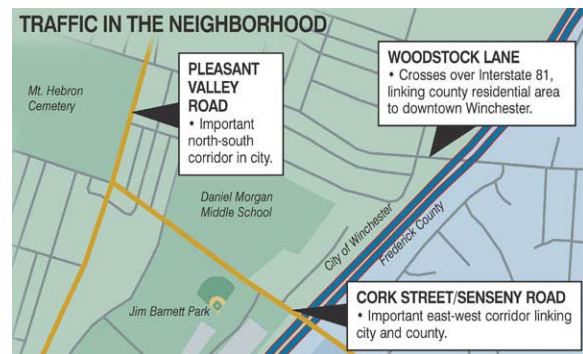
Image: www.nvdaily.com

| Incentive Zoning | Type: Incentive |

Incentive Zoning provides incentives to developers on the condition that specific physical, social or cultural benefits will be provided to the community. Incentives might include an increase in the permissible number of building units or square footage of development, or waivers of the height, setback, use or area provisions of a zoning ordinance. Public benefits might include affordable housing, recreational facilities, open space, or other infrastructure. See also 'Density Bonus.'

| Inclusionary Housing | Type: Incentive |

Inclusionary Housing aims to provide a certain number of "affordable" rental or owner-occupied units in a new development. Housing goals may be encouraged on a voluntary incentive basis or specified in an ordinance. Note: the provisions of the Madison, Wisconsin inclusionary zoning ordinance related to rental housing were struck down by the Court of Appeals because they were considered a form of rent control which is prohibited by state statute.

▪ Model Affordable Housing Ordinance (APA, 2006) www.planning.org/research/smartgrowth/pdf/section44.pdf

| Infill Development | Type: Design, Investment |

Infill Development takes place on vacant or underutilized parcels within an area that is already developed and has access to existing urban services.

▪ Infill Development Strategies (MRSC, 1997) www.mrsc.org/publications/textfill.aspx

▪ Wisconsin DNR, Remediation and Redevelopment Program http://dnr.wi.gov/org/aw/rr/index.htm

Image: Scott Webb Architect

Land Acquisition	Type: Investment

Land Acquisition involves the acquisition of land or limited rights in a property for a public purpose. Land may be acquired for new infrastructure, new development, redevelopment, conservation, recreation, or other objectives. All levels of government can become involved in land acquisition.

Images: University of Minnesota, Metropolitan Design Center Image Bank

Take a Closer Look:
Land Acquisition Techniques

Land acquisition can be used to acquire land outright (e.g. land for public parks, buildings or airports) or to acquire limited rights in land (e.g. air rights in an airport approach zone, or development rights that permanently protect open space). A variety of acquisition techniques used by state and local governments are described below:

Fee Simple Acquisition: outright purchase of land in which the landowner is given a sum of money for all rights to the land.

Dedication: donation of land to a local government for parkland, school sites, roads, etc., usually in connection with the development of a subdivision. The governing body must formally accept the dedication for the transaction to be complete.

Easement: written and recorded authorization by a property owner for the use of a designated part of a property by others (for example, access to water, trails, driveways, utilities, etc.). Easements may be purchased or donated.

Eminent Domain: the right of a government unit to "take" private property for public use with appropriate compensation to the owner. The most frequent use of this authority is the act of condemnation. See Wis. Stat. Ch. 32.

Bargain Sale: sale of land at less than fair market value. When a bargain sale takes place to a land trust or charitable organization, the difference between the sale price and the market value can be claimed as a charitable deduction. Local governments can also sell land to developers at a bargain rate to promote certain types of development.

Land Banking: the purchase and subsequent sale or lease of lands by a local government to promote specific conservation or development goals.

Livestock Facility Siting   Type: Regulation

Livestock Facility Siting guidelines at the state and local level govern the review and approval of new or expanded livestock operations with 500 or more animal units. Counties and towns may adopt zoning or licensing ordinances provided they follow state standards. See Wis. Stat. § 93.90 and Wis. Admin. Code, Ch. ATCP 51.

- Wisconsin Department of Agriculture, Trade and Consumer Protection, Livestock Siting Information datcp.wi.gov/Environment/Livestock_Siting/Fact_Sheets_and_Information/index.aspx
- Model Zoning Ordinance http://datcp.wi.gov/uploads/Environment/pdf/ModelZoningOrdinance.pdf
- Model Licensing Ordinance http://datcp.wi.gov/uploads/Environment/pdf/ModelLicensingOrdinance.pdf

Low-Impact Development   Type: Design

Low-Impact Development (LID) is a design approach that emphasizes the use of on-site natural features and conservation to manage stormwater runoff and protect water quality. A variety of high and low-tech solutions including grassed swales, rain barrels, rain gardens, permeable pavers, and green roofs make this approach suitable for any level of government.

- Low Impact Development Center www.lowimpactdevelopment.org; www.lid-stormwater.net

Image: New Designs for Growth Guidebook, NWMCOG

Mixed-Use Development   Type: Design

Mixed-Use Development encourages multiple compatible uses to be located in close proximity to one another. This design technique is most common among municipalities.

- Model Mixed-Use Zoning District (APA, 2006) www.planning.org/research/smartgrowth/pdf/section41.pdf

Moratorium   Type: Information, Regulation

A Moratorium freezes the right of property owners to obtain development approval while the local government takes time to consider, draft, and adopt a comprehensive plan or land use regulation designed to respond to new or changing circumstances in the community. Wisconsin cities, villages and towns with village powers have authority to place a development moratorium on the approval of rezones, land division plats and certified survey maps. However, the municipality must obtain a written report from a registered engineer or public health professional stating that the moratorium is needed to prevent a shortage in public facilities or a significant threat to public health and safety (Wis. Stat. § 66.1002). Cities, villages and towns with village powers also have authority to adopt an interim zoning ordinance – essentially freezing existing uses – while preparing an initial zoning ordinance, extraterritorial zoning ordinance, or annexing land (Wis. Stat. §§ 62.23(7)(da), 62.23(7a)(b) and 66.0219(6)).

Official Map

Type: Investment, Regulation

An Official Map is a legally adopted map that shows the location and width of existing and proposed streets, public facilities, parks, open space, and drainage rights-of-way. Cities, villages and towns may adopt official maps. See Wis. Stat. §§ 62.23(6) and 60.61(2)(e).

- Official Mapping Guide and Model Ordinance (SEWRPC, 1996)
  www.sewrpc.org/SEWRPC/communityassistance/EducationalServices2.htm

Overlay Zone

Type: Regulation

An Overlay Zone is a mapped zoning district that imposes a set of requirements or restrictions in addition to those of the underlying zoning district (base zone). Land is developed under the conditions and requirements of both the base zone and overlay zone. Examples of overlay zones include historic districts, wellhead protection districts, airport overlay districts and shoreland zoning districts.

- Overlay Zoning Factsheet (CLUE, 2006)
  www.uwsp.edu/cnr-ap/clue
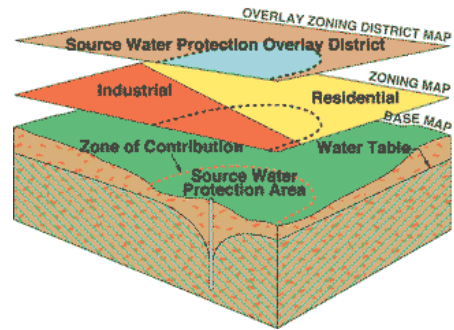
Image: www.planning.org/thecommissioner/2001/win.htm

Planned Unit Development

Type: Design, Regulation

A Planned Unit Development (PUD) allows land to be approved and developed as a package or in a programmed series of phases. This development technique often allows for a mix of uses, densities, and lot dimensions that would otherwise be prohibited or cumbersome if the rules of a standard zoning district were followed. PUDs are commonly used in larger municipalities.

- Planned Unit Development Factsheet (CLUE, 2006)
  www.uwsp.edu/cnr-ap/clue

Image: Compass Pointe Development, LLC

Public Construction

Type: Investment

Public construction projects are undertaken by local government to provide the general public with facilities that are not provided by private enterprise. Projects typically include roads, transit systems, public buildings, and water treatment and supply systems. This technique is appropriate for use by all levels of government.

Public Participation and Education

Type: Information

Public participation and education efforts are used to inform and involve citizens and local decision makers in the process of planning, policy-making and decision-making. This technique is recommended for use by all levels of government.

Purchase of Development Rights

Type: Incentive, Investment

Purchase of Development Rights (PDR) is a voluntary program in which a land trust or unit of government offers to purchase the development rights to a piece of private property, thereby limiting development and preserving agricultural, natural or open space features. The landowner retains ownership of the land but is restricted from developing the land in the manner negotiated. A conservation easement is recorded on the property. At the local level, PDR programs are typically operated at the county level.

Town of Dunn Protected Lands
Easements on Private Property
- Town of Dunn
- American Farmland Trust
- The Nature Conservancy

Public Property
- Dane County Parks
- Town of Dunn Parks
- US Fish & Wildlife
- WI DNR

Private Property
- MaHunt [501(c)3] Non-Profit
- The Nature Conservancy
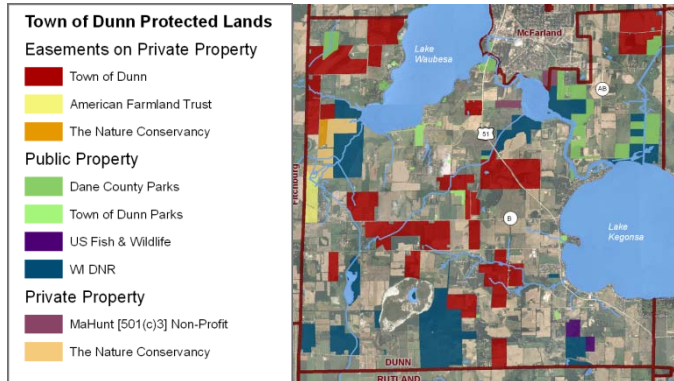
Image: Douglas Miskowiak, Center for Land Use Education

- Purchase of Development Rights Factsheet (CLUE, 2006) www.uwsp.edu/cnr-ap/clue

Revenue Sharing Agreement

Type: Cooperation

A Revenue Sharing Agreement is a formal, contractual agreement between two or more government entities to share taxes or fees. See Wis. Stat. §§ 66.0305 (Revenue Sharing) and 66.0307 (Cooperative Boundary Agreements).

- Wisconsin Dept. of Administration, Municipal Boundary Review http://doa.wi.gov/municipalboundaryreview
- Factsheet (LGC, 2000) http://lgc.uwex.edu/program/pdf/fact14.pdf (note, statutory references are out of date)

Sanitary Codes

Type: Regulation

Sanitary Codes at the state and local level regulate public water, sewer and wastewater treatment systems. Counties are required to enact private sewage system ordinances which regulate the proper siting, design, installation, inspection and maintenance of private on-site sewage systems. See Wis. Stat. Ch. 145, and Wis. Admin. Code, Chs. Comm 81-87 and 91.

- Wisconsin Dept of Safety and Professional Services, Buildings Division http://dsps.wi.gov/sb/SB-HomePage.html
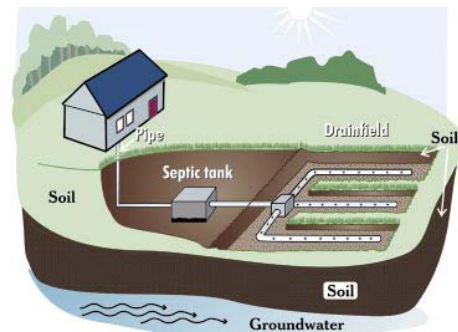
Image: Wisconsin Onsite Water Recycling Association

Service Sharing Agreement

Type: Cooperation

A Service Sharing Agreement is a formal, contractual agreement between two or more government entities to contract for or provide joint services. See Wis. Stat. §§ 66.0301 (General Agreements) and 66.0307 (Cooperative Boundary Agreements).

- Wisconsin Dept. of Administration, Municipal Boundary Review http://doa.wi.gov/municipalboundaryreview
- Merger of City/Village Services: Best Practices (LGC, 2003) http://lgc.uwex.edu/intergovt/bestpracticesbook.pdf
- Sharing Government Services (UWEX, 1998) http://learningstore.uwex.edu/Assets/pdfs/G3677.pdf
- Wisconsin Case Studies from the Local Government Institute http://localgovinstitute.org/casestudies

Shoreland Zoning   Type: Regulation

Shoreland Zoning provides development standards that apply within 1,000 feet of the ordinary high-water mark of a lake, pond or flowage and within 300 feet of the ordinary high-water mark or the floodplain of a river or stream. Counties are required by the state to administer shoreland zoning in unincorporated areas. Municipal land may also be subject to shoreland zoning if a city or village annexed unincorporated shorelands, if an official state map describes wetlands within shoreland areas, or if the municipality voluntarily adopted an ordinance. See Wis. Stat. § 59.692.
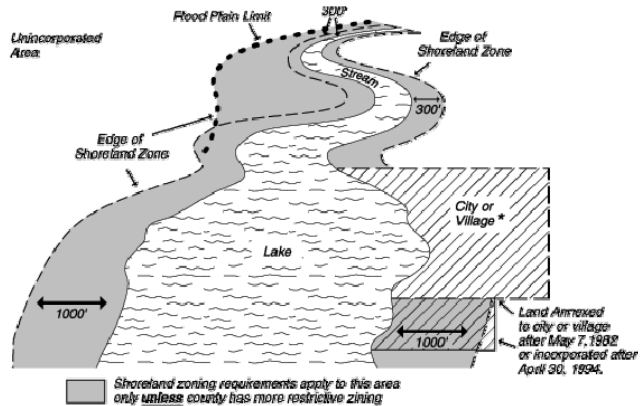
Image: Wisconsin DNR

- Wisconsin DNR, Shoreland Zoning Program http://dnr.wi.gov/waterways/shoreland/purpose.htm
- Model Shoreland Zoning Ordinance (DNR, 2010) http://dnr.wi.gov/waterways/shoreland/local.htm
- NR 115 Guidebook (WCCA, 2011) www.ncwrpc.org/NR115

Sign Ordinance   Type: Regulation

A Sign Ordinance regulates the erection and maintenance of signs and outdoor advertising with respect to size, color, appearance, movement, illumination, and placement. A local government may enact sign regulations under its general zoning authority (See Wis. Stat. §§ 59.69, 60.61, 60.62, 61.35 and 62.23(7)) or using specific billboard and outdoor advertising provisions (See Wis. Stat. §§ 59.70(22), 60.23(29) and 84.30).

- Model Sign and Billboard Ordinances (Citizens for a Scenic Wisconsin, 2008) http://scenicwisconsin.org/resources/model-ordinances.html

Image: http://libertywebmarketingandseo.com

Site Plan and Design Review Guidelines   Type: Design, Regulation

Site Plan and Design Review Guidelines require the submittal and review of detailed building, site plan, utility, landscaping, drainage and engineering plans to evaluate the appropriateness of a proposed development on a site. Guidelines are typically included in a zoning or subdivision ordinance and are most common in larger municipalities.

Image: New Designs for Growth Guidebook, NWMCOG

- Site Plan Review Handbook and Model Ordinance (Maine State Planning Office, 1997) – note, this is a good reference but is not specific to Wisconsin www.maine.gov/spo/landuse/docs/siteplanhandbook/index.htm

Special Assessment District   Type: Investment

A Special Assessment District is an area designated by a taxing authority to be assessed for tax purposes on a scale that differs from the rest of the jurisdiction. Unlike impact fees, special assessments can be applied to existing development and used to finance public works or improvements that benefit the district. Cities, villages and towns have general authority to levy special assessments under Wis. Stat. §§ 66.0701-66.0733. Additional authority includes but is not limited to town sanitary districts (Wis. Stat. § 60.71), municipal utility districts (Wis. Stat. § 66.0827), business improvement districts (Wis. Stat. s. 66.1109), and lake protection districts (Wis. Stat. § 33.21).
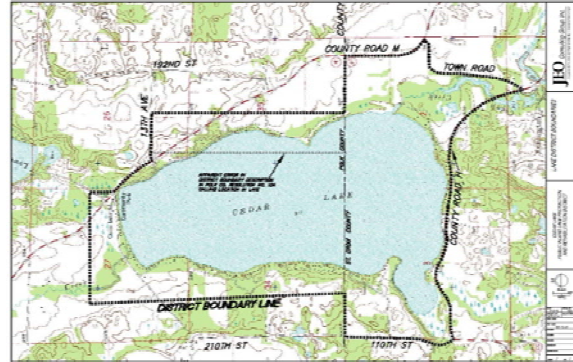
Image: Cedar Lake Protection and Rehabilitation District

- Special Assessments in Wisconsin: Manual and Model Ordinance (LWM, 2001) www.lwm-info.org

Special Purpose Planning   Type: Information

Special purpose plans identify issues, illustrate concepts and provide data for decision-making, typically in more detail than what is provided in the comprehensive plan. Examples include park and recreation plans, neighborhood plans, downtown design plans, waterfront development plans and transportation plans. Special purpose planning may be used by any level of government.

Subdivision Ordinance   Type: Regulation

Subdivision regulations provide procedures and standards for dividing larger parcels of land into smaller parcels. State subdivision regulations apply when 5 or more parcels of land of 1½ acre or less are created within a 5 year period by the same owner. Cities, villages, towns and counties may also have land division regulations that are more restrictive than state standards. Local standards may govern any aspect of a subdivision, such as lot size and shape, access, road widths, tree plantings, and sidewalk placement. Counties and towns have authority to review subdivision plats that fall within unincorporated areas. Cities and villages have authority to review plats that fall within the municipality or its extra-territorial plat approval jurisdiction. See Wis. Stat. Ch. 236.

- Land Division Factsheet (CLUE, 2008)
  www.uwsp.edu/cnr-ap/clue
- Model Ordinance (SEWRPC, 2001)
  www.sewrpc.org/SEWRPC/communityassistance/EducationalServices2.htm
- Model Ordinance for Towns (WTA, 2010)
  www.wisctowns.com/uploads/ckfiles/files/Subdivision.doc

Image: www.wibuilder.com/election-2004/city-lights.html

Tax Increment Financing   Type: Incentive, Investment

Tax Increment Financing (TIF) is a public finance tool used by municipalities to spur the development or redevelopment of a particular area. As property values increase, the resulting tax 'increment' is captured to repay the municipality's original investment. Cities, villages (and towns as part of an annexation agreement) are authorized to use TIF for blight, rehabilitation, conservation, and industrial, and mixed-use development (Wis. Stat. § 66.1105). Towns are authorized to use TIF for agricultural, forestry, manufacturing and tourism development (Wis. Stat. § 60.85). All levels of government, including counties, are authorized to use TIF for environmental remediation (Wis. Stat. § 66.1106).
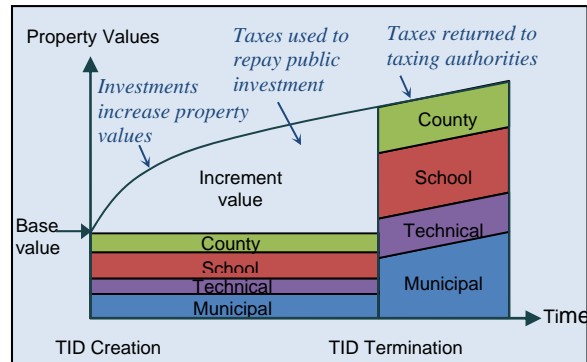
Image: Rebecca Roberts, Center for Land Use Education

- Tax Increment Financing Factsheet (CLUE, 2009) www.uwsp.edu/cnr-ap/clue

Transfer of Development Rights   Type: Incentive

A Transfer of Development Rights (TDR) program guides growth away from sensitive areas by transferring development rights from one area (sending zone) toward another (receiving zone). An easement may be placed on land in the sending zone to prevent further development. A density bonus may also be offered in the receiving zone to encourage growth in controlled development centers. A TDR program may be administered by any level of government but works best over an area that includes both rural and urban areas.
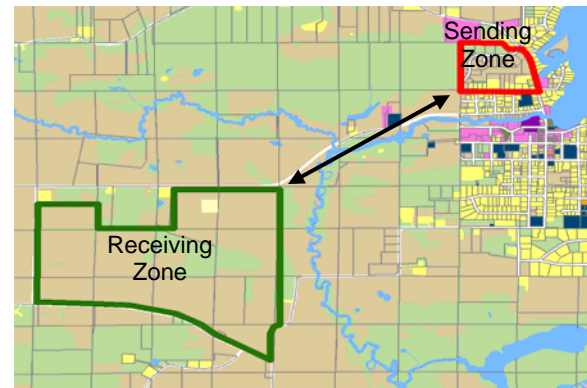
Image: Douglas Miskowiak, Center for Land Use Education

- Transfer of Development Rights Factsheet (CLUE, 2006) www.uwsp.edu/cnr-ap/clue
- Model Ordinance (APA, 2006) www.planning.org/research/smartgrowth/pdf/section46.pdf

Tax Incentives   Type: Incentive, Investment

Tax Incentives can be used by any level of government to recruit, attract, retain or expand desirable businesses or land uses. Various mechanisms are available including tax exemptions, tax credits and tax abatements.

Traditional Neighborhood Development   Type: Design

Traditional Neighborhood Development (TND) is a design concept that promotes compact, mixed-use neighborhoods where residential, commercial, and civic buildings are in close proximity. This tool is commonly used by cities and villages. See Wis. Stat. § 66.1027.

- Traditional Neighborhood Design Factsheet (CLUE, 2006) www.uwsp.edu/cnr-ap/clue
- Model Ordinance (UWEX, 2001) http://urpl.wisc.edu/people/ohm/tndord.pdf

Transit-Oriented Development   Type: Design

A Transit-Oriented Development (TOD) is a mixed use residential or commercial area designed to maximize access to public transportation. Common design features include high-density development clustered around transit centers, narrow streets, reduced parking for personal vehicles, and high quality pedestrian and bicycle facilities. This type of design is typically implemented in larger cities and villages.

- Center for Transit Oriented Development
  www.ctod.org/portal

Image: Kenosha Streetcar by Zephyr Rocket

Transportation Demand Management   Type: Investment, Design, Incentive,

Transportation Demand Management (TDM) programs are designed to reduce the use of single-occupant vehicle trips particularly during periods of peak travel. TDM strategies provide travel options that reduce and spread demand by travel destination, mode, route, and time of day to most efficiently utilize transportation system infrastructure and resources. Examples include ridesharing, preferential parking, telecommuting, transit improvements, traffic signal optimization, and traffic calming.

- Online TDM Encyclopedia, Victoria Transport Policy Institute www.vtpi.org/tdm

Traffic Calming   Type: Design, Investment

Traffic Calming involves the use of physical devices such as speed bumps, raised intersections, road narrowing, medians, and central islands to slow traffic speeds near schools and residential areas.

- "Traffic Calming," Online TDM Encyclopedia, Victoria Transport Policy Institute www.vtpi.org/tdm

Urban Growth Boundary   Type: Regulation

An Urban Growth Boundary (UGB) designates areas that are appropriate for development and places restrictions on the amount and type of development that may take place outside the boundary. The goal is typically to protect natural resources, farmland, open space or other features. An Urban Service Area Boundary, shown at right, is a similar concept that guides growth through the provision of public services in planned phases.

- UGB Factsheet www.in.gov/indot/div/projects/
  i69planningtoolbox/_pdf/Urban Growth Boundaries.pdf
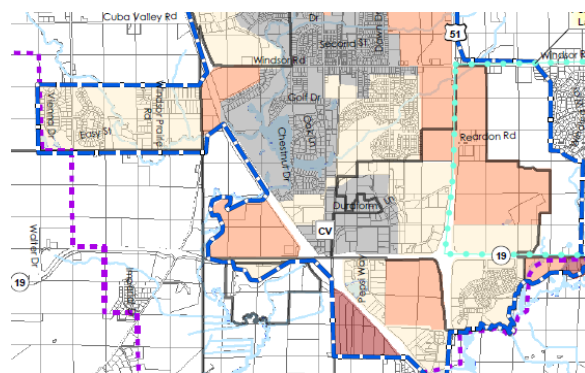
Image: Village of DeForest Growth Phasing Map

		Growth Phasing Areas:
▭	Municipal Boundary	
▭	Future Northern Urban Service Area Boundary	▭ Phase 1 (through 2013)
▭	Extraterritorial Jurisdiction	▭ Phase 2 (2014-2023)
▭	Developed	▭ Phase 3 (2024+)
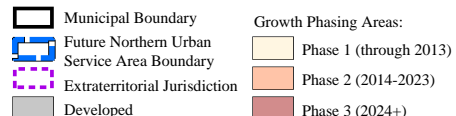
Zoning Ordinance	Type: Regulation

Zoning regulates the use of land within districts (i.e. residential, commercial, agricultural, etc.), the size and shape of lots, and the density, bulk and placement of structures. General zoning may be adopted by any level of government in Wisconsin. See Wis. Stat. §§ 59.69, 60.61, 60.62, 61.35 and 62.23(7). See also 'Shoreland Zoning,' 'Floodplain Zoning,' and 'Extraterritorial Zoning.'

▪ Zoning Factsheet (CLUE, 2007)
  www.uwsp.edu/cnr-ap/clue
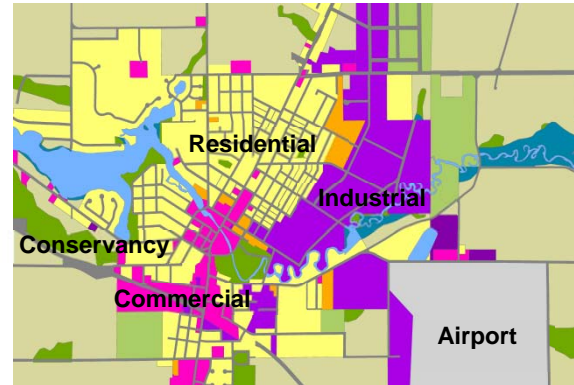
Image: Douglas Miskowiak, Center for Land Use Education

Take a Closer Look:
Variations on Traditional Zoning

Zoning codes have evolved over the years to reflect changes in political priorities, legal constraints, and urban planning theories. Three distinct forms of zoning are described below including: Euclidean, performance, and form-based zoning.

Euclidian Zoning: characterized by the segregation of land uses into specified geographic districts and dimensional standards limiting development in each type of district. Euclidian zoning forms the basis for most zoning codes.

Performance Zoning: regulates the effects of land uses through performance standards. These standards might concern traffic flow, density, noise and access to light or air. Performance standards have been incorporated into many traditional zoning codes.

Form-Based Zoning: takes the focus off of land use by controlling the physical form of development. Places more emphasis on the form and scale of buildings and their placement along and within public spaces such as sidewalks, street trees and street furniture. Very few communities have adopted pure form-based codes. However, some are exploring 'hybrid' codes which incorporate elements of form-based zoning.

Portions of this glossary were adapted from *Land Use Lingo: A Glossary of Land-Use Terms.* Timothy A. Holveck. 2001. Wisconsin Department of Natural Resources, PUB-SS-956 2001. www.dnr.state.wi.us/org/es/science/publications/Land_Use_Lingo.pdf

PLAN IMPLEMENTATION WORKSHEETS

The worksheets at the end of this chapter can be used by communities developing a plan implementation strategy. Each worksheet can also be downloaded in Word format from the Center for Land Use Education website: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

Worksheet 1: Resources for Plan Implementation
Use this worksheet to select plan implementation tools based on available resources.

Worksheet 2: Plan Implementation Strategy
Use this worksheet to develop a strategy for plan implementation.

Worksheet 3: Measures of Success
Use this worksheet to evaluate progress towards plan implementation.

Worksheet 1: Resources for Plan Implementation
Use this worksheet to select plan implementation tools based on available resources.

Instructions: 1) List goals for plan implementation.
2) Identify actions or tools that can help to achieve goals.
3) Rank tools based on community's available resources.
4) Select tools that can realistically help community to achieve goals.

Goal: Complete bicycle and pedestrian network identified in Park and Recreation Plan.

Action/Tool	Resources	Public Support	Political Support	Equity	Administration
Example Land acquisition	Staff has limited experience with land purchase agreements and grants management	Strong grass-roots support including fundraising and physical trail development	Political support likely to change over long implementation horizon	Landowners will receive just compensation for acquired trail segments	Expensive but necessary to acquire critical trail segments
Conservation easement					
On-street designation					
Official map					
Capital improve-ment plan					
Impact fees					

Worksheet 2: Plan Implementation Strategy

Use this worksheet to develop a strategy for plan implementation.

Instructions:
1) List plan implementation actions/tools.
2) Prioritize actions.
3) Assign target completion dates.
4) Identify parties responsible for implementation.
5) Identify potential funding sources.

Action/Tool	Priority	Completion Date	Responsible Parties	Funding Sources
Example Complete bicycle and pedestrian network identified in Park and Recreation Plan	High	2030	Parks Department with assistance from local bike clubs	General fund Park impact fees DNR stewardship fund

Worksheet 3: Measures of Success
Use this worksheet to evaluate progress towards plan implementation.

Instructions:
1) List plan implementation actions or tools.
2) Identify measures of success.
3) Identify data collection plan (data source, frequency, responsible party).
4) Identify status of effort at start of plan implementation.
5) Track progress towards reaching goals.

Action/Tool	Measure of Success	Data Collection	Current Status	Progress Report
Example Complete bicycle and pedestrian network identified in Park and Recreation Plan.	25 miles of bike lane will be developed each decade for a total of 100 miles by 2030.	Parks department will update bike map and report miles of bike lane developed on a biannual basis.	2000: 25 miles of designated bike lane.	2002: 30 miles of designated bike lane. 2004: 32 miles of designated bike lane.

Chapter 6
Ordinance Administration

DEVELOPING THE ORDINANCE

The plan commission plays an important role in the adoption and administration of zoning ordinances, land division ordinances, and other land use related tools. Prior to adoption by the governing body, most land use ordinances and amendments are referred to the plan commission for review and a recommendation. In some cases, the plan commission is involved in drafting ordinance language, reviewing the work of professional consultants or staff, or gathering public input on proposals.

▶ Drafting Ordinance Language

Developing a new ordinance or significant amendment to an ordinance can be a daunting task. Fortunately, there are many model ordinances and examples for Wisconsin communities to reference. The Wisconsin State Law Library maintains a compilation of city, village, town and county ordinances covering a wide range of topics such as zoning, subdivisions, non-metallic mining, shorelands, floodplains, parks, wireless communications and related topics. The website can be accessed at: http://wilawlibrary.gov/topics/ordinances.php. Model ordinances for Wisconsin communities are also referenced throughout this handbook. See, for example, the Glossary of Plan Implementation Tools contained in Chapter 5 and the Recommended Resources located at the end of each chapter.

If your community does not have planning or zoning staff or the ability to hire a consultant, the plan commission should try to draft the ordinance language as best as it can, drawing on relevant models and examples. While it can be tempting to take an ordinance from another jurisdiction, make a few minor changes, and forward it for approval, this practice should be avoided. Any language taken from another jurisdiction should be thoroughly reviewed within the context of existing regulations and tailored to fit your community. The following tips are provided for drafting ordinance language:

- **Use simple language with clear meaning.** Avoid legalese and technical jargon. If technical terms are used, make sure they are clearly defined in the definition section of your ordinance. In the absence of such guidance, a reviewing court will look to the plain, dictionary meaning of the word.

- **Select words and punctuation with care.** It's important to consider and clarify meanings conveyed by words and sentences. The placement of a comma or other punctuation, and the use of terms such as *and* and *or* can change the meaning of an ordinance provision. If a word or sentence is confusing, run it by your attorney.

- **Use a direct, active voice.** Avoid ambiguous, passive sentences. For example, replace the following sentence: "A site plan shall be submitted prior to project approval by the board" with "The developer shall submit a site plan for board approval."[1]

Is Your Ordinance Constitutionally Sound?
When drafting land use regulations, it's also important to be aware of and balance basic rights and protections afforded by the Wisconsin and United States Constitution:

- **First Amendment.** The right to freedom of speech, assembly, and religion.
- **Fifth Amendment.** The right to just compensation for the taking of private property for public use.
- **Tenth Amendment.** The right of government to enact regulations protecting public health, safety, welfare and morals.
- **Fourteenth Amendment.** The right to due process and equal protection under the law if deprived of life, liberty or property.

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[1] *Vermont Land Use Planning Implementation Manual*. Topic Paper 16, April 2007. Vermont Land Use Education & Training Collaborative. Available: www.vpic.info/pubs/implementation.

▶ **Consistency with the Comprehensive Plan**

Wisconsin's Comprehensive Planning Law requires land use regulations to be consistent with an adopted comprehensive plan. More precisely, the law states "beginning on January 1, 2010, if a local governmental unit enacts or amends any of the following ordinances, the ordinance shall be consistent with that local governmental unit's comprehensive plan." Ordinances that must be consistent include:

- Official mapping ordinances established or amended under Wis. Stat. § 62.23(6).
- Local subdivision ordinances enacted or amended under Wis. Stat. §§ 236.45 or 236.46.
- County zoning ordinances enacted or amended under Wis. Stat. § 59.69.
- City or village zoning ordinances enacted or amended under Wis. Stat. § 62.23(7).
- Town zoning ordinances enacted or amended under Wis. Stat. §§ 60.61 or 60.62.
- Shoreland or wetland zoning ordinances enacted or amended under Wis. Stat. §§ 59.692, 61.351 or 62.231.

Consistent means "furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan."[2] Although the law does not require it, good planning practice suggests that other land use ordinances and actions should also be consistent with the comprehensive plan and other locally adopted plans.

When inconsistencies exist or are proposed, the local government has three options. It may: 1) modify or deny the proposed change, 2) amend the ordinance, or 3) update the comprehensive plan to make it consistent with the ordinance. If a zoning, subdivision or

official mapping ordinance adopted or amended after January 1, 2010 is not consistent with the comprehensive plan, the ordinance may be subject to a legal challenge.

The map below and table on the next page illustrate how a comprehensive plan can be used to guide future development in light of the consistency requirement. The map shows how the text of the comprehensive plan can be used to explain timing and phasing issues not readily depicted on the future land use map. The table identifies zoning districts that are consistent with the future land use categories recommended in the comprehensive plan.

The Village of Mount Horeb Future Land Use Map includes a text annotation stating that development on the northwest side of the village is conditioned on the improvement of a new north-south collector road. This type of guidance can be used to inform future zoning amendments and maintain consistency between the comprehensive plan and local land use ordinances.
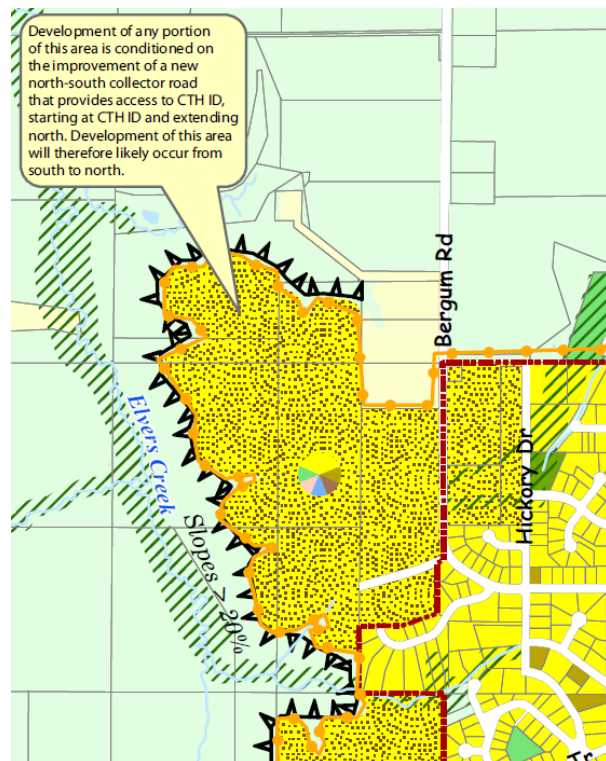
Graphic from Village of Mt. Horeb Comprehensive Plan, 2009, Map 4b: Future Land Use. www.mounthorebwi.info

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[2] Wis. Stat. §§ 66.1001(1)(am) and (3). See also: *Exploring the Concept of "Consistency" under Wisconsin's 1999 Comprehensive Planning Law*. 2007. Brian Ohm. UW-Madison. http://urpl.wisc.edu/people/ohm/consistency%20and%20the%20comp%20plan.pdf

Consistency Matrix

The Village of DeForest Comprehensive Plan identifies recommended zoning districts for each future land use category. When reviewing a potential zoning amendment, the city can quickly determine if the proposed zone is consistent, potentially consistent, or not consistent with the use identified in the plan.

Legend
☒ consistent
☑ potentially consistent
☐ not consistent

Zoning Districts / Future Land Use Map Categories	Single Family Residential Sewered	Two–Family Residential	Mixed Residential	Planned Neighborhood	Mixed Use Centers	Downtown	Planned Commercial	Planned Office/Research	Planned Industrial/Business Park	Open Space/Environmental Corridor	Agricultural Preservation Areas
Residential Districts											
RH: Rural Housing											✓
R-1: Single Family Residential	✗										
R-2: Two Family Residential		✗	✓								
R-3: Multi-Family Residential			✗								
Business Districts											
B-1 Central Business						✗					
B-2 General Business							✗				
B-3 Highway Business							✗				
AB: Agricultural Business											✓
Industrial Districts											
M-1: Restricted Industrial									✗		
M-2: General Industrial									✗		
M-3: Intensive Industrial											
Agricultural/Natural Resources Districts											
A-1: Exclusive Agricultural											✗
A-2: General Agricultural											✓
C-1: Conservancy District										✗	
Floodplain, Shoreland, Wetland Overlay										✗	
Other											
PUD: Planned Unit Development		✗	✓	✗	✗	✓		✓			
Utilize a mix of districts				✓	✓						
Create a new district					✓				✗		

Graphic derived from Village of DeForest Comprehensive Plan, 2006. www.vandewalle.com/work/wipdeforest.html.

ADMINISTERING THE ORDINANCE

Administering a code of ordinances can be time-consuming and expensive. Resources are needed to draft and revise the ordinance, respond to applicant questions, issue permits, and investigate and enforce violations. While most of these tasks are performed by staff, plan commission members and applicants also benefit from a clear understanding of the development review process.

▶ Navigating the Development Review Process

Typically an applicant seeking a development permit will first contact the planning and zoning department to explain their plans and to obtain the necessary application materials. These materials should clearly describe the application process, submittal requirements and decision-making criteria. Many jurisdictions supply an example site plan and sample petition as part of the application packet. Staff can help to explain the application materials, the rationale behind the regulations, and any other applicable deadlines or requirements. In small communities, this function can be performed by a knowledgeable clerk, chairperson or administrator.

Once submitted, staff should review the application to identify missing or problematic information. The process should not proceed until the permit application and all related maps and plans are complete and accurate. Other specialists, such as engineers or natural resource specialists may be asked to assist in reviewing issues such as erosion control, stormwater management, delineation of ordinary high water marks, floodplains and wetlands, and restoration issues.

After an application is deemed complete, staff should schedule a public hearing on the matter and send out the required public notice.[3] Most

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[3] Detailed public notice requirements are included in Chapters 2 (open meetings), 3 (comprehensive planning), 7 (zoning), and 8 (subdivision regulations).

communities mail a copy of the application packet to the plan commission prior to the scheduled meeting or hearing. Some communities include a staff report which provides additional background information on the proposal and may include staff recommendations. Plan commission members should review the packet in advance to familiarize themselves with the proposal and to better prepare themselves for discussion and decision-making.

Staff Reports

Staff reports provide the plan commission with critical information regarding relevant plans, ordinances, restrictions and site conditions on the property and neighboring properties. The plan commission and staff should decide together if it is appropriate to prepare staff reports and what they should include. Common components include:

- A summary of the applicant's request.
- History of the site, including previous permits requested and granted.
- Relevant statements from the comprehensive plan and other community plans.
- Salient purpose statements and provisions from local ordinances.
- Relevant statutes and case law.
- Information from the site visit.
- Discussion of whether the proposal meets the standards.
- Staff recommendation to approve or deny the request and conditions that should be attached.

Sample Application Materials

Chapters 7 and 8 contain a sample development guide, pre-application checklist, application forms, and staff reports. Sample site plan and submittal requirements are provided on the next two pages.

Sample Submittal Requirements

Following is a sample list of materials that must be submitted with an application. Compare it to your current application standards and add, modify, or delete as appropriate based on local development standards and the type of permit being issued.

A. Name and contact information for owner and agent and legal description of the property.

B. A written description of and justification for the proposed permit, including the petitioner's evaluation of the request against the standards contained in the comprehensive plan and local ordinances.

C. A specified number of copies of site plans, accurately drawn to a scale of not less than one inch to __ feet, showing and labeling:
  a. Landowner's name, property address and legal description.
  b. Preparer, date of preparation and revisions.
  c. Scale and directional arrow.
  d. Vicinity map showing wetlands, floodplains, surface waters, roads, buildings, utilities and other natural or man-made features within ___ feet of property.
  e. Site plan showing property lines, dimensions and distances between site features.
  f. Location and dimensions of existing and proposed structures.
  g. Colors, materials and architectural details of buildings.
  h. Location, size and screening of outdoor storage, dumpsters and mechanical equipment.
  i. Location of existing and proposed public streets, rights-of-way, easements and other reservations of land.
  j. Auto ingress and egress, and visual clearance triangles.
  k. Locations, dimensions and surfacing for existing and proposed parking, loading and walkway areas.
  l. Existing and proposed topographic contours shown at ___ foot intervals.
  m. Soil map and key.
  n. Location, species and mature size of existing and proposed landscaping.
  o. Location, height, dimensions, material and color of exterior signage.
  p. Location, height, type, orientation and power of exterior lighting.
  q. Location of existing and proposed private well and onsite waste treatment systems, or connections to public sanitary sewer, water and/or storm drainage.
  r. Location of existing and proposed utilities including electricity, natural gas and telecommunication lines.
  s. Proposed grading and drainage control plan.
  t. Proposed erosion control and stormwater management plan.

D. Names and addresses of the owners of all lands within __ feet of the property as they appear on the current records of the Register of Deeds, to be used to provide notice of the hearing.

E. Other pertinent information as requested by the zoning administrator to determine if the proposal complies with the ordinance.

F. The required review fee.

EXAMPLE SITE PLAN
Detailed construction plans are also required
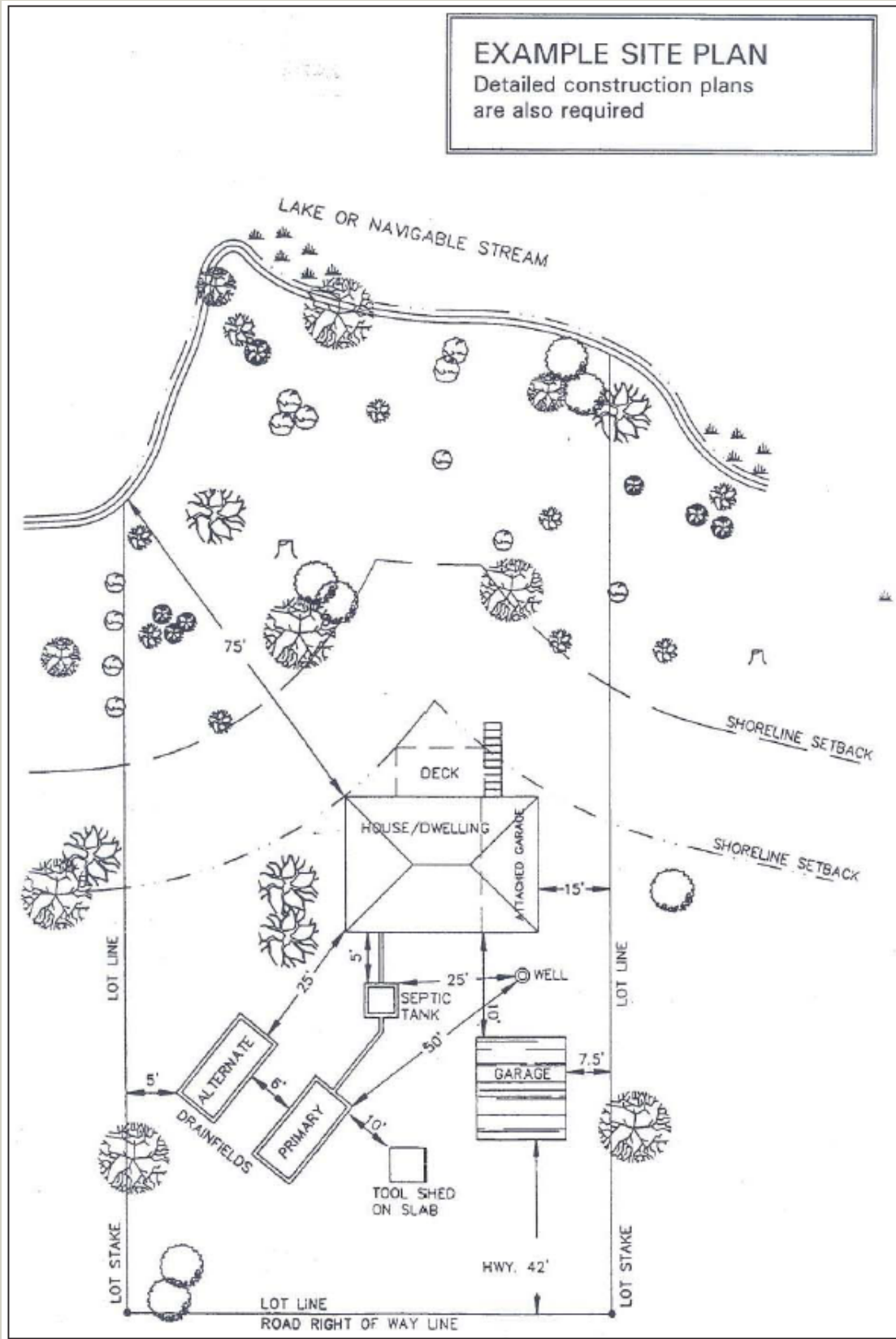
Example site plan provided by Langlade County, WI.

◗ Conducting a Site Visit

Many local officials conduct a site visit prior to making decisions on proposed rezonings, conditional uses, subdivision plats, and other development decisions. A site visit can be used to verify the accuracy of information submitted as part of an application and to gain a hands-on understanding of the site and its context. Using a combination of field notes, photographs and video recordings, local officials record the characteristics of the site and surrounding properties, including topography, vegetation, surface water, drainage, streets, buildings, utilities, parking and circulation patterns. This information can be used to identify potential conflicts between the proposed development and neighboring uses and to identify limitations of the site that may require additional analyses or mitigation.

Plan commission members have several options for conducting site visits. If plan commission members visit the site as a group, they must comply with the requirements of Wisconsin's open meetings law, including providing advance notice of the meeting and allowing the public to access the site.[4] To avoid these requirements, some communities require plan commission members to visit the site individually. Others restrict site visits to planning and zoning staff. If a site visit is performed by staff, the staff should take photographs or a video recording of the site and prepare a detailed staff report to share with the plan commission.

Before anyone may physically access a property for a site inspection, permission must be obtained in writing from the landowner. Most communities include a signature line on the application granting this authority. For example, one community provides: "By the execution of this application, the applicant

hereby authorizes the City or its agent to enter upon the property during the hours of 7:00 A.M. to 7:00 P.M. daily for the purposes of inspection. This authorization applies even if the applicant has posted the land against trespassing pursuant to Wis. Stat. § 943.13."

Plan commission members conduct site visits to gain a better understanding of the physical limitations of properties and their neighboring uses.

Photo by Robert Korth, UW-Extension Lakes.

Recommended Equipment

The following equipment is recommended for conducting a site visit:

- Base maps and aerial photos of the site and surrounding area.
- A notepad and clipboard for taking field notes.
- A still camera or video recorder.
- A measuring device (preferably on wheels).
- Appropriate clothing, including boots, construction hat and durable outerwear.
- Identification as a member of the plan commission or planning and zoning staff.

Meck, Stuart. "Site Visits: Purpose, Planning and Practice." *Zoning Practice*, Issue 2, February 2005. American Planning Association.

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[4] The purpose of a site visit is to gather information related to making a decision of a governmental body, therefore, both the numbers and purpose test of the open meetings law are met. For additional information, please refer to Chapter 2.

◗ **Making and Recording Decisions**

During the public hearing the plan commission has an opportunity to review the application materials, ask questions of the applicant, and gather public input regarding the proposal. Answers to all questions about a proposal should be recorded in the official record on the matter. When making a decision, the plan commission should consider all of the evidence in the record, including the application, evidence gathered on-site and during the public hearing, staff reports, photos, sketches, letters, emails, and audio and video tapes. The plan commission must determine the credibility of each piece of evidence and decide whether the applicant has shown that they meet all of the legal standards necessary to grant the request.[5]

A sample decision form is provided at the end of this chapter to help the plan commission record relevant findings of fact, conclusions of law, and their determination:

1. **Findings of Fact.** Findings set out the relevant facts from the evidence presented. Findings should identify the applicant, the specific relief requested, and the properties affected by the proposal. A list of witnesses, documents and exhibits relied upon in making the decision should be preserved and referenced in the findings.

2. **Conclusions of Law.** Conclusions describe, fact by fact, how each legal standard was or was not met based on the evidence presented. Depending on the type of decision being made, standards might include "public safety," "adequate public facilities," or "consistency with the comprehensive plan." Standards specific to each type of decision are found in local ordinances, state statutes and case law and are described in related sections of this handbook. If no evidence was presented to meet a standard, or if evidence was rejected because it was believed to be unreliable or unbelievable, those facts should be stated on the record.

3. **Determination.** The recommendation or final decision on a matter states whether the request was granted or denied and specifies applicable time limits, conditions and other limitations. A written decision supplied to the applicant should include a notice of appeal rights.

The plan commission may not grant or deny an application by simply restating the statutory or ordinance language that was or was not met.[6] Instead, the commission must explain the "grounds" it relied upon to make its decision. It must cite the specific evidence and reasons why the application does or does not meet each legal standard.[7]

It's not sufficient to say "Based on the evidence, the plan commission recommends denial of the rezoning because it is not consistent with the comprehensive plan." Rather, the plan commission should provide specific justification. For example, "Although the requested use is consistent with the residential designation shown on the future land use map, the comprehensive plan states that development of this area is contingent on improvement of a new north-south collector road. Road improvements have not been made and are not budgeted for in the 5-year capital improvement plan. Therefore, the plan commission recommends denial of the rezoning." The map on page 3 provides a graphic illustration of this scenario.

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[5] The applicant has the burden of proof of establishing the need for a permit. The plan commission cannot guess or fill in the blanks on an incomplete application. If an application is deemed incomplete or if significant changes to the original request are desired, the plan commission may require the applicant to submit a new application and permit review fee.

[6] *Lamar Central Outdoor, Inc. v. Board of Zoning Appeals of the City of Milwaukee*, 2005 WI 117, 284 Wis. 2d 1, 700 N.W.2d 87

[7] *Keen v. Dane County Bd. of Supervisors*, 2004 WI App 26, 269 Wis. 2d 488, 676. N.W.2d 154.

Drafting Land Use Findings

The following tips are provided to help the plan commission draft legally defensible land use findings.

1. Put your findings in clear and understandable language.
2. Use statutory, case law and local ordinance standards as guidelines for your findings.
3. Avoid findings that merely restate the law. Instead, describe how the evidence supports or does not support each standard.
4. Make sure all evidence, including on-site observations, is included in the record.
5. Articulate a clear logical link between the impacts of the project and conditions imposed upon it.
6. If a project has been modified since findings for it were written, make sure that the modifications do not necessitate new or revised findings.

Adapted from Kovacic, Gary A. and Mary L. McMaster. "Drafting Land Use Findings," *Planning Commissioners Journal*, Issue 4, May/June 1992.

Findings are important to help the public understand why the commission reached the decision it did. Even if members of the public disagree with a commission decision, they may not become as upset or angry if they understand the reasoning that led to the decision. If the plan commission does not announce the reasons for its decision, it reflects poorly on the commission and could jeopardize the decision.

If a plan commission decision is appealed, a reviewing court will look at the entire record and must be able to follow the commission's reasons for making the decision. While the reasons do not need to be included in a written decision, they must be found somewhere in the record, such as the transcript of the proceedings. Even if the court would not have reached the same conclusion, it is likely to uphold the decision if it finds that a reasonable person could have reached the same conclusion based on evidence in the record.[8]

The following suggestions are provided to strengthen plan commission decision-making:

- Revise application and decision forms to prompt the applicant and decision-makers to describe how the request meets the appropriate legal standards.
- Consider requiring the applicant to draft sample findings of fact as part of the application process.
- Require applications to be complete and available to the plan commission well in advance of the public hearing. This provides time for the commission to read, digest and explore the information in the application prior to the hearing.
- Distribute a checklist or decision form to each plan commission member so that they can record how the request meets each legal standard.
- Ask the applicant to address each legal standard during the public hearing.
- Provide time for local decision-makers, staff and the public to ask questions of the applicant and present additional information.
- Provide an opportunity for the applicant to respond to information presented.
- Discuss each member's findings before voting on the issue. Remember, an individual may change his/her vote on an issue after each member articulates their findings.
- Prepare a summary of the decision, including the relevant reasons for granting or denying the permit. It's OK to direct staff to prepare a written decision, but don't make them guess at what you were thinking. State for the record what your reasons are for making the decision.

---

[8] Additional information on appealing plan commission decisions, including the certiorari review criteria commonly used by courts is provided in Chapter 7.

REFINING THE ORDINANCE

◗ Conducting an Annual Review

We recommend that the plan commission meet annually with the governing body, planning and zoning staff, and zoning board to discuss concerns and make recommendations for policy changes. An annual summary of the number and specific type of development permits requested and granted can guide the plan commission in making recommendations. Excerpts from a sample report are provided at right. The plan commission should look for patterns that suggest opportunities to improve ordinance language clarity, effectiveness of standards, and administrative efficiency. It should evaluate the need to revise regulations and be prepared to make proactive recommendations to the governing body.

If local officials are granting frequent relief to certain provisions of the local ordinance, this may indicate that the regulations are not consistent with the goals of the comprehensive plan or are otherwise inappropriate. For example, if many people want to build a new home in an area designated for infill development, but a variance is needed to build close to the street like existing homes, the plan commission might suggest a reduced setback or setback averaging provision. Similarly, if many people are seeking and receiving conditional use permits for rather benign home occupations such as computer-based work, the plan commission may recommend permitting this use by right. Conversely, if a certain type of permitted use is proving problematic, they may recommend adding requirements to the ordinance or converting the permitted use to a conditional use, so that conditions may be applied to mitigate adverse impacts.

Reviewing the number and types of conditions applied to permits can also be helpful. While there is no maximum number of conditions that can be attached to an approval, the plan commission may wish to monitor the situation if a high number of conditions are routinely applied, or if the conditions are really significant. If a proven set of conditions are found to be effective for mitigating certain circumstances, the plan commission should recommend revising the ordinance to include the conditions as a requirement of the permit.

Sample Development Summary

Total Applications: 2006 to 2011
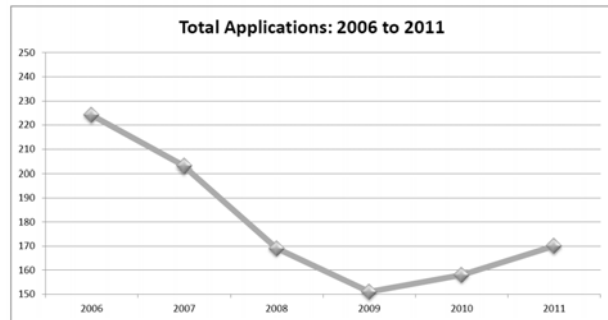
Approvals	2006	2007	2008	2009	2010	2011
Plats	6	2	2	1	1	0
Certified Survey Maps	11	21	17	11	10	15
Commercial Applications	33	20	13	9	19	19
Industrial Applications	5	2	1	2	1	1
Institutional Applications	2	6	5	3	3	6
Sign Applications	45	33	28	34	27	31
Architectural Applications	26	28	26	13	14	23
Certificate of Zoning Compliance	19	21	18	18	20	26
Conditional Use Permits	27	24	7	6	12	12
Zoning Text Amendments	4	5	9	6	3	5
Rezonings	8	8	5	4	6	2
Temporary Use Permits	32	30	31	42	38	28
Zoning Board of Appeals	6	9	5	2	4	2
Total	**224**	**209**	**167**	**151**	**158**	**170**

Conditional Use Permits

The Plan Commission reviews all conditional use permits. These permits are generally for new construction or uses that require some conditions to be placed on the operations. The permits are issued after the City conducts a public hearing and the Plan Commission provides a recommendation to the Common Council. The following permits were issued in 2011:

Business	Permit Issued
Lake Country Dog – 535 E. Wisconsin Ave.	Dog daycare business
Retzlaff Marine – 728 E. Wisconsin Ave.	Boat storage and sales
Wisconsin Ave. Blg. – 124 E. Wisconsin Ave.	Group development
WE Energies – CTH BB	Wetland disturbance
Oconomowoc High School – 641 E. Forest Dr.	Athletic fields
His Auto – 202 E. Wisconsin Ave.	Automotive repair
Our Savior's Church – 145 Lisbon Rd.	Exceed structure height requirements
Wilkinson Manor – 919 E. Summit Ave.	Tree clear-cutting for garages
Oconomowoc Memorial Hospital	Landscaping plan amendment
Oconomowoc Community Center	Group development

City of Oconomowoc, 2011 Development Summary. www.oconomowocusa.com/City%20Planning/ Annual%20Report%202011.pdf

PLAN COMMISSION DECISION FORMS

The forms at the end of this chapter can be used by plan commissions involved in making land use decisions or recommendations. These forms can also be downloaded in Word format from the Center for Land Use Education website: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/PlanCommissions.aspx

Plan Commission Decision Forms
Decision criteria are provided for common plan commission decisions including plat approval, conditional use permits, zoning amendments and comprehensive plan amendments.

Plan Commission Decision Form

I. Findings of Fact

Name, address and phone number of applicant: _____
_____
_____

The applicant requests:
- ❑ Preliminary / final plat approval
- ❑ Conditional use / special exception
- ❑ Zoning map / text amendment
- ❑ Comprehensive plan map / text amendment
- ❑ Other: _____

Brief description of property and surrounding conditions: _____
_____
_____
_____
_____

Brief description of proposal: _____
_____
_____
_____
_____

II. Conclusions of Law

Comprehensive Plan Consistency

Zoning, subdivision and official mapping ordinances adopted or amended after January 1, 2010 must be "consistent" with an adopted comprehensive plan. Consistent means "furthers or does not contradict the objectives, goals, and policies" of the comprehensive plan. Local ordinances may require that proposed subdivision plats, planned unit developments, conditional uses, and other land use ordinances or approvals be reviewed for consistency with the comprehensive plan.

❑ The proposed development is consistent with the future land use recommendations contained in the comprehensive plan and shown on the future land use map.

❑ The proposed development is generally consistent with the vision, goals, objectives and policies contained in the comprehensive plan. (List supporting/conflicting statements below).

Describe reasons why proposal does or does not meet each standard: _____
_____
_____
_____
_____

Plat Approval Criteria

The plan commission may be authorized to approve preliminary or final plats. However, final plats that involve the dedication of streets, highways or other lands must be approved by the governing body. Plats that fall within the plat approval jurisdiction of a city, village or town must be referred to the plan commission for review and an advisory recommendation before the governing body takes final action. Approval of preliminary or final plats may only be conditioned on the factors described in Wis. Stat. § 236.13:

❑ The proposed plat complies with all local ordinance provisions *[describe local standards]:*

❑ The proposed plat is consistent with the comprehensive plan.

❑ The proposed plat provides required public improvements *[describe local standards]:*

❑ The proposed plat satisfies objections raised by state agencies.

❑ The proposed plat complies with provisions of Wis. Stat. Ch. 236.

Describe reasons why proposal does or does not meet each standard: _____
_____
_____
_____

Conditional Use Permit Criteria

The plan commission / zoning board / governing body is authorized to grant conditional use permits when the standards found in section _____ of the zoning ordinance are met.
[Modify the following list to reflect standards found in local ordinance]:

❑ The proposed use conforms with the purposes of the zoning district in which it is located.

❑ The proposed use will not be detrimental to the use or enjoyment of other property in the immediate vicinity or to the community as a whole.

❑ The proposed use will be designed, constructed, operated, and maintained so as to be harmonious and appropriate in appearance with the existing or intended character of the surrounding area.

❑ The proposed use will be adequately served by essential public facilities and services, including highways, streets, water, sewage, drainage, schools and emergency services.

❑ Adequate measures have or will be taken to prevent or control noise, odors, fumes, dust, vibrations, light, and other unusual activities or disturbances.

❑ Adequate measures have or will be taken to provide sufficient off-street parking and loading spaces to serve the proposed use.

Describe reasons why proposal does or does not meet each standard: _____
_____
_____
_____

Zoning Amendment Criteria

The plan commission is responsible for reviewing and providing a recommendation on proposed zoning amendments before final action is taken by the governing body. [Modify the following set of decision standards to reflect local priorities]:

❑ The amendment corrects an error made in the original ordinance.

❑ The amendment is consistent with the comprehensive plan.

❑ The amendment will not be detrimental to property in the immediate vicinity or to the community as a whole.

❑ The amendment will not have a significant adverse impact on the natural environment (i.e. air, water, noise, stormwater management, soils, wildlife, vegetation, etc.), or the impact could be mitigated by improvements on the site or in the immediate vicinity.

❑ The amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services (i.e. highways, streets, water, sewage, drainage, schools, emergency services, etc.).

❑ The amendment allows a more viable transition to planned land uses on adjacent properties than the current zoning designation.

❑ The amendment will not result in illegal "spot zoning" (i.e. use is inconsistent with surrounding properties and serves only a private, rather than public interests).

Describe reasons why proposal does or does not meet each standard: _____
_____
_____
_____
_____

Comprehensive Plan Amendment Criteria

The plan commission is responsible for reviewing and may recommend changes to the comprehensive plan by adopting a resolution by a majority vote of the entire commission. [Modify the following set of decision standards to reflect local priorities]:

❑ The amendment corrects an error made in the original plan.

❑ The amendment is generally consistent with the vision, goals, objectives and policies contained in the comprehensive plan, or there is a change in community actions or characteristics that would justify the change.

❑ The amendment will not be detrimental to property in the immediate vicinity or to the community as a whole.

❑ The amendment will not have a significant adverse impact on the natural environment (i.e. air, water, noise, stormwater management, soils, wildlife, vegetation, etc.), or the impact could be mitigated by improvements on the site or in the general vicinity.

❑ The amendment will not have a significant adverse impact on the ability to provide adequate public facilities or services (i.e. highways, streets, water, sewage, drainage, schools, emergency services, etc.).

❑ There is a community or regional need identified in the comprehensive plan for the proposed land use or service.

Describe reasons why proposal does or does not meet each standard: _____
_____
_____
_____
_____

III. Recommendation or Decision

On the basis of the above findings of fact, conclusions of law and the record in this matter, the plan commission recommends / finds that the proposed development is:

❑ Approved, subject to the following conditions.

❑ Tabled for further consideration.

❑ Denied for the following reasons.

Specify conditions of approval, additional information requested, or reasons for denial:
_____
_____
_____
_____

❑ An amendment to the comprehensive plan is needed to approve this petition.

❑ An amendment to the _____ ordinance is needed to approve this petition.

Describe recommended amendments:
_____
_____
_____
_____

Signed _____   Attest _____
                      Chairperson   Secretary

Dated: _____

Filed: _____

Chapter 7
Zoning Regulations

INTRODUCTION TO ZONING

Zoning is one of the most common methods of land use control used by local governments. Zoning works by dividing a community into districts, regulating uses that are allowed within those districts, and prescribing allowable dimensions such as lot sizes, setbacks and building height. Zoning can help a community to achieve goals outlined in a comprehensive plan including:

- Protecting public health, safety and general welfare.
- Promoting desirable patterns of development.
- Separating incompatible land uses.
- Maintaining community character and aesthetics.
- Protecting community resources such as farmland, woodlands, groundwater, surface water, and historic and cultural resources.
- Providing public services and infrastructure in an economical and efficient manner.
- Protecting public and private investments.

◗ General Zoning

Local governments in Wisconsin decide for themselves whether or not to adopt general zoning, also known as comprehensive zoning. Authority to adopt general zoning is outlined in state statutes and summarized below:

- Cities and villages may adopt general zoning which applies to lands within their municipal boundaries.[1] Cities and villages may also adopt extraterritorial zoning which applies to land in surrounding unincorporated areas.[2]

- Counties may adopt general zoning which applies to unincorporated land within the county, provided the town adopts the county ordinance.[3]

- Towns may adopt general zoning if they are located in a county without general zoning.[4] Towns may also adopt general zoning if they are located in a county with general zoning and receive the approval of the county.[5] Unlike subdivision regulations, county and town general zoning may not apply in the same area.

The zoning ordinance and map describe uses that are allowed within each zoning district.
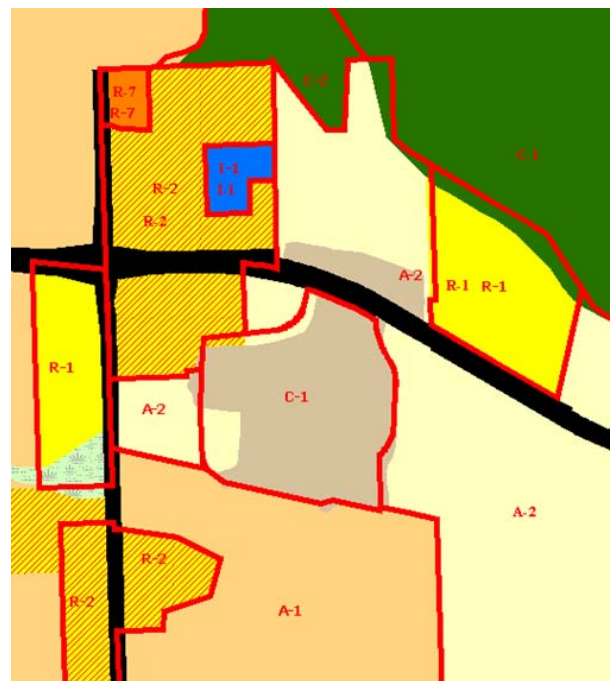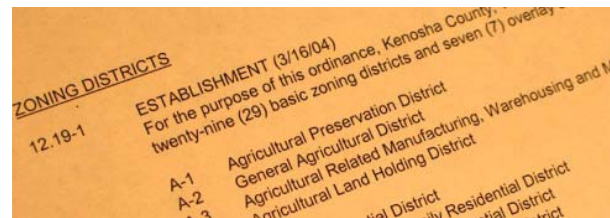
Images: Kenosha County Department of Planning and Development

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[1] Wis. Stat. §§ 62.23 and 61.35.
[2] Wis. Stat. § 62.23(7a). Extraterritorial zoning may be adopted within 3 miles of the corporate limits of a first, second or third class city, or within 1½ miles of a fourth class city or village. A joint extraterritorial committee must approve of extraterritorial zoning ordinances and amendments. The committee consists of 3 members from a city or village and 3 members from each town.

[3] Wis. Stat. § 59.69.
[4] Wis. Stat. § 60.61.
[5] Wis. Stat. § 60.62. In order to exercise this authority, towns must first adopt village powers. The town zoning ordinance *and* subsequent amendments are subject to approval by the county.

▶ Additional Forms of Zoning

Though local communities decide whether or not to adopt general zoning, state statutes require communities to administer certain types of zoning as described below:

- Shoreland zoning provides development standards near waterways to protect water quality, aquatic and wildlife habitat, shore cover and natural scenic beauty. Wisconsin statutes require counties to exercise shoreland zoning in unincorporated areas.[6]

- Shoreland-wetland zoning generally prohibits or severely restricts development in wetlands near waterways. It has the same objectives as shoreland zoning and is required of counties, cities and villages that have received wetland maps from the state.[7]

- Floodplain zoning provides location and development standards to protect human life, health and property from flooding. It is required of counties, cities and villages that have been issued maps designating flood prone areas.[8]

In addition, communities may opt to implement additional forms of zoning such as farmland preservation zoning,[9] construction site erosion control and stormwater management zoning,[10] and airport approach protection zoning.[11]

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[6] Wis. Stat. § 59.692; Wis. Admin. Code ch. NR 115. Cities and villages are required to enforce shoreland zoning in areas that were subject to county shoreland zoning prior to being annexed or incorporated. A town may also enforce shoreland zoning provisions provided they are more restrictive than the county.
[7] Wis. Stat. §§ 61.351 (villages) and 62.231 (cities); Wis. Admin. Code ch. NR 115 (counties).
[8] Wis. Stat. § 87.30(1).
[9] Wis. Stat. § 91.30.
[10] Wis. Stat. §§ 59.693 (counties), 60.627 (towns), 61.354 (villages) and 62.234 (cities).
[11] Wis. Stat. § 114.136.

▶ Elements of a Zoning Ordinance

A zoning ordinance contains two legally adopted components: a map (or series of maps) and text. The map divides a community into different zoning districts (such as residential, commercial, industrial and agricultural). The text of the zoning ordinance spells out uniform rules that apply to each zoning district including: uses of the land (permitted, conditional and prohibited uses), dimensional standards (lot size, frontage, setbacks, building height, bulk, floor area), and the density of development.

The text of the zoning ordinance describes dimensional standards for structures and lots within each district.
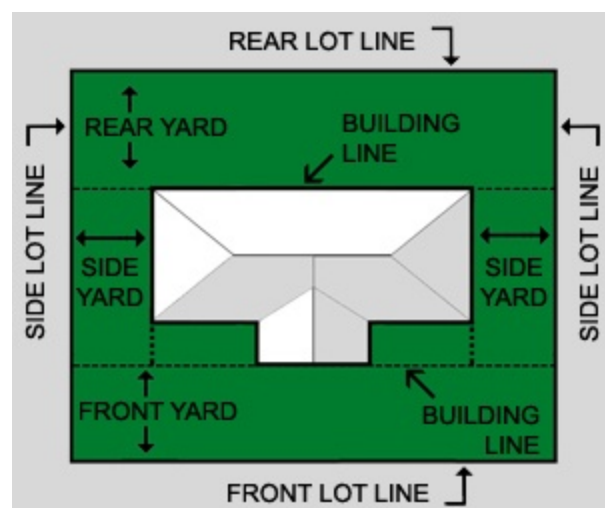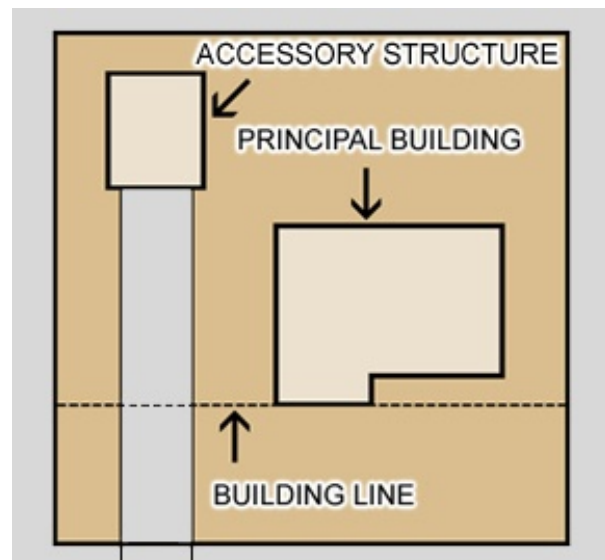
Images: St. Charles Parish, LA

Zoning Districts

Zoning districts are mapped based on land suitability, avoidance of conflict with nearby uses, protection of environmental features, economic factors such as efficient provision of public services and infrastructure, and other locally determined land use objectives articulated in a community plan. The text describes uniform regulations that apply throughout each district.

Overlay Zones

Some communities adopt overlay zones that apply additional restrictions to designated areas on a map. Examples include shoreland zones, wellhead protection zones, and airport overlay zones. These restrictions apply in addition to the restrictions associated with the base zoning districts.

The standards associated with a base zoning district apply together with any overlay zoning restrictions.
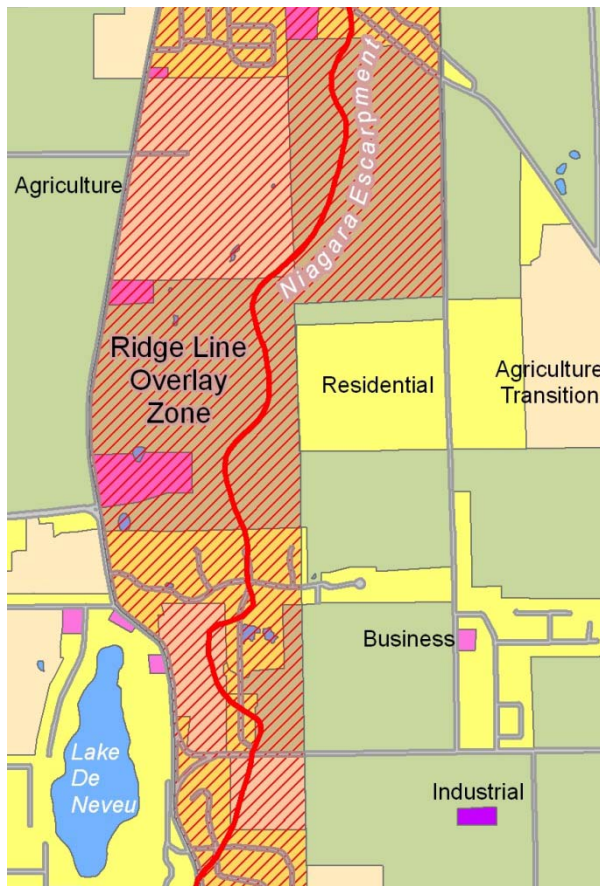
Image: Town of Empire, Fond du Lac County, Critical Areas Overlay

For each zoning district, the ordinance identifies uses that are allowed by right, uses that may be allowed if certain conditions are met, and uses that are not allowed.

Permitted Use Allowed   Conditional Use Sometimes allowed   Prohibited Use Not allowed
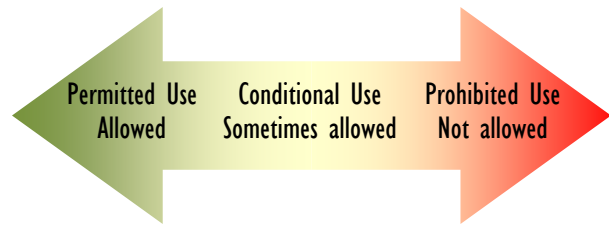
Permitted Uses

Each zoning district must provide for permitted uses that are allowed by right throughout the district.[12] An example would be single-family or multi-family homes in a residential district. Permitted uses are authorized by the zoning administrator with a simple permit. Authorization must be granted if the project complies with general standards for the zoning district, any overlay district or design standards, and related building or construction codes.

Some ordinances list uses that are expressly prohibited for a particular district. Uses that are not specifically listed are also prohibited.[13] If the permitted uses in a zoning ordinance do not allow the use sought by a landowner, they may seek special review of the situation through a conditional use, variance or zoning amendment.

Conditional Uses

Conditional uses may also be listed for each district in a zoning ordinance. A conditional use allows a landowner to put a property to a use which the ordinance expressly permits when specified standards have been met.[14] An example is a daycare facility in a residential district that is allowed subject to parking, fencing and signage requirements.

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[12] *Town of Rhine v. Bizzell*, 2008 WI 76, 311 Wis. 2d 1, 751 N.W.2d 780.

[13] *Foresight, Inc. v. Babl*, 211 Wis. 2nd 599, 565 N.W.2d 279 (Ct. App. 1997).

[14] *State ex. rel. Skelly Oil Co., Inc. v. City of Delafield*, 58 Wis. 2d 695, 207 N.W.2d 585 (1973).

The decision to grant or deny a conditional use is discretionary and is determined by whether the applicant can meet the conditional use standards contained in the ordinance. Generally, a conditional use must be compatible with neighboring land uses, tailored to meet the limitations of the site, and may not be in violation of the ordinance objectives. If a conditional use permit is granted, conditions may be attached to mitigate potential negative impacts associated with the development. The zoning ordinance should assign review of conditional uses to the governing body, plan commission, or zoning board of adjustment or appeals.

Variances

A zoning variance authorizes a landowner to do something that is not allowed by the zoning ordinance. There are two types of variances: area variances and use variances. An area variance allows a property owner to violate a dimensional requirement of the zoning ordinance (such as a building setback or height limit), whereas a use variance allows a landowner to use a property in a manner that is not specifically authorized for the district. Use variances are generally more difficult to obtain and may be prohibited by the local ordinance. The zoning board of adjustment or appeals reviews variance requests based on criteria outlined in state statutes and case law.

Amendments and Rezonings

Both the zoning map and the text of the zoning ordinance may be updated and amended over time. Two types of amendments are possible and include changes to district boundaries (map amendments) and changes to district regulations such as allowed uses or setbacks (text amendments). A landowner may petition to "rezone" their property from one district to another. Other amendments may be initiated by the governing body, plan commission or staff. The governing body is responsible for adopting and amending the zoning ordinance with input from the plan commission.

Nonconforming Uses, Structures and Parcels

Zoning "nonconformities" are uses, structures or lots that existed legally prior to the adoption or amendment of a zoning ordinance but do not comply with present zoning provisions. Wisconsin law allows the continuation of some nonconforming uses, structures and lots, but does not provide guidance in all situations. As a result, a local zoning ordinance may include provisions to prohibit or otherwise restrict certain classes of zoning nonconformities. Additional guidance and policy options are provided in the Zoning Nonconformities Handbook referenced at the end of this chapter.

Planned Unit Development:
A tool to introduce flexibility in the zoning ordinance

A planned unit development is a mechanism for allowing greater flexibility in the siting and design of development. Planned unit developments provide an opportunity for developers to work with local officials and residents to create a project design that advances the goals of both the community and the developer. These projects often include a mix of land uses (office, retail, residential), intensities (single-family, apartment, townhome), and other special design features.

They may be authorized through a conditional use permit, rezoning or other similar development review process. Regulations that apply to planned unit developments should be described in the text of the zoning ordinance. Specific locations may or may not be mapped.

Image: MIT Investment Management Company

ORDINANCE ADOPTION OR AMENDMENT

In Wisconsin, the adoption or amendment of a zoning ordinance is regarded as a legislative act. As a result, local decision-makers have a fair amount of flexibility in crafting and changing zoning ordinance provisions. However, two basic principles must be followed. First, the ordinance must be guided by and consistent with an adopted comprehensive plan.[15] Second, the ordinance may not violate state statutes or the United States Constitution. The U.S. Supreme Court has stated, "a zoning ordinance is unconstitutional when its 'provisions are clearly arbitrary and unreasonable having no substantial relation to the public health, safety, morals or general welfare.'"[16]

◗ General Organization of a Zoning Ordinance

Most zoning ordinances are organized in the following manner:[17]

- **Title, Authority and Purpose.** This section lists the state enabling legislation which empowers the community to adopt zoning and outlines the community's "statements of purpose" or reasons for having zoning.

- **General Provisions.** This section includes definitions of terms and describes the area affected by the ordinance.

- **Zoning Districts and Regulations.** This section lists and defines each zoning district and sets out rules that apply to land in each district. These rules may include permitted and conditional uses, the density of structural development, dimensions of structures and setbacks, and provisions for open space.

> **Types of Zoning Amendments**
> There are two types of zoning ordinance amendments:
>
> **Map amendments** create a new district or change the boundaries of an existing district.
>
> **Text amendments** create a new district, change the requirements of an existing district or change general ordinance standards.
>
> The term "rezoning" is often used to refer to a request to change the zoning district for a particular piece of property.

- **Zoning Nonconformities.** This section describes limitations associated with nonconforming uses, structures and lots.

- **Impact Regulations.** This section describes parking, landscaping, signage, historic preservation, environmental and other development regulations designed to mitigate the impacts of development.

- **Administration and Enforcement.** This section outlines the duties of those involved in administering the zoning ordinance, specifies procedures for amending the ordinance, and sets fines for zoning violations. Enforcement techniques generally include refusal of building or occupancy permits, remediation, fines and forfeitures, or court action to force compliance.[18] Enforcement actions may be initiated by the governing body or an affected landowner.[19]

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[15] Wis. Stat. § 66.1001(1)(3) which applies if the ordinance is adopted or amended after January 1, 2010. Consistency is addressed in greater detail in Chapter 6.

[16] *Town of Rhine v. Bizzell*, 2008 WI 76, 311 Wis. 2d 1, 751 N.W.2d 780. quoting *Euclid v. Ambler Realty Co*, 272 U.S. 365 (1926).

[17] Michael Chandler and Gregory Dale. "Zoning Basics." *Planning Commissioners Journal*, No. 42. Spring 2001.

[18] Zoning decisions may be enforced by a zoning administrator, building inspector, the secretary of the zoning agency, or municipal attorney. Wis. Stat. 59.69 (2)(bm), (10)(b) & (11), 60.61(6) and 62.23(7)(f) & (8).

[19] In cities, villages, and towns with village powers, any adjacent or neighboring property owner who would be specially damaged may sue to enforce the ordinance (Wis. Stat. § 62.23(8)). In counties and towns without village powers, an owner of real estate in the district who is affected by an ordinance violation may sue to enforce the ordinance (Wis. Stat. §§ 59.69(11) and 60.61(6)).

◗ **Process to Adopt or Amend a Zoning Ordinance**

The process to adopt or amend a general zoning ordinance is outlined in state statutes and summarized below:[20]

1. **Petition to adopt or amend the zoning ordinance.** The plan commission prepares draft zoning ordinance recommendations, usually with the assistance of legal counsel, an advisory group, zoning staff, or a private consulting firm. A petition to amend the zoning ordinance may be made by a local landowner, the plan commission, or the governing body.

2. **Public notice.** The clerk publishes a class 2 notice in the community's official newspaper and mails notice to parties in interest as described on page 8. If the proposed ordinance or amendment has the effect of changing the allowable use of the property, the notice must include a map or description of the property affected by the ordinance and a statement identifying where the map may be obtained.

3. **Public hearing.** The plan commission, governing body or other appropriate body holds a public hearing on the draft zoning ordinance or amendment.[21] When making significant changes to an ordinance, opportunities for public participation prior to the public hearing are recommended to ensure that the ordinance is understood and accepted by the public.

4. **Plan commission recommendation.** In response to public comments, the plan commission may modify the draft zoning ordinance or forward it to the governing body with a recommendation for action.[22]

5. **Governing body decision.** The governing body may approve, modify or deny the proposal, or return it to the plan commission with directions to make additional changes. If the proposal is substantially changed, the public hearing process should be repeated.[23] In most cases, a majority vote of the governing body is needed to adopt the ordinance.[24] However, an affirmative vote of three-fourths of the governing body is required if landowners opposing the amendment file a valid protest petition.[25] Likewise, an affirmative vote of two-thirds of the governing body is required if the owner or operator of an affected airport files a protest petition[26] or if the mayor or county executive vetoes the zoning amendment.[27]

6. **Publication of ordinance and effective date.** Adopted ordinances and amendments must be published as a class 1 notice and take effect on the day after publication unless otherwise prescribed.[28] County zoning ordinances and amendments take effect once approved by the town board and county executive.

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[20] See Wis. Stat. §§ 59.69(5) counties; 60.61(4) towns; 62.23(7)(d) cities, villages, towns with village powers.
[21] In municipalities, the public hearing may be held by the governing body, plan commission, or board of public land commissioners (Wis. Stat. § 62.23(7)(d)1). In counties, the public hearing may be held by the county zoning agency (planning & zoning committee or plan commission) or the county board (Wis. Stat. §§ 59.69(5) and (6)).

[22] If the governing body of a municipality does not receive a report from the plan commission within sixty days, it may proceed without it (Wis. Stat. 62.23(7)(d)2).
[23] A "substantial change" is one that alters the fundamental character of the original proposal such that it changes the group affected by the proposal or the impact on that group. *Herdeman v. City of Muskego*, 116 Wis. 2d 687, 690,343, N.W.2d 814 (Ct. App. 1983).
[24] Majority means a majority of *all* members of the city council, village board or town board (Wis. Stat. §§ 62.11(3)(b), 62.23, 61.35 and 60.62) or a majority of county board members *present,* unless otherwise provided by law (Wis. Stat. § 59.02).
[25] For cities, villages and towns with village powers, the protest must be signed by owners of 20% of the land to be altered, or by owners of 20% of land within 100 feet, or by owners of 20% of land extending 100 feet opposite the street frontage (Wis. Stat. § 62.23(7)(d)2m). For counties and towns without village powers, the protest must be signed and acknowledged by owners of 50% of the land to be altered, or by owners of 50% of the land within 300 feet (Wis. Stat. §§ 59.69(5)(e)5g and 60.61(4)(c)2). County protest petitions must be received by the clerk at least 24 hours prior to the meeting of the county board.
[26] Wis. Stat. 59.69(5)(e)5m, 60.61(4)(c)2, 62.23(7)(d)2m.b.
[27] Wis. Stat. §§ 59.17(6) and 62.09(8)(c).
[28] Wis. Stat. §§ 59.14, 60.80, 61.50, and 62.11(4).

Class 1 Notice – One newspaper publication.

Class 2 Notice – Two newspaper publications, at least once each week for consecutive weeks, the last at least one week before the act or event.

Wis. Stat. 985.01(1m) and 985.07

▶ **Notice Requirements**

Advance notice of a hearing to adopt or amend a zoning ordinance must be provided to the following parties:

- **News media.** Notice must be provided in writing or by phone, fax or email to any news media that have filed a written request. Notice must also be provided to the government unit's official newspaper, or if there is no official newspaper, to other media likely to give notice in the affected area.[29]

- **Adjacent municipalities.** Notice of county zoning amendments must be mailed to the clerk of affected towns at least 10 days prior to the hearing.[30] Written notice of the adoption or amendment of a city, village or town zoning ordinance must be provided to the clerk of any municipality located within 1,000 feet of lands affected by the ordinance at least 10 days prior to the hearing.[31]

- **Property owners.** Notice of zoning ordinance adoption and amendment must be provided to property owners that have submitted a written request to receive notice of action affecting their property. Notice may be provided by mail or other agreed upon method, and an appropriate fee may be charged.[32]

- **Airport owners.** Notice of a zoning amendment in an airport affected area

must be mailed to the owner or operator of the airport. The airport affected area extends three miles from the boundary of a public airport unless otherwise agreed.[33]

- **Military installations.** Written notice of city, village and town zoning ordinance adoption and amendment must be provided to the commanding officer of a military base or installation with at least 200 assigned military personnel or at least 2,000 acres, located in or near the municipality.[34]

- **Department of Natural Resources.** Written notice of amendments to shoreland, shoreland-wetland, and floodplain zoning ordinances must be provided to the appropriate local DNR office at least 10 days prior to the hearing.[35]

- **Department of Agriculture, Trade and Consumer Protection.** Written notice of amendments to farmland preservation zoning must be provided to DATCP. This requirement does not apply when land is rezoned out of farmland preservation zoning.[36]

Conspicuous posting of permit applications on site is recommended to provide public notice and avoid postponement of controversial decisions.

Image: RDK Printing & Signs

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[29] Wis. Stat. § 19.84.
[30] Wis. Stat. § 59.69(5) (e)2.
[31] Wis. Stat. §§ 62.23(7)(d)1.a & 2.
[32] Wis. Stat. § 59.69(5)(f) and 62.23(7)(d)4.

[33] Wis. Stat. §§ 59.69(5)(e)2, 60.61(4)(c)1, 62.23(7)(d)2, 62.23(6)(am)1.b and 66.1009.
[34] Wis. Stat. §§ 62.23(7)(d)1.a & 2.
[35] Wis. Admin. Code §§ NR 115.05(4)(h) & NR 116.20(2)(c).
[36] Wis. Stat. § 91.36(8)(d).

◗ Town Approval of County Zoning

Towns must approve of a county general zoning ordinance in order for it to take effect in the town. Once approved, a town may only "opt out" of county zoning if the county adopts a comprehensive revision.[37] A comprehensive revision means a complete rewriting of the zoning ordinance that includes numerous changes to zoning provisions and the alteration or addition of zoning districts. The town has up to one year to approve the comprehensive ordinance revision. During this time the old ordinance remains in effect.

Towns under county zoning also have authority to review and disapprove of zoning amendments but must do so following prescribed procedures.[38] In the case of map amendments, individual towns may disapprove if the proposed change falls within the town boundaries. In the case of text amendments affecting multiple towns, a majority of affected towns must disapprove.

Many town boards refer county zoning amendments and other decisions to the town plan commission but retain authority to make a final recommendation to the county. This can complicate scheduling of hearings and delay action by the county zoning agency to the displeasure of petitioners. Some counties and their towns have agreed on timelines and procedures to expedite forwarding of petitions and return of town recommendations.

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[37] Wis. Stat. § 59.69(5)(d).
[38] Wis. Stat. § 59.69(5)(e). Towns may disapprove within 10 days of the public hearing by the zoning agency or file an extension lasting 20 days. Following disapproval, the county zoning agency must deny the request or make changes before forwarding it to the county board. If the county board enacts an amendment that was changed in any way from the original proposal, towns have 40 days to disapprove of the amendment and it may not go into effect. The town must file a certified copy of a town board resolution with the county clerk in order to disapprove of an amendment or request an extension. County shoreland and floodplain zoning ordinances and amendments are not subject to town approval or disapproval.

Veto Authority for Towns under County Zoning

Stage 1: Towns have 10 days from public hearing to object to zoning amendments. If the required number of towns disapproves, the plan commission must recommend denial or revise the petition.

Stage 2: If towns disapproved of initial petition or petition is revised, towns have 40 days from county vote to disapprove. If the required number of towns disapproves, the amendment does not take effect.

Petition to amend zoning ordinance

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Public notice and notice to affected towns

↓

Public hearing

↓

Plan commission recommendation

↓

County board decision

↓

Amendment goes into effect and is published

Sample Resolution to Disapprove Amendment

The Town Board of the Town of _____, _____ County, Wisconsin, by this resolution, adopted by a majority of the town board on a roll call vote with a quorum present and voting and proper notice having been given, resolves and orders as follows:

The petition to amend the county zoning ordinance (describe or attach copy of amendment) is timely disapproved. [An extension for disapproving the proposed petition to amend has been filed by the town board with the county clerk.]

Adopted this ___ day of _____, 20___.
Signatures of town board
Signature of town clerk

Adapted from *Wisconsin Town Law Forms, 59.69(5)(e)3*. May 2011. State of Wisconsin.

▶ Criteria for Reviewing Zoning Amendments

A zoning ordinance, like the comprehensive plan, is not set in stone and will likely need to be updated over time. An ordinance amendment typically results from changing social, economic or environmental conditions, lack of political support for current land use policies, preparation of a new comprehensive plan, or a landowner request to do something other than what is permitted in a zoning district.

When considering a landowner request to rezone a property, it is recommended that local decision-makers follow the rules of procedural due process described in Chapter 2. These rules ensure that decision-makers are impartial, that public input is confined to the public hearing, and that decisions are based on pre-determined standards.

Spot Zoning: Illegal or Not?

Amending a zoning ordinance to zone a relatively small area for uses significantly different than those allowed in the surrounding area is known as "spot zoning." This practice becomes controversial when uses are allowed that are incompatible with the physical limitations of a site or with uses of surrounding properties. However, spot zoning is not always illegal. It may be approved where it is in the public interest and not solely for the benefit of the property owner requesting the rezoning. Spot zoning has been successfully challenged in court where it does not meet these criteria and results in a small uniquely zoned island at odds with the ordinance and plan objectives.[39]

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[39] *Cushman v. Racine*, 39 Wis.2d 303, 159 N.W.2d 67 (1968); *Heaney v. Oshkosh*, 47 Wis.2d 303, 177 N.W.2d 74 (1970).

Checklist for Reviewing Proposed Zoning Amendments

Following are some questions to incorporate in the zoning ordinance and consider when reviewing proposed zoning amendments.

	Yes	*No*
1. Is the request consistent with the comprehensive plan?	____	____
2. Does the community need more land in the requested district?	____	____
3. Are there other properties in the community that might be more appropriate for this use?	____	____
4. Will the request have a serious impact on traffic circulation, parking, sewer and water service, or other utilities?	____	____
5. Will the request have a negative adverse impact on property values in the vicinity?	____	____
6. Will the request result in lessening the enjoyment or use of adjacent properties?	____	____
7. Will the request cause serious noise, odors, light, activity or other unusual disturbances?	____	____
8. Will the request result in illegal spot zoning? (i.e. use is inconsistent with surrounding properties and serves only private, rather than public interests)	____	____

Adapted from: Daniels, Thomas L., John W. Keller and Mark B. Lapping. *The Small Town Planning Handbook*, Second Edition. 1995. APA: Chicago.

CONDITIONAL USES

A conditional use or special exception is a tool designed to introduce flexibility into the zoning ordinance. For each zoning district, the ordinance will usually describe uses that are allowed by right, uses that may be allowed if specified standards are met, and uses that are prohibited. The second type of use is known as a conditional use, special use or special exception. Exceptions may also be made for minor deviations from dimensional requirements (such as setbacks or height limits), and for specified construction activities (such as filling and grading near navigable waters). Throughout the remainder of the text, these terms will be considered together and referred to as conditional uses.

A conditional use must be specifically listed in the zoning ordinance.[40] Unlike a permitted use, however, a conditional use is not allowed by right at all locations in a district. Rather, it must undergo special review by the plan commission, governing body, or zoning board to determine if it is appropriate for the site.

Conditional Use or Special Exception?
Wisconsin courts have utilized the terms conditional use, special use, and special exception interchangeably. However, some Wisconsin communities make a distinction.

Conditional use is generally used to refer to specified *uses* of a property that may be allowed under certain circumstances (i.e. gas station, landfill).

Special exception is more commonly used to refer to minor deviations from *dimensional* requirements (i.e. setback, height).

Adapted from: Olson, Daniel M. "Zoning Tools: Conditional Uses and Special Exceptions." *The Municipality*, October 2008. League of Wisconsin Municipalities.

The local zoning ordinance should identify which body has authority to decide conditional use permits.[41] If the governing body is authorized to decide conditional uses, it may request a recommendation from the plan commission.[42]

◗ Process for Deciding Conditional Use Permits
The process for deciding conditional use permits should be described in the local zoning ordinance. Common steps are outlined below:

1. Application for conditional use permit. The application for a conditional use permit must be complete by the first time that notice is given for the final public hearing on the matter, unless an ordinance expressly allows later submission of information.[43] The applicant has the burden of proof of showing that they meet the standards outlined in the local ordinance.[44]

2. Notice and public hearing. Because the decision to grant or deny a conditional use permit is quasi-judicial, local decision-makers must follow the rules of procedural due process. Among other things, this means that testimony should be limited to the public hearing, decisions should be based on pre-determined standards, and decision-makers should be impartial. Public notice requirements also apply and are described on page 12.

3. Decision by governing body, plan commission or zoning board. The authorized permit review body has authority to grant or deny the permit[45] based on general or specific

[40] *Foresight, Inc. v. Babl*, 211 Wis. 2d 599,565 N.W.2d 279 (Ct. App. 1997).
[41] Wis. Stat. §§ 59.694(1) & (7)(a) and 62.23(7)(e)1 & 7.
[42] A member of the governing body who serves on the plan commission should not participate in both decisions. *League of Wisconsin Municipalities*, Zoning Caption 445.
[43] *Weber v. Town of Saukville*, 209 Wis. 2d 214, 562 N.W.2d 412 (1997).
[44] *Edward Kraemer & Sons, Inc. v. Sauk County Bd. of Adjustment*, 183 Wis. 2d 1, 515 N.W.2d 256 (1994).

standards laid out in the local zoning ordinance.[46] These standards often relate to site suitability or compatibility with neighboring land uses due to factors such as noise, odor or traffic. The applicant must demonstrate that the proposed project complies with each standard in the ordinance. The permit review body may impose conditions on development consistent with the ordinance standards and objectives.[47]

4. **Filing and notice of decision.** The decision to grant or deny the permit, including any associated conditions, should be promptly filed in the planning and zoning office and provided to the landowner. A reasonable time limit within which an appeal may be filed should be specified in the local zoning ordinance. If no such provisions are made, the appeal period begins when an aggrieved party finds out about the decision[48] or is given notice of the decision.[49]

Notice Requirements

Advance notice of meetings or hearings to decide conditional use permits should be provided to the following parties:

- **News media.** Notice must be provided in writing or by phone, fax or email to any news media that have filed a written request. Notice must also be provided to the government unit's official newspaper, or if there is no official newspaper, to other media likely to give notice in the affected area.[50]

- **Parties in interest.** Notice should be mailed to 'parties in interest' including the applicant, nearby property owners, and others as specified by local ordinance.[51] Many counties provide notice to affected towns, but are not specifically required to do so by statute.

- **Department of Natural Resources.** Written notice must be provided to the appropriate local DNR office at least 10 days prior to hearings for shoreland, shoreland-wetland, and floodplain zoning.[52]

◗ Attaching and Tracking Conditions

Conditions attached to a conditional use permit should be designed to diminish the adverse impacts of the use on the district. For example, a daycare facility might be allowed as a conditional use in a residential district subject to parking, fencing and signage requirements.

How Do You Develop Conditions?

Conditions are usually developed in one of three ways. They may be:
1. listed in the local zoning ordinance for the district,
2. recommended by zoning staff during the public hearing or in a staff report, or
3. developed by the permit review body at the conclusion of the public hearing.

Permit conditions that are routinely imposed for similar projects should be adopted by ordinance as minimum standards for approval. Incorporating standards in the ordinance allows permit applicants to anticipate and plan for design, location, and construction requirements.

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[45] *Village of DeForest v. County of Dane*, 211 Wis. 2d 804, 816, 565 N.W.2d 296 (Ct. App. 1997).
[46] *Edward Kraemer & Sons, Inc. v. Sauk County Bd. of Adjustment*, 183 Wis. 2d 1, 515 N.W.2d 256 (1994).
[47] *Rainbow Springs Golf Co. v. Town of Mukwonago*, 2005 WI App 163, 284 Wis. 2d 519, 702 N.W.2d 40.
[48] *State el. rel. DNR v. Walworth County Bd. of Adjustment*, 170 Wis. 2d 406,414, 489 N.W.2d 631 (Ct. App. 1992).
[49] *State ex. rel. Brookside Poultry Farms, Inc. v. Jefferson County Bd. of Adjustment*, 131 Wis. 2d 101, 117-18, 388 N.W.2d 593 (1986).
[50] Wis. Stat. § 19.84.

[51] Wis. Stat. §§ 59.694(6) & 62.23(7)(e)6 which apply to zoning boards deciding appeals, variances and conditional use permits. Presumably, the requirements also apply to the governing body or plan commission.
[52] Wis. Admin. Code §§ NR 115.05(4)(h) & NR 116.20(2)(c).

Conditions must be reasonable and relate to a legitimate regulatory purpose, such as public health, safety or welfare.[53] Conditions are generally legal and acceptable provided they meet the following tests:

- **Essential Nexus Test.** The limitation must be designed to remedy a harm to public interests or to address a need for public services likely to result from the proposed development.[54]

- **Rough Proportionality Test.** The limitation must be commensurate with the extent of the resulting harm or need for services.[55]

To assist in monitoring conditional use permits, the plan commission may require compliance reporting as a condition of the permit. Compliance reporting may be requested on a periodic basis or upon transfer of the property. This type of review does not give the plan commission the ability to attach new conditions, unless the permit is revoked due to noncompliance. Therefore, it is important for the plan commission to consider all potential problems associated with the conditional use at the time the permit is issued. An effective means to provide subsequent property owners with notice of permit conditions is with an affidavit recorded with the deed.

Types of Development Standards: Performance vs. Design

When granting a conditional use permit, the permit review body may require the applicant to develop a construction or facility operation plan to meet specified performance standards (i.e. meet with land conservation staff to develop an erosion control plan that contains all runoff/sediment on the site). Performance standards are not unique to conditional uses. General performance and specific design standards are contrasted below:

Performance Standard

Example: Projects may not result in an increase in stormwater discharge which exceeds predevelopment conditions.

Features:
- The expected results are stated.
- The project may be "custom tailored" to the site.
- It requires more technical expertise to design and evaluate a proposal.
- It involves more complex project monitoring and enforcement.
- It provides an opportunity for optimal compliance/performance.

Design Standard

Example: Each lot shall provide 500 cubic feet of stormwater storage.

Features:
- Project specifications are stated.
- It is easy to understand, administer, and enforce.
- It provides little flexibility and so may result in many variance requests.
- It may not achieve ordinance objectives in all cases.

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[53] *Lessard v. Burnett County Bd. of Adjustment*, 2002 WI App 186, 256 Wis. 2d 821, 649 N.W.2d 728.
[54] *Nollan v. California Coastal Commission*, 483 U.S. 825, 107 S. Ct. 3141, 97 L.Ed.2d 677 (U.S. 1987).
[55] *Dolan v. City of Tigard*, 512 U.S. 374, 114 S. Ct. 2309, 129 L.Ed.2d 304 (U.S. 1994).

◗ Time Limits, Modification and Revocation of Permits

Once a conditional use permit is granted, subsequent owners of the property are generally allowed to continue the use subject to limitations imposed in the original permit.[56] However, there are some exceptions to this rule. Communities may issue a limited-term permit for uses that are temporary in nature, such as a gravel pit or annual concert series. Permits can also be revoked or conditions added if the owner changes the use or violates permit conditions.[57] Revoking a conditional use permit is not considered a taking without just compensation because a conditional use permit is a type of zoning designation and not a property right.[58]

If a zoning code amendment removes the conditional use that was the basis for a permit, the conditional use permit becomes void.[59] In situations like this, the use is allowed to continue as a nonconforming use. However, the permit conditions are not enforceable.

◗ Reconsideration and Appeal of Decisions

A person who is dissatisfied with a decision of the plan commission may ask to have their case reheard multiple times hoping for the answer they desire. Courts have found that requests for re-hearings can be denied unless there is a significant change in the project proposal, new information relevant to the decision, or a reversible error in the original process or decision.[60]

Likewise, a person may appeal a decision of the plan commission. Appeal of conditional use decisions is handled differently depending on the body that made the initial decision to grant or deny the permit. The diagram below shows the relationship between the initial decision-making body and the appropriate appeal body. Conditional use decisions of the plan commission are appealed to the zoning board of adjustment or appeals, unless the ordinance provides an alternate mechanism of appeal to the governing body.[61] Conditional use decisions of the governing body or zoning board are appealed directly to circuit court.[62]

Conditional Use Permit Application and Appeals

Submit conditional use permit application

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Public notice

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Public hearing

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Filing and notice of decision

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Administrative appeal if decided by PC

Judicial appeal if decided by GB or BOA
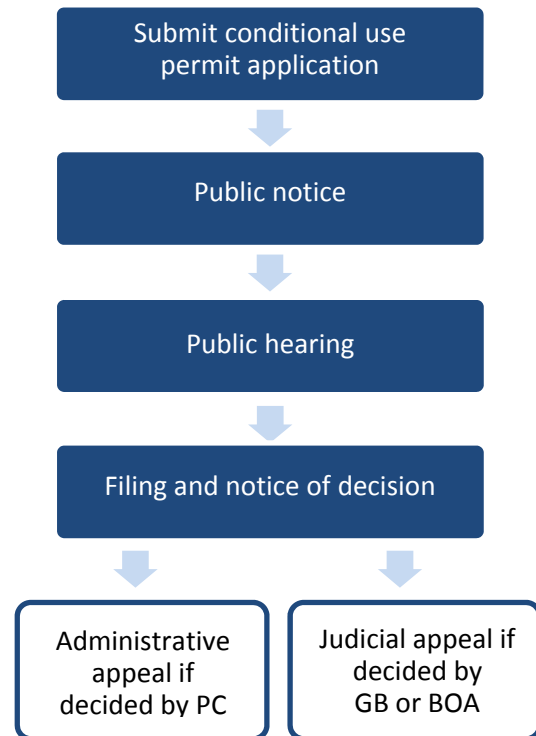
PC – Plan Commission, GB – Governing Body, BOA – Board of Adjustment/Appeals

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[56] See Rohan, *Zoning and Land Use Controls*, sec. 44.01[4], p. 44-18, and Anderson, *American Law of Zoning* 3d, vol. 3, sec. 21.32, p. 754-5.

[57] Action may be taken following notice and a public hearing. *Hartland Sportsman's Club v. Town of Delafield*, 35 F.3d 1198 (7th Cir. Wis. 1994) and *Bettendorf v. St. Croix County Bd. of Adjustment*, 224 Wis. 2d 735, 591 N.W.2d 916 (Ct. App.1999).

[58] *Rainbow Springs Golf v. Town of Mukwonago*, 2005 WI App 163, 284 Wis. 2d 519, 702 N.W.2d 40.

[59] *Hussein v. Village of Germantown Bd. of Zoning Appeals,* 2011 WI App 96, 334 Wis. 2d 764, 800 N.W.2d 551.

[60] *Tateoka v. City of Waukesha Bd. of Zoning Appeals*, 220 Wis. 2d 656, 583 N.W.2d 871 (Ct. App. 1998);

Goldberg v. Milwaukee Bd. of Zoning Appeals, 115 Wis. 2d 517, 340 N.W.2d 558 (Ct. App. 1983)

[61] *League of Woman Voters v. Outagamie County*, 113 Wis. 2d 313, 334 N.W.2d 887 (1983); *State ex. rel. Brookside Poultry Farms, Inc. v. Jefferson County Bd. of Adj.*, 131 Wis. 2d 101, 388 N.W.2d 593 (1984).

[62] *Town of Hudson v. Hudson Town Bd. of Adjustment*, 158 Wis. 2d 263, 461 N.W.2d 827 (Ct. App. 1990); *Magnolia Twp. V. Town of Magnolia*, 2005 WI App 119, 284 Wis. 2d. 361, 701 N.W.2d 60.

APPEAL OF ZONING DECISIONS

Applicants and other specified parties that are dissatisfied with a zoning decision may file an appeal within time limits specified by state statutes and local ordinance. The appeal process varies based on the type of decision being appealed and the body that made the original decision.

▶ Administrative Appeals

Decisions of the zoning administrator, such as the granting of a simple zoning permit, the interpretation of a zoning ordinance, the accuracy of measurements, or the authority of a zoning official to make a decision are appealed to the zoning board of adjustment or appeals. Conditional use decisions of the plan commission are also appealed to the zoning board as an administrative appeal, unless the ordinance provides an alternate mechanism of appeal to the governing body.[63]

Any "aggrieved" person and any officer, department, board or bureau of the municipality affected by an administrative decision of a zoning officer may appeal the decision within a "reasonable" time period determined by the board.[64] If a time limit is not specified in the local zoning ordinance or by board rules, the appeal period begins when the aggrieved party finds out about the decision or has notice of the decision.[65] An aggrieved person is one whose legally protected interests are affected by the decision.

When hearing an appeal, the zoning board should review the record of proceedings before it and may take new evidence.[65] The board has all of the powers of the decision-maker whose decision was appealed and may reverse, affirm or modify the original decision or issue or direct that a permit be issued. The applicant has the burden of proof of demonstrating that the administrative decision was incorrect or unreasonable.

▶ Judicial Appeals

Decisions of the zoning board, including variances, conditional uses and administrative appeals, may be appealed to circuit court. Any aggrieved person, taxpayer, officer, or body of the municipality may seek certiorari review within 30 days of filing the decision in the office of the zoning board.[67]

Decisions of the governing body, such as acting upon a permit application or choosing the procedure to follow in considering an ordinance may also be appealed to circuit court. Any party to the proceeding may seek certiorari review within 30 days of being notified of the final decision.[68]

In a certiorari action, the court will review the record using the standards described on page 16. It may affirm, reverse or modify the decision appealed in whole or in part. If a decision is overturned, the court may "remand" or send the case back to the original decision-maker with instructions for further proceedings.

> **For More Information**
> Additional information on appealing administrative and quasi-judicial decisions may be found in Chapters 13 and 17 of the Zoning Board Handbook. The Handbook is available on the Center for Land Use Education website at:
> www.uwsp.edu/cnr-ap/clue/Pages/ZoningHandbook.aspx

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[63] *League of Woman Voters v. Outagamie County*, 113 Wis. 2d 313, 334 N.W.2d 887 (1983); *State ex. rel. Brookside Poultry Farms, Inc. v. Jefferson County Bd. of Adj.*, 131 Wis. 2d 101, 388 N.W.2d 593 (1984).
[64] Wis. Stat. §§ 59.694(4) and 62.23(7)(e)(4).
[65] *State ex rel. DNR v. Walworth Co. Bd. of Adj.*, 170 Wis. 2d 406, 489 N.W.2d 631 (Ct. App. 1992); *State ex rel. Brookside Poultry Farms, Inc. v. Jefferson Co. Bd. of Adj.*, 131 Wis. 2d 101, 388 N.W.2d 593 (1986).

[66] Wis. Stat. § 59.694(8); *Osterhues v. Bd. of Adj. for Washburn Co*, 2005 WI 92, 282 Wis. 2d 228, 698 N.W.2d 701.
[67] Wis. Stat. §§ 59.694(10) & 62.23(7)(e)10.
[68] Wis. Stat. § 68.13.

Certiorari Review Standards

The following standards are used by courts to review local land use decisions on certiorari.[69] These points provide an excellent checklist that can be used by plan commission members and other local land use decision-makers to judge the overall quality and defensibility of their decisions.

	Questions the court will ask when reviewing local decisions	Tips to help local decision-makers comply with the standard
1. Jurisdiction	Did the body have the authority to make the decision?	▪ For each hearing, ensure that the geographical location and type of decision is within the jurisdiction of the body.
2. Proper procedures	Did the body follow proper legal procedures?	▪ Ensure that public notice and open meeting laws are followed as well as other procedures specified in local or state codes.
3. Proper legal standards	Did the body follow the proper legal standards?	▪ Ensure that decisions are based on standards found in local ordinances, state statutes and case law.
4. Unbiased decision-makers	Was the action arbitrary, oppressive or unreasonable, and representative of its will and not its judgment?	▪ Ensure that decision-makers are unbiased and recuse themselves from decisions that present a conflict of interest or appearance of bias. ▪ Make sure the decision explains the reasons why each decision standard was or was not met.
5. Substantial evidence	Could a fair and reasonable person have reached the same conclusion based on the facts in the record?	▪ Make sure all evidence, including that from site inspections, is included in the record.[70] ▪ Explain how the evidence showed why each decision standard was or was not met.

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[69] *State ex rel. Ziervogel v. Washington County Bd. of Adjustment*, 2004 WI 23, 269 Wis. 2d 549, 676 N.W.2d 401; *State v. Waushara County Bd. of Adjustment*, 2004 WI 56, 271 Wis. 2d 547, 679 N.W.2d 514; *Nielsen v. Waukesha County Bd. of Supervisors*, 178 Wis. 2d 498, 511, 504 N.W.2d 621 (Ct. App. 1993); *Lamar Central Outdoor v. Bd. of Zoning Appeals,* 2005 WI 117, 284 Wis. 2d 1, 700 N.W.2d 87.

[70] The record is the compilation of all evidence that was presented to the decision-making body, including applications, written comments, other documents, and oral testimony, as well as the record of the proceedings, deliberations and decision. Additional guidance on drafting land use findings and constructing an adequate record is provided in Chapters 2 and 6.

Legislative enactments, such as the adoption or amendment of a zoning ordinance may also be challenged in circuit court. The most common method of challenging the validity of a zoning ordinance is an action for declaratory judgment.[71] An action for declaratory judgment is typically made when the party claims constitutional violations, such as equal protection, procedural due process or substantive due process. A party can also make a claim for monetary damages due to inverse condemnation if they believe their property was "taken" by regulatory or legislative action. Monetary relief can also be requested if the party claims they have been damaged by a governmental entity violating their federal constitutional rights.[72]

When a party files for declaratory judgment, they are asking the court to review the circumstances of their claim and "declare" a correct application of the law. In order to have "standing" to sue in a declaratory judgment, a party must have a personal stake in the outcome and must be directly affected by the issue in controversy. The party must have sustained, or will sustain, some pecuniary loss before he or she has standing. A person's status as a taxpayer, property owner, or one who disagrees with a municipal decision does not confer standing.[73]

The concept of separation of powers causes courts to defer to legislative action. In order to successfully maintain a challenge to the constitutionality of an ordinance, the party must prove their case beyond a reasonable doubt.[74] However, when the ordinance concerns the exercise of a First Amendment right, such as religious land uses, adult uses, or billboards, the burden of proof reverses.[74]

Although a court may differ with the wisdom of the zoning authority, it cannot substitute its judgment for that of the local authority. Therefore, the court must uphold a local zoning decision unless it finds an error of law, excess of power, or abuse of discretion. This rule applies not only to the necessity and extent of zoning but also to the classification and establishment of districts, boundaries and uses, and to the determination of whether or not there has been a change of conditions to warrant a rezoning.[76]

In reviewing a declaratory action, the court may rule for or against the party. The losing party may appeal the decision to the Court of Appeals. In rare cases, a decision may be heard by the Wisconsin Supreme Court, either directly or following review by one of the lower courts.

Claims against Governmental Bodies

A landowner, occupant or other person affected by a county zoning ordinance or amendment may contest the validity of the ordinance on procedural grounds within 180 days.[77] Certain other claims against governmental bodies require a notice of injury and notice of claim to be filed with a local government official within 120 days of the event giving rise to the claim.[78] The governmental body has 120 days to act on the claim and if disallowed, the claimant has six months to bring suit. Local government officials are exempt from this provision when acting in a legislative or quasi-judicial function. Annexation challenges,[79] open meetings law and public records law challenges,[80] and federal constitutional challenges[81] are also exempt.

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[75] *Fond du Lac County v.Mentzel*, 195 Wis. 2d 313, 320, 536 N.W.2d 160, 163 (Ct. App. 1995).
[76] *Buhler v. Racine County*, 33 Wis. 2d 137, 146-47, 146 N.W.2d 403 (1966).
[77] Wis Stat §§ 59.69(14) and 893.73(1).
[78] Wis Stat §§ 893.80.
[79] *Town of Burke v. City of Madison*, 225 Wis. 2d 615, 626, 593 N.W.2d 822, 826 (Ct. App. 1999).
[80] *Auchinleck v. Town of LaGrange*, 200 Wis. 2d 585, 547 N.W.2d 587 (1996).
[81] *Thorp v. Town of Lebanon.* 2000 WI 60, 235 Wis. 2d; *Felder v. Casey*, 487 U.S. 131 (1988).

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[71] Rathkopf. *The Law of Zoning and Planning* § 35.01[1] at 35-2 (1980). See also Wis. Stat. § 806.04.
[72] 42 USC § 1983.
[73] *Lake Country Racquet & Athletic Club. v. Hartland*, 2002 WI App 301, 259 Wis. 2d 107, 655 N.W.2d 189.
[74] *Town of Rhine v. Bizzell*, 2008 WI 76, 311 Wis. 2d 1, 751 N.W.2d 780.

RECOMMENDED RESOURCES

General Zoning

Zoning Board Handbook for Wisconsin Zoning Boards of Adjustment/Appeals. 2nd edition. 2006. Lynn Markham and Rebecca Roberts. Center for Land Use Education. Available online: www.uwsp.edu/cnr-ap/clue/Pages/ZoningHandbook.aspx

Zoning Nonconformities. 2005. Lynn Markham and Diane Milligan. Center for Land Use Education. Available online: www.uwsp.edu/cnr-ap/clue/Pages/publications-resources/Zoning.aspx

Guide to Community Planning in Wisconsin, Chapter 6: Zoning. 1999. Brian Ohm. University of Wisconsin-Madison/Extension. Available online: www.lic.wisc.edu/shapingdane/resources/planning/library/book/contents.htm

The full text of Wisconsin's zoning laws can be found in *Wisconsin Statutes* §§ 59.69-698 (counties), 60.61-65 (towns), 61.35-354 (villages) and 62.23-234 (cities) and may be accessed online: https://docs.legis.wisconsin.gov/statutes/prefaces/toc.

Shoreland Zoning

Wisconsin Shoreland Zoning Revision Guidebook. 2011. Wisconsin County Code Administrators. Available online: www.ncwrpc.org/NR115

Land Use and Wetlands: Zoning Opportunities to Improve Wetland Protection. 2011. Wisconsin Wetlands Association. Available online: www.wisconsinwetlands.org/localgovs.htm

Wisconsin Water Law: A Guide to Water Rights and Regulations. 2001. Paul G. Kent and Tamara Dudiak. Available from UW-Extension Publications at (877) 947-7827 or online: http://learningstore.uwex.edu/Assets/pdfs/G3622.pdf

Model Ordinances

Model Zoning Ordinance for Rural Cluster Development. 2002. Southeastern Wisconsin Regional Planning Commission. www.sewrpc.org/SEWRPCFiles/CommunityAssistance/ModelOrdinances/cluster_ordinance.pdf

Model Ordinance for Traditional Neighborhood Development. 2001. University of Wisconsin-Extension. http://urpl.wisc.edu/people/ohm/tndord.pdf

Model Shoreland Zoning Ordinance. 2010. Wisconsin Department of Natural Resources. http://dnr.wi.gov/waterways/shoreland/local.htm

Model Shoreland-Wetland Zoning Ordinances for Cities and Villages. No date. Wisconsin Department of Natural Resources. http://dnr.wi.gov/waterways/shoreland/local.htm

Model Floodplain Zoning Ordinance. 2012. Wisconsin Department of Natural Resources. http://dnr.wi.gov/org/water/wm/dsfm/flood/communities.htm

SAMPLE ZONING DOCUMENTS

Sample Development Guide

CITY OF JANESVILLE

ZONING DISTRICTS

What is Zoning?

Regulating the use of land in the City of Janesville is important to ensure incompatible land uses are avoided and potential impacts of other land uses are limited. Zoning is accomplished by designating zoning districts to different parts of the City. Within each zoning district, certain land uses are permitted. The Zoning Ordinance lists the uses permitted in each district along with other requirements such as minimum lot size, building setbacks and maximum building heights. To find out more about the City's Zoning Ordinance, visit *www.ci.janesville.wi.us* or call (608) 755-3085.

To find out what your property is zoned, visit *http://gis.ci.janesville.wi.us*. This interactive mapping site will allow you to search for your property and determine its zoning classification.

Zoning Districts

R1—Single-Family Residence District

R1D—Two-Family Residence District

R2—Limited General Residence District

R3—General Residence District

R3M—Medium Density Residence District

R4—Central Residence District

O1—Office/Residence District

O2—Central Office/Residence District

O3—Neighborhood Office District

B1—Neighborhood Convenience District

B2— Community Shopping District

B3—General Commercial District

B4—Business Highway District

B5—Central Office District

B6— Central Service District

M1— Light Industrial District

M2— General Industrial District

M3— Central Light Industrial District

M4— Central General Light Industrial District

Special Districts

Agriculture District

Mining District

Conservancy

Parking Overlay District

Historic Overlay District

Floodplain Overlay District

Airport Overlay District
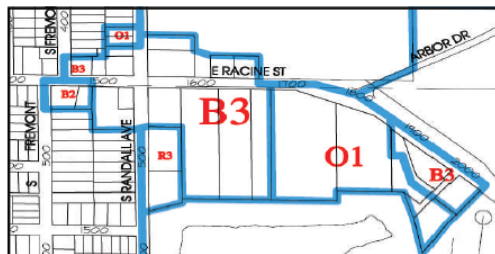
CITY OF JANESVILLE

REZONING (ZONING MAP AMENDMENT)

What is the Purpose of a Rezoning Amendment?
The zoning amendment (rezoning) provides a process which allows an individual to request a change in the zoning classification on land.

Who may Initiate a Rezoning Amendment?
A rezoning amendment may be proposed by the City Council, the Plan Commission, the Zoning Board of Appeals, or any interested person or organization. A rezoning amendment is usually submitted by the property owner, contract purchaser, proposed tenant or lease holder.

How Long Does the Process Take?
Typically, an application takes 5-7 weeks for final action from the date of applying for a zoning change.

What is the Application Fee?
The fee for rezoning of a property to R1, R2, Conservancy, or Agriculture is $300. The fee for rezoning to Multi-Family, Office, Commercial, or Industrial is $500, however, sites with 10 or more acres will be charged an additional $50 per acre, not to exceed $1,000.

Rezoning Steps:

1. **Pre-application Meeting**—Prior to application for a rezoning, the applicant should meet with the Community Development Department to discuss the zoning change.

2. **Submit a Rezoning Application** and fee. The applicant may file the completed application with the Community Development Department together with the required fee.

3. **City Council** - The application is presented to the City Council and subsequently referred to the Plan Commission.

4. **Plan Commission**—The Plan Commission schedules its public hearing on the proposed amendment.

5. **Public Notification**—All property owners within 400 feet of the property being rezoned and all tenants adjoining or directly opposite the subject property will be notified by mail of the Plan Commission and City Council public hearing dates. A legal notice is also published in the newspaper to announce the public hearing and requested action.

6. **Staff Report**—Within the week preceding the public hearing, Community Development Staff prepares a report and recommendation (with or without conditions) on the application and forwards copies to the applicant and Plan Commission members.

7. **Plan Commission**—At the scheduled meeting, Staff will present the request and the recommendation. The Plan Commission may ask questions of Staff, followed by the public hearing, at which time the applicant and interested parties may speak to the Commission. After the public hearing is closed, the Plan Commission may discuss the proposal and vote to forward a recommendation (favorable or for denial) to the City Council.

8. **City Council**—The City Council holds a public hearing and acts to approve or deny the ordinance rezoning the property. The City Council is the final authority for zoning amendments.

9. **Final Notification**—The applicant is notified in writing of City Council action.

CITY OF JANESVILLE

CONDITONAL USE PERMIT

What is a Conditional Use?

The Zoning Ordinance lists uses for each zoning district which include permitted and conditional land uses. A permitted use is permitted by right and can be established within the zoning district for which it is listed if all zoning and other city code requirements are satisfied. Conditional uses are only allowed following review and approval by the City Plan Commission. Conditional uses are uses that, because of their unique or varying characteristics, are not appropriate as a permitted use without consideration in each case of the impact of the location and layout of the use upon neighboring land and of the public need for the particular use at the particular location.

Who May Apply?

An application for a conditional use permit may be proposed by the owner of land upon which a conditional use is desired or by a contract purchaser or lease holder who wishes to establish a conditional use on the property. The application must be signed the property owner.

What is Required for Application?

A Conditional Use Permit Application may be filed with Community Development (refer to page 26). The application must be accompanied by the requisite filing fee, a site plan and a written statement by the applicant and evidence showing that the proposed conditional use shall conform to the standards set forth below. The site plan shall include the location of new and existing buildings, parking areas, green area, building setbacks, curb openings, screenings, trash area location, drainage, etc For more detailed information regarding site plan review requirements and process, refer to page 13.

The Plan Commission must find that all the following conditions have been met prior to granting any conditional use:

1. That a review has been conducted and recommendations made by a Site Plan Review Coordinator.
2. That the uses, value, and enjoyment of other property in the neighborhood for purposes already permitted shall not be substantially impaired or diminished by the establishment, maintenance or operation of the conditional use.
3. That the establishment of the conditional use will not impede the normal and orderly development and improvement of the surrounding property for uses permitted in the district.
4. That adequate utilities, access roads and drainage have been or are being provided.
5. That adequate measures have been or will be taken to provide ingress and egress so designed as to minimize traffic congestion in the streets.
6. That the site for the proposed use is adequate in size and shape to accommodate said use.
7. That the conditional use shall conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Plan Commission.

How Long Does the Process Take?

The time required to review and act upon a conditional use permit varies. Typically, action on a well prepared application and site plan can be completed within 4-6 weeks.

CITY OF JANESVILLE

CONDITONAL USE PERMIT (cont.)

What is the Fee for a Conditional Use Application?

Less than 10,000 square feet of building area or 1 acre of land	$500
10,000 to 25,000 square feet of building area or 1 to 5 acres of land	$1,000
Greater than 25,000 square feet of building area or 5 acres land	$1,500
Conditional Use Amendments	$350

Conditional Use Steps:

1. **Pre-application Meeting—**Prior to filing an application, it is advised that the applicant meet with a Community Development staff member regarding the desired conditional use. A sketch of the site plan of the proposed conditional use should be provided at that time.

2. **Submit Application(s) and Fee(s)—**The applicant may file the completed application(s) with Community Development together with the required fee(s).

3. **Site Plan Review—**The site plan and applicable plans are submitted to the Site Plan Review Coordinator for review and recommendation. Refer to page 13 for a detailed list of what is to be expected to be submitted.

4. **Plan Commission**

   Meetings: Plan commission meetings are held on the first and third Mondays of each month or by special exception. Your request will be placed on two Plan Commission agendas. At the first meeting, the proposal will be set for public hearing. Generally, this is not a meeting that you need to attend. The second meeting is usually 2 weeks later and includes a public hearing. It is important that you or a representative attend the second meeting.

   Notice of Public Hearings: 10 days prior to the second meeting, a public hearing notice will be sent to all owners of property located within 400 feet of the subject property. In addition, notices will be mailed to tenants occupying properties which are immediately adjacent or directly opposite the subject property. Legal notice will also be published in the local newspaper to announce the public hearing and requested action.

   Staff's Report: The week before the public hearing, you and the Plan Commission members will receive a copy of the Department's staff report. The report is prepared in order to present and make recommendations pertaining to your request to the Plan Commission. If a site plan review is a prerequisite to the conditional user permit, the site plan review letter will be attached to Staff's report.

   Plan Commission Procedure: On the night of your public hearing, Staff will present your request to the Commission and make a recommendation for approval (with or without conditions) or for denial. The Plan Commission may ask questions of Staff and then open the public hearing, at which time you and any interested parties may speak to the Commission. After the public hearing is closed, the Plan Commission may discuss the proposal. In most cases, a decision is made at this meeting; however, action could be postponed and the public hearing continued to a future meeting if the Plan Commission chooses.

   Decision: After consideration of all written documentation, testimony, discussion and Staff's recommendations, the Plan Commission will review your request against the 7 ordinance standards which are listed under "What is required for application?". A final vote by the Commission will either approve, conditionally approve or deny your request. A tied vote results in automatic denial.

Sample Rezoning Application

**PETITION FOR CHANGE TO CHAPTER 15, ZONING,
OF THE CODE OF ORDINANCES
OF THE CITY OF LA CROSSE**

AMENDMENT OF ZONING DISTRICT BOUNDARIES

Petitioner (name and address):
_____
_____

Owner of site (name and address):
_____
_____

Address of subject premises:
_____

Tax Parcel No.: _____

Legal Description: _____
_____
_____
_____

Zoning District Classification: _____

Proposed Zoning Classification: _____

Is the property located in a floodway/floodplain zoning district?   ___ Yes ___ No

Is the property/structure listed on the local register of historic places?   ___ Yes ___ No

Is the Rezoning consistent with Future Land Use Map of the Comprehensive Plan?   ___ Yes ___ No

Is the Rezoning consistent with the policies of the Comprehensive Plan?   ___ Yes ___ No

Property is Presently Used For:
_____
_____
_____
_____

Property is Proposed to be Used For:
_____
_____
_____
_____

Proposed Rezoning is Necessary Because (Detailed Answer):
_____
_____
_____
_____

Proposed Rezoning will not be Detrimental to the Neighborhood or Public Welfare Because (Detailed Answer):
_____
_____
_____
_____

Proposed Rezoning will not be Detrimental to the City's Long Range Comprehensive Plan Goals, Objectives, Actions and Policies Because (Detailed Answer):

_____
_____
_____
_____

The undersigned depose and state that I/we am/are the owner of the property involved in this petition and that said property was purchased by me/us on the _____ day of _____, _____.

I hereby certify that I am the owner or authorized agent of the owner (include affidavit signed by owner) and that I have read and understand the content of this petition and that the above statements and attachments submitted hereto are true and correct to the best of my knowledge and belief.

_____
(signature)

_____   _____
(telephone)   (date)

_____
(email)

STATE OF WISCONSIN   )
) ss.
COUNTY OF LA CROSSE   )

Personally appeared before me this _____ day of _____, 20___, the above named individual, to me known to be the person who executed the foregoing instrument and acknowledged the same.

_____
Notary Public
My Commission Expires: _____

PETITIONER SHALL, <u>BEFORE FILING</u>, HAVE PETITION REVIEWED AND INFORMATION VERIFIED BY THE DIRECTOR OF PLANNING & DEVELOPMENT.

Review was made on the _____ day of _____, 20___.

Signed: _____, **Director of Planning & Development**

City of La Crosse, Petition for Amendment (Rezoning). Available: www.cityoflacrosse.org/index.aspx?NID=515

File #_____
Computer #_____

Price County Conditional Use Permit Application

- This application shall be fully completed and submitted with the $170 fee before the Zoning Department will begin to process your application. Incomplete applications will be returned to you.
- Completed applications must be received by the 1st working day of the month in order to schedule a public hearing on your proposal at the Zoning Meeting to be held the following month.
- You should contact the Town Board Chairman of where you're proposing a conditional use to determine if there is a need to discuss your proposal at a Town Board Meeting.
- The Zoning Department will publish a notice in the newspaper and notify all landowners within 300 feet of the property you're proposing a conditional use as to what you're proposing and where a public hearing will be conducted on your proposal. It's advisable that you contact adjacent landowners in advance of the hearing to inform them of your intentions to help clarify any concerns.

Applicant's name: _____Phone number: _____

Applicant's address: _____

Owner(s) of property: (as listed on the deed) _____

Address of property: _____

Zoning District: (circle one) A-1   RR-1   RF-1   RB-R   CI-I   CI-C   CI-1   RF-C   C-1

Legal description: Government Lot____ or ____1/4____1/4, Section____, Township____ North,

Range____ East / West (circle one), Town of _____.

Lot ____ of the _____Subdivision

Section _____ of the Price County_____Ordinance provides the authority for this application to be submitted for the proposed conditional use.

Please answer these questions to help explain your proposal

1. Proposed Conditional Use: (Attach additional sheets if necessary. Describe the main activities and equipment to be used.)

_____

_____

_____

_____

_____

_____

_____

2. Hours of operation._____

3. Number of employees._____

4. Will your proposal increase the percentage of impervious surface upon the property in which the conditional use is being proposed. Yes ☐ No ☐   If yes, please quantify the amount of impervious surface to be created and mitigation measures to be implemented to reduce erosion potential to adjoining property._____
    _____
    _____
    _____

5. Will your proposal have an adverse effect on public health? Yes ☐ No ☐   If yes, please explain._____
    _____
    _____
    _____

6. Will your proposal have an adverse effect the established character and quality of the area? Yes ☐ No ☐   If yes, please explain._____
    _____
    _____
    _____

7. Will your proposal have an adverse effect on any existing public roadway in your community? Yes ☐ No ☐   If yes, please explain the volume of traffic you anticipate._____
    _____
    _____
    _____

8. Will your proposal create harmful or nuisance effects that include noise, dust, smoke, odor, or other factors? Yes ☐ No ☐   If yes, please explain._____
    _____
    _____
    _____

9. Will your proposal involve any excavation on the respective property? Yes ☐ No ☐   If yes, please attach a topographical map with 1 ft. contours indicating pre-construction and post-construction drainage patterns and the erosion control measures to be implemented during construction.

Plot Plan

A plot plan **shall** be submitted with **all** conditional use permit applications. **Use the last page of this application to draw your plot plan.** The plot plan should be drawn to scale (indicate scale on map) and include items whether existing or proposed as follows:

1. All structures on the property upon which the conditional use is being proposed. (Indicate the length, width, and height of each structure.)
2. The well, septic system (including tanks and drainfield), and garbage/recycling containers.
3. All public roads, private driveways and parking areas.
4. Wetlands, floodplains, and ordinary highwater mark of any navigable lake, river, or stream.
5. Property boundary. If parcel is >5 acres in area, draw the items listed above at a scale that is discernable and simply indicate the distance to the boundary lines.

I certify by my signature that all information presented herein is true and correct to the best of my knowledge. I give permission for staff of the Price County Zoning Department to enter onto the property on which the conditional use is being proposed by this application during daylight hours to collect information relative to my proposal. I further agree to withdraw this application if substantive false or incorrect information has been included. I also understand that the $170 fee is nonrefundable once a public hearing has been conducted on my proposal.

_____   Subscribed and sworn to before me
Notarized Signature of Applicant or Agent

_____   This _____ day of _____, 20_____
Date

                                                  _____, Notary Public

                                                  My Commission Expires_____

Office use only

Conditions of approval:

    1.

    2.

    3.

    4.

The Zoning Committee approved / denied this application on _____

_____   _____
Signature of Zoning Administrator   Date

Price County Conditional Use Permit Application Form. Available:
www.co.price.wi.us/government/ZoningAdministration/PDF_Folder/ConditionalUsePermitApplication.pdf

Sample Town Recommendation Form

PIERCE COUNTY WISCONSIN **DEPARTMENT OF LAND MANAGEMENT & RECORDS** Zoning: 715/273-6747 Planning: 715/273-6746 Fax: 715/273-6864	Pierce County Courthouse 414 W. Main Street P.O. BOX 647 Ellsworth, Wisconsin 54011

Town Recommendation Form

Request: _____ **Conditional Use Permit**   _____ **Plat Approval – Concept, Preliminary, Final (Circle One)**

_____ **Map Amendment** - **(Rezone)**   _____ **Other-** _____

Applicant/Agent:

Name _____

Site Address (if applicable) _____

Property Description: _____ ¼ of the _____ ¼, Section _____, T _____N, R _____W, Lot _____, Block _____,

Subdivision _____ Town of _____

Computer # _____-_____-_____   Parcel # _____

Zoning District _____ Acreage _____

A town recommendation is required as part of the application for a rezone (map amendment) or a conditional use permit. This recommendation is necessary whether a town has adopted a comprehensive plan or has not. Pierce County will seek to further each Town's planning goals when considering the establishment of conditionally permitted uses and when considering approval of a request for a rezone or map amendment.

Pierce County will consider adherence to the goals, objectives, and policies of an adopted or amended town comprehensive plan to be consistent with the "public interest" for decisions relating to that Town. In cases where an adopted plan gives guidance regarding the establishment of a proposed conditional use, the specific portion of the plan relating to the request should be referenced. If a town plan is silent regarding the establishment of a proposed use, or a town has not adopted a comprehensive plan, the recommendation will be advisory in nature.

Pierce County will approve re-zonings (map amendments) within a given town only when the proposed amendment is consistent with that town's comprehensive plan. The specific portion of the plan which supports the rezone request should be referenced. It should be noted that if a town's comprehensive plan is silent on a proposed rezone, approval cannot be granted unless consistency is achieved through plan amendment. In cases where a town has not adopted a comprehensive plan, a rezoning request will be considered based upon its consistency with the Pierce County Comprehensive Plan. In such cases, a town's recommendation regarding the proposed rezone will be used to assist the Land Management Committee in evaluating applicable goal statements. Questions regarding the need for a Town Recommendation and its use should be directed to Land Management Department Staff at (715) 273-6746.

Town Recommendation: _____ Approval   _____ Denial

Justification/Plan Reference:_____

_____

_____

_____

Concerns/Suggested Conditions:_____

_____

_____

Please attach additional information as necessary.

Town Chair Signature: _____   **Meeting Date:** _____

Pierce County Town Recommendation Form. Available:
www.co.pierce.wi.us/Land%20Management/PDF%20Forms/Town%20Recommendation%20Form.pdf

Sample Staff Report

Town of Brooklyn, Green Lake County, WI

FACTS OF THE CASE:

The property owners are seeking a conditional use permit for a planned unit development on a 1.33-acre parcel. The property is zoned as recreational district, which requires a conditional use permit for the establishment of condominium developments.

If the conditional use permit is approved, the property owner proposes to demolish the existing structures on the property, and construct four (4) condominium units. The Town of Brooklyn Future Land Use Map within the Town of Brooklyn Comprehensive Master Plan shows this parcel as future recreation/commercial. The proposed planned unit development would not conform exactly to the Future Land Use Map (which assumed the Carvers Supper Club would remain a local business), but is allowable as a conditional use in the recreational zoning district.

ORDINANCE REQUIREMENTS:

The Town of Brooklyn Land Division and Subdivision Ordinance states "area and average lot width of all lots and land areas shall conform to the Green Lake County Zoning Ordinance or shall be one hundred (100) feet wide and twenty thousand (20,000) square feet of net usable area". The Brooklyn Ordinance also states: "The Ordinance is expressly applicable to Condominium Developments within the Town's jurisdiction, pursuant to Wisconsin Statutes, Section 703.27(1). For purposes of this Ordinance, a condominium unit and any associated limited common elements shall be deemed to be equivalent to a lot or parcel created by the act of subdivision and reviewed in the same fashion by the Town, including design requirements provided in Articles 5. However, the technical requirements for Preliminary Plats shall not apply since condominiums have separate technical standards set forth in Wisconsin Statutes, Chapter 703".

A condominium is a form of ownership where no real land division takes place. Since condominiums do not divide land, density is used to determine the allowable number of condominium units by comparing condo units to lot sizes. Density requirements in Brooklyn allow one (1) house for every 16,000 sq. ft of land. A condo development is evaluated the same way with one (1) condo unit being allowed for each 16,000 sq. ft. of land. This allows for a maximum of three (3) units on this parcel. The application is for four (4) units.

RELATION TO THE COMPREHENSIVE PLAN:

The Town of Brooklyn Comprehensive Master Plan Map shows this area as recreation/commercial, but does not provide any more details for this site. However, the Town's plan does provide several goals addressing housing and natural resources. The following goals are listed in the plan and should be considered with this application:

- Carefully plan for residential development and encourage the majority of new development to occur around existing infrastructure and populated areas.
- Encourage infill development to provide housing by increasing density in already populated areas as opposed to creating sprawl that will be detrimental to the area's existing rural aesthetics.
- Work with County Officials to create ordinances regarding lakeshore development and shoreland vegetation removal practices.
- Encourage the majority of new development to occur around existing populated areas.

- Limit development of condos and apartments on the Lake to reduce multi-pier usage.
- Enact an Ordinance prohibiting the use of holding tanks on new construction.

ROLE OF THE PLANNING COMMISSION:

To review the application and study the appropriateness of the action based on the Town of Brooklyn Comprehensive Master Plan and applicable codes and ordinances. To consider comments and suggestions from residents in the Town. To provide a recommendation on the matter to the Town Board.

ADDITIONAL PLANNING / ZONING CONSIDERATIONS:

The Planning Commission needs to consider other issues/concerns with this PUD development:
1. **Density** - The proposed four (4) units exceed the density allowed by the Town of Brooklyn Land Division & Subdivision Ordinance. The maximum number of units allowed on this parcel is three (3) if treated the same as a conservation subdivision.
2. **Holding Tanks** - The Green Lake County Ordinance states: "The installation of a holding tank is prohibited unless the condition in Subsection A(1), (2) or (3) exists (Please refer to section 334-13 Holding Tanks of the Green Lake County Ordinance)". No sanitary information has been submitted. A clustered sanitary and well system is strongly encouraged.
3. **Stormwater Management Plan** - A Stormwater Management Plan is required if impervious surface on this parcel exceeds 5,000 square feet.
4. **Vegetative buffer** - Due to the increased intensity of land use for this parcel, a vegetative buffer, that meets Best Management Practices, is strongly encouraged to be installed along the Shoreline to protect water quality. The Green Lake County Land Conservation Department can provide assistance with shoreland restoration projects.
5. **Piers** - The sketch indicated increased waterfront usage by future unit owners. All appropriate permits for any piers or docks must be obtained from the DNR.

RECOMMENDATION FOR TOWN CONSIDERATION:

Denial of this application—as submitted—due to the fact that the density is in excess of that permitted by the Town of Brooklyn Land Division and Subdivision Ordinance.

A revised application for a condominium PUD that adheres to the density requirements established within the Town's ordinances and provides all required information for review could be approved on this site.

OMNNI Recommendations are based on professional planning staff review of application materials provided to OMNNI. The final decision is to be made by the Town based on facts and testimony received during their public meeting. This report provides information and opinion for Town consideration.

Prepared By OMNNI Associates
Associate Planner - Adam Sayre
For the Town of Brooklyn,
Green Lake County, WI
December 8, 2005

Planning Staff Report. Prepared by OMNI Associates for the Town of Brooklyn Plan Commission, Dec. 8, 2005.
Available: www.townofbrooklyn.com/plan-commission/plan-commission-minutes/2005-Dec-08/2589

Chapter 8
Subdivision Regulations

INTRODUCTION

Much of the form and character of a community is determined by the design of subdivisions and the standards by which they are built. State statutes regulate the technical and procedural aspects of dividing land for development and provide minimum standards for subdivisions related to sanitation, street access and layout.

Local communities (counties, towns, cities and villages) may also adopt local land division or subdivision regulations. Local ordinances may be more restrictive than the state with regard to the number or size of lots regulated. Local ordinances tend to focus on the density, layout and design of new developments. They may also require developers to provide public improvements such as roads, storm sewers, water supply systems, landscaping or signage. If a local community does not exert control over local land divisions, the result may be excessive or premature division of land, poor quality or substandard development, or partial or inadequate infrastructure development.

Among its many purposes, land division regulations can help a community to:
- Address health and safety issues such as stormwater runoff and emergency access.
- Ensure new development is adequately served by public facilities such as roads and parks.
- Provide for the efficient placement and delivery of public services and facilities.
- Promote neighborhood designs that meet the needs of residents.
- Ensure accurate legal descriptions of properties.
- Avoid disputes regarding the sale, transfer or subdivision of land.
- Protect other community interests outlined in a comprehensive plan or local ordinance.

State Defined "Subdivision" – a division of a lot, parcel or tract of land by the same owner that creates 5 or more parcels or building sites of 1½ acre or less, *or* successive divisions of land by the same owner within a five year period that result in 5 or more parcels of 1½ acre or less.
Wis. Stat. § 236.02(12)

Local "Land Division" – local ordinances may be more restrictive than the state definition with regard to the number or size of lots regulated. This publication will generally use the term "land division" to refer to all such developments.
Wis. Stat. § 236.45

STATE SUBDIVISION REGULATIONS

The State of Wisconsin regulates divisions of land that result in five or more parcels of one and a half acre or less within a five year period. State subdivisions (and local land divisions, if required by ordinance) must undergo review by a number of state, county and local agencies. These agencies are often referred to as "objecting" and "approving" authorities, as described below.

▶ State Review (Objecting Authorities)

A proposed plat that meets the state definition of a subdivision must be submitted to the Department of Administration who is responsible for forwarding it to other appropriate state and local agencies for review. The following agencies are authorized to review and may "object" to a plat based on criteria outlined in state statutes and administrative rules:[1]

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[1] Wis. Stat. § 236.12 also lists the Department of Safety and Professional Services as an objecting authority. In July 2000, Wis. Admin. Code, Chs. Comm 83 and 85 (now SPS 383 and 385) were repealed and recreated eliminating the department's review authority. Local approval of plats may still be conditioned on compliance with these rules.

- **Department of Administration** – all subdivisions are reviewed for compliance with surveying, layout, mapping and plat submittal requirements.
- **Department of Transportation** – subdivisions that abut a state trunk or connecting highway are reviewed for public safety issues and the preservation of public interest and investments.
- **County Planning Agency** – subdivisions that are not served by public sewers are reviewed for lot size and lot elevation necessary for proper sanitary conditions.[2] Subdivisions located in select municipalities are reviewed for conflicts with parks, highways, airports, schools and other planned public developments.[3]

State agencies may delegate review of any of these matters to a local official. If an objecting authority (or its authorized agent) objects to a plat, the subdivision cannot be approved until the objection has been satisfied.

Image: University of Minnesota, Metropolitan Design Center Image Bank

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[2] This authority was delegated to counties by the Department of Safety and Professional Services.
[3] Under Wis. Stat. § 236.12(2)(b), county planning agencies that employ a full-time employee and adopt a policy requiring submission of plats are considered objecting authorities. If no county planning agency exists and the plat abuts a county park, it may be reviewed by the county park commission or park manager. Counties currently acting as objecting authorities include: Brown, Calumet, Dane, Dodge, Door, Fond du Lac, Jefferson, Juneau, Manitowoc, Milwaukee, Oconto, Racine, Rock, St. Croix, Sheboygan, Washington, Waukesha, and Winnebago.

Plat – a map of a subdivision. A plat may be submitted for approval in two phases:

A **'preliminary plat'** shows the salient features of a subdivision necessary for preliminary approval. The map should be drawn to scale showing the location and exterior boundaries of the parcel to be divided and the approximate location of lots and other improvements.

A **'final plat'** is a subdivision map prepared for recording. It should incorporate changes discussed during preliminary plat review, if applicable, and must meet detailed layout, surveying, mapping and submittal requirements described in state statutes.

Wis. Stat. § 236.10-21

▶ **Local Review (Approving Authorities)**

Prior to recording a plat, local approving authorities must demonstrate their acceptance of a subdivision by signing the plat. This authority exists even if the community has not adopted a local land division ordinance. The following bodies are authorized to review and "approve" subdivisions located within their jurisdiction:

- **City Council** – if the subdivision is located in the city or its extraterritorial plat approval jurisdiction.
- **Village Board** – if the subdivision is located in the village or its extraterritorial plat approval jurisdiction.
- **Town Board** – if the subdivision is located in the town or an area whose annexation is being contested by the town.
- **County Planning Agency** – if the subdivision is located in an unincorporated area of the county.[4]

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[4] Wis. Stat. § 236.10. The county planning agency must employ a full-time employee to have jurisdiction in extraterritorial plat review areas.

If a proposed subdivision falls within the jurisdiction of multiple approving authorities it must obtain approval from each. For example, if a plat is located outside the corporate limits of a city or village but within the municipality's extraterritorial plat approval jurisdiction, it must obtain approval from the town, municipality and county.

A local government may authorize the plan commission to review and approve preliminary or final plats. A local government may also cooperate with another city, village, town, county or regional planning commission to review and/or approve plats. However, final plats dedicating streets, highways or other lands must be approved by the local governing body.

Extraterritorial Plat Review

The extraterritorial plat approval jurisdiction extends 3 miles from the boundaries of a first, second or third class city, and 1½ miles from the boundaries of a fourth class city or village. If the extraterritorial jurisdiction of a city or village overlaps, a line is drawn equidistant from the boundaries of each so that their review authority does not overlap.

EXTRATERRITORIAL OVERLAP
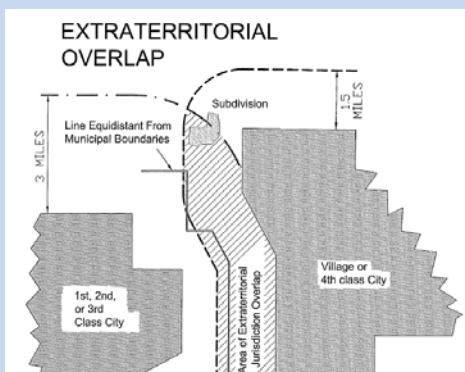
Extraterritorial plat approval authority applies automatically if a city or village has adopted a local land division ordinance or official map. A municipality may adopt a resolution waiving its right to approve plats in its extraterritorial area.

Wis. Stat. §§ 236.10 and 66.0105

▶ Basis for Approval

Approval of preliminary or final plats may only be conditioned on the following factors:[5]

- Compliance with a local ordinance in place when the plat was submitted.
- Consistency with an adopted comprehensive plan, master plan or official map.[6]
- Installation of public improvements or financial guarantees necessary to ensure installation.[7]
- Payment by the developer for alterations to utilities that fall within the public right-of-way.
- Creation of easements for solar or wind energy access.
- Rules of the Department of Transportation (Trans 233) related to subdivisions that abut a state trunk or connecting highway.
- Rules of the Department of Safety and Professional Services (SPS 385) related to lot size and lot elevation necessary for proper sanitary conditions if not served by public sewers.
- Other requirements described in Wis. Stat. Ch. 236.

A local government may not reject a plat unless it conflicts with an existing local ordinance, plan, official map, statute or rule. In the case where state statutes, administrative rules or local ordinances conflict, the plat must comply with the most restrictive requirement.[8]

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[5] Wis. Stat. § 236.13.

[6] *State ex rel. Columbia Corp. v. Town of Pacific*, 92 Wis. 2d 767, 286 N.W.2d 252 (1979). *Lake City Corp. v. City of Mequon*, 207 Wis. 2d. 156, 58 N.W.2d 100 (1997).

[7] A town, city or village must adopt a local ordinance requiring public improvements. Cities and villages may not require public improvements in an extraterritorial area. *Pederson v. Town of Windsor*, 191 Wis. 2d 664, 530 N.W.2d 427 (Ct. App. 1996). Counties do not have authority to require public improvements. *Rogers Dev. v. Rock County Planning and Dev. Committee*, 2003 WI App 113, 265 Wis. 2d 214, 666 N.W.2d 504, 02-0017.

[8] Wis. Stat. § 236.13(4) and 61 Atty. Gen. 289.

What rules apply to shoreland development?

State subdivision regulations – All state-defined subdivisions that abut a navigable lake or stream are required to provide at least 60 feet of public access every one-half mile. Additionally, subdivisions located within 500 feet of the ordinary high water mark of navigable waters are required to provide either a public sewage disposal system or adequate drainage and building setbacks necessary to ensure property sanitary sewage. Local approval of preliminary or final plats may be conditioned on these items.

Wis. Stat. §§ 236.16(3) and 236.13(2m)

County land division regulations – Counties are required to regulate land divisions in shoreland areas that result in the creation of three or more parcels of five acres or less within a five year period. Sewered lots are required to have a minimum average width of 65 feet and be a minimum of 10,000 square feet in size. Unsewered lots are required to have a minimum average width of 100 feet and be a minimum of 20,000 square feet in size. Structures must be set back at least 75 feet from the water's edge. Local regulations may be more restrictive than the state standards.

http://coastal.lic.wisc.edu/bluelake
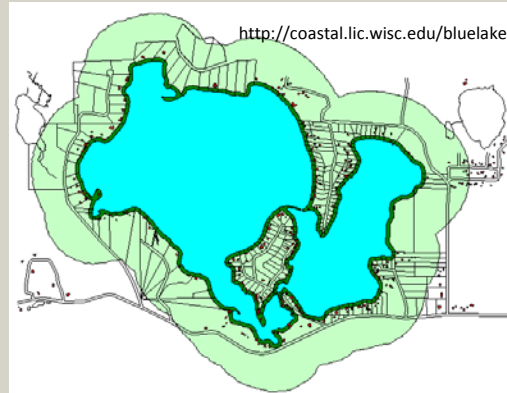
Wis. Admin. §§ NR 115.05(1)(a) and (2)

What rules apply to condominium developments?

A condominium is a form of ownership in which each dwelling unit is owned by the occupant and the land is held in common ownership, typically by all occupants.

Wisconsin's subdivision laws do not apply to condominium developments because land is not being subdivided. However, the provisions of a local subdivision ordinance *may* apply if the ordinance specifically says so. In addition, Chapter 703 of the Wisconsin Statutes provides detailed regulations for the creation of condominiums.

Wis. Stat. §§ 703.27(1)

What rules apply to planned unit developments?

A planned unit development is a tool for allowing greater flexibility in the siting and design of development. Planned unit developments are typically reviewed and approved as a package and often include a mix of land uses (office, retail, residential), intensities (single-family, apartment, townhome), and other special design features.

Most communities regulate planned unit developments through their local zoning ordinance. However, some communities also regulate PUDs through their land division ordinance to ensure that they comply with local design and improvement standards. If lots within a planned unit development are created with a subdivision plat, they are subject to review by state and local objecting and approving authorities.

LOCAL LAND DIVISION REGULATIONS

Counties, towns, cities and villages that have established a planning agency may adopt local land division regulations that are more restrictive than state standards. Local ordinances are usually more restrictive with regard to the number and size of lots regulated (i.e. fewer than five parcels or larger than one and a half acre), or with regard to layout, design or public improvement requirements. Local ordinances *may not* be more restrictive with regard to time limits, deadlines, notice requirements, or other provisions that provide protections for the subdivider.

◗ General Organization of a Land Division Ordinance

Most land division ordinances contain the following sections:

- **Title, Authority and Purpose.** This section identifies the state enabling legislation which empowers the community to adopt land division regulations and describes the ordinance purpose.
- **General Provisions.** This section includes definitions of terms and describes the area affected by the ordinance.
- **Land Division Procedures.** This section describes procedures and requirements for dividing land. Depending on the number and size of lots created, communities often distinguish between state subdivisions and major or minor land divisions. A plat approval process or certified survey map may be required depending on the number and size of lots created.
- **Design and Development Standards.** This section describes minimum design standards related to street arrangement, block sizes, lot sizes, lighting, road and drainage gradients, stormwater management, integration of natural features, and similar physical criteria.
- **Public Improvements.** As a condition of approval, a local government may require a developer to dedicate land, fees in lieu of land, easements, or public improvements

necessary to serve the new development. Roads, sidewalks, monuments, street signs, public utilities, water lines, sewers, storm drains, landscaping, and other on-site improvements may also be required.
- **Administration, Enforcement and Fees.** This section identifies application and review fees and the process for appealing plat decisions. Financial guarantees, such as a letter of credit or performance bond may be required to ensure that improvements are completed in a specified time period.

◗ Variations on Conventional Subdivision Design

Local land division regulations may incorporate a variety of community design concepts, such as those profiled below. In most cases, additional tools such as zoning, site planning, and comprehensive planning are needed to achieve these types of development.

Conservation Subdivision Design

Conservation subdivision design, also known as cluster or open space design, aims to conserve high-quality natural features by clustering development on limited areas of a site. Reduced lot sizes are offset by natural features maintained in common open space. Modifications to existing zoning, subdivision, or unified development codes may be required to allow conservation subdivisions. A land trust or homeowners association may be needed to manage the open space.

Sugarcreek Preserve in Elkhorn, Wisconsin features 52 home sites among 177 acres of permanently preserved open space.
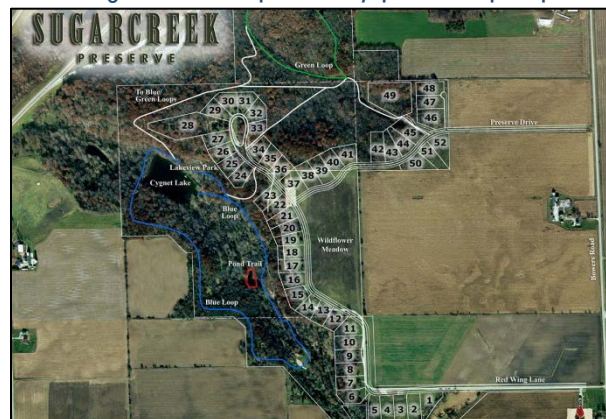
Image: www.sugarcreekpreserve.com

Smith's Crossing in Sun Prairie, Wisconsin incorporates a mix of residential, commercial, civic and open space.

Image: www.tkwa.com/smiths-crossing

Traditional Neighborhood Design

Traditional neighborhood design (TND), also known as new urbanism or neo traditional design, strives to create compact pedestrian-oriented neighborhoods containing a mix of land use and public open space. Conventional land division and zoning codes, which require large lots, deep setbacks, wide streets and separation of uses, may need to be modified to allow TNDs. Planned unit developments are another tool to implement TNDs.

Low Impact Development

Low impact development (LID) utilizes an ecosystem approach to minimize impacts of new development on water flows and water quality in lakes, streams and groundwater. LID utilizes a variety of techniques such as reduced impervious surfaces, bioretention, and maintenance of natural features to maintain and enhance pre-development hydrologic systems. LID principles may be incorporated into existing stormwater management ordinances, land division regulations or site design guidelines.

◗ Ordinance Adoption and Amendment

The authority and procedure for a town, city, village or county to adopt or amend a local land division ordinance is outlined in state statutes and summarized below:[9]

1. **Preparation of Draft Ordinance.** The ordinance or amendment is typically prepared by the plan commission, planning and zoning staff, legal counsel, or a private consulting firm at the direction of the governing body. Local ordinances and amendments must be guided by and consistent with an adopted comprehensive plan.[10]

2. **Plan Commission Recommendation.** The plan commission must review and provide a recommendation on the draft ordinance prior to adoption by the governing body.[11]

3. **Public Notice and Hearing.** A hearing must be held on the draft ordinance following publication of a class 2 notice. Opportunities for public participation prior to the hearing are recommended to ensure that the ordinance is understood and accepted by the public.

4. **Adoption and Publication.** After holding a public hearing and receiving the recommendation of its plan commission, the governing body may adopt the land division ordinance. The adopted ordinance must be published in a form suitable for public distribution.

The St. Francis Addition in Cross Plains, Wisconsin features multiple bioretention and infiltration areas.

Image: http://pubs.usgs.gov/sir/2004/5156/

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[9] Wis. Stat. § 236.45

[10] The comprehensive planning law requires new or amended land division and subdivision ordinances to be "consistent" with an adopted comprehensive plan beginning on January 1, 2010. Wis. Stat. § 66.1001.

[11] Wis. Stat. § 62.23(5)
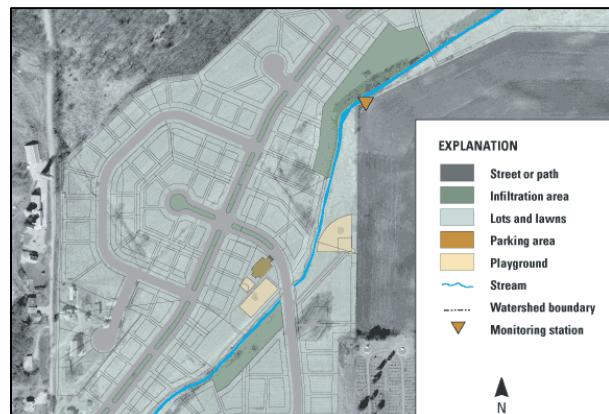
Design Considerations for Local Land Divisions

Following are some basic design principles to incorporate in local land division ordinances and consider when reviewing plats:

1. **Proper relationship to surrounding land uses.**
   ❑ Is the proposed land division consistent with the land use types and intensities envisioned in the adopted comprehensive plan?
   ❑ Is it compatible with existing land uses in the area and with the zoning for the site?

2. **Proper relationship to the natural resource base.**
   ❑ Does the proposed land division conflict with environmental corridors or other natural resource features identified in the comprehensive plan? (i.e. agriculture, woodlands, surface water, groundwater, wildlife habitat, etc.)
   ❑ Are the conditions of the site suitable for the type of development proposed? (i.e. avoid steep slopes, shallow bedrock, areas prone to flooding, erosion and other hazards)

3. **Proper design of internal features and details.**
   ❑ Does the layout of the proposed land division take advantage of existing topography and natural features?
   ❑ Does the size, shape and orientation of lots provide for proper building envelopes, viewsheds, solar access, and other desired design features?
   ❑ Do the streets provide access for emergency vehicles and connections to neighboring streets and arterials?
   ❑ Is the stormwater management system adequately designed to accommodate runoff and avoid flooding?

4. **Provision for community facilities and services.**
   ❑ Does the layout of the proposed land division lend itself to the efficient and cost-effective provision of public facilities and services?
   ❑ Can public sanitary sewers, water supply systems, stormwater management systems, public utilities, roads, and mass transit services be readily extended to the proposed land division?
   ❑ Is the capacity of these systems adequate to meet the proposed demand?
   ❑ Is access provided to nearby school and park sites, shopping facilities, places of employment, and other features of neighborhood, community or regional concern?

5. **Creation of an integrated design.**
   ❑ Does the proposed land division include focal points such as historic buildings, specimen trees, public buildings, schools or park sites?
   ❑ Does the proposed land division include any integrated design features such as landscaping, street trees, lighting, signage or thematic architectural design?

6. **Sequencing and financing.**
   ❑ Will the proposed land division be proposed and constructed in phases?
   ❑ How will the proposed land division be financed? What portions will be paid for by the community and by the developer? Through what mechanisms?

Adapted from the *Land Division Control Guide*. 2001. Southeastern Wisconsin Regional Planning Commission.
Available online: www.sewrpc.org/SEWRPCFiles/Publications/pg/pg-01_land_division_control_guide.pdf

REVIEW OF LAND DIVISIONS AND SUBDIVISIONS

Different review and approval processes are associated with land divisions depending on the number and size of lots created. State-defined subdivisions are required to undergo state-level plat review. Local land division ordinances may require that divisions resulting in fewer than five parcels or parcels greater than one and one half acre undergo the same process or a substantially similar process. Unless a local ordinance provides otherwise, divisions that result in four or less parcels may be approved through a certified survey map.

◗ Plat Review

Plat review is required of *state-defined subdivisions* and most *major land divisions*, as that term is used locally. The first two steps in the following process are optional but may be required by a local ordinance:[12]

1. Pre-application conference (optional)

Early in the process, it is helpful to provide landowners and developers with an overview of the development review process and a checklist of requirements. Some communities require submission of a conceptual sketch of the land division. This enables the plan commission, governing body and staff to review the proposal, make suggestions, and point out issues related to compliance with local plans, ordinances and state law. This is an informal step designed to save the developer and local municipality time and money over the long-run.

2. Preliminary plat approval (optional)

Following the pre-application conference, the applicant may be required by a local ordinance or may opt to submit detailed plans and maps to the local unit of government showing the layout of streets, lots, utility connections, natural features, topography and other

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Major and Minor Land Divisions

Communities use various terms to regulate and describe divisions of land. Depending on the number and size of lots created within a given period of time, they may be referred to as state-defined subdivisions, major or minor land divisions, or simply, land divisions. Two common terms are explored below.

Major Land Division – a division of land usually resulting in *five or more* parcels of a particular size; generally approved through a plat review process.

Minor Land Division – a division of land usually resulting in *four or less* parcels of a particular size; usually approved through a certified survey map.

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pertinent information. The governing body or plan commission has 90 days to review these materials and make a decision to approve, conditionally approve, or reject the preliminary plat. Failure to act within this time period or extend the period for review constitutes approval. State statutes do not require, but it is recommended that local ordinances include review by objecting agencies. To comply with common law due process requirements, a public notice and hearing are recommended prior to preliminary plat approval. The local ordinance should contain specific hearing and notice requirements.

3. Final plat approval (required)

Applicants are required to submit a final plat to the Department of Administration. The Department is responsible for forwarding copies of the plat to all applicable approving and objecting authorities and may do so at the expense of the subdivider. The Department has 30 days and other objecting agencies have 20 days to review and object to the plat. The governing body or plan commission has 60 days to approve or reject the plat. If the final plat

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[12] Wis. Stat. §§ 236.11-12 and 236.21-27

complies with local plans and ordinances, satisfies objecting agencies, and conforms substantially to an approved preliminary plat and any conditions placed on it, it is entitled to approval. Failure to act within 60 days or to extend the period for review constitutes approval, unless an objection has been registered. If the plat was not submitted for preliminary approval, a hearing and public notice are recommended prior to final approval.

4. Survey and recording (required)

Prior to final plat approval, the land must be surveyed by a registered land surveyor and monuments installed. The final approved plat and accompanying certificates of compliance are filed with the county register of deeds, which is responsible for providing notice to all objecting and approving authorities. The plat must be recorded within 12 months of last approval and within 36 months of first approval. The act of recording the plat has the effect of conveying all of the public dedications noted on the plat to the city, village, or town concerned.
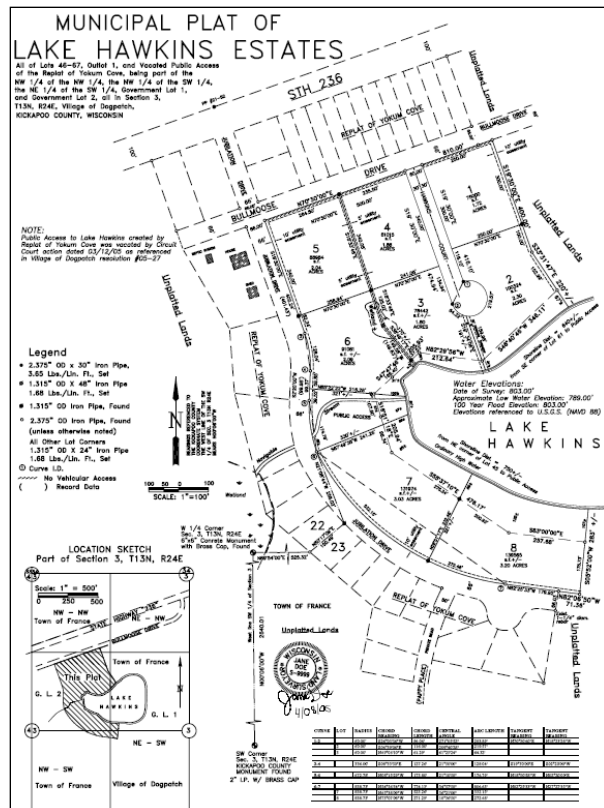
> ### Role of the Plan Commission in Plat Review
>
> All land divisions located within the platting jurisdiction of a city, village or town (with village powers) must be submitted to the plan commission for review and an advisory recommendation before the governing body takes final action. The governing body may also authorize the plan commission to review and approve preliminary or final plats. However, final plats dedicating streets, highways or other lands must be approved by the governing body.
> *Wis. Stat. §§ 62.23(5) and 236.10(3)*

◗ Appealing Plat Decisions

Any person aggrieved by an objection to or failure to approve a plat may appeal the decision to circuit court within 30 days of being notified of the decision.[13] Parties to the appeal include the approving authorities and, where the failure to approve is based on an unsatisfied objection, the agency making the objection. The court will review the record following common law standards of certiorari:

- **Jurisdiction** – Was the body making the decision authorized to do so?
- **Proper Procedures** – Did it follow the proper procedures?
- **Proper Legal Standards** – Did it follow the proper legal standards?
- **Unbiased Decision-Maker** – Was the action arbitrary, oppressive or unreasonable and representative of its will and not its judgment?
- **Substantial Evidence** – Could a fair and reasonable person have reached the same conclusion based on facts in the record?

If the court finds the action of an approving or objecting authority arbitrary, unreasonable or discriminatory, it will direct that the plat be approved.

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[13] Wis. Stat. § 236.13(5)

▶ Certified Survey Maps

Unless a local ordinance provides otherwise, land divisions that result in four or less parcels may be reviewed and approved in an expedited manner through the creation of a certified survey map:[14]

1. **Certified survey map.** Land divisions that result in four or less parcels may be surveyed, monumented and mapped by a registered land surveyor.

2. **Approval.** The local governing body or plan commission has 90 days to approve, conditionally approve or reject the certified survey map, stating conditions of approval or reasons for denial. Some local ordinances also require review by objecting agencies.

3. **Recording.** The approved certified survey map must be filed with the county register of deeds within 6 months of the last approval and 24 months of the first approval.

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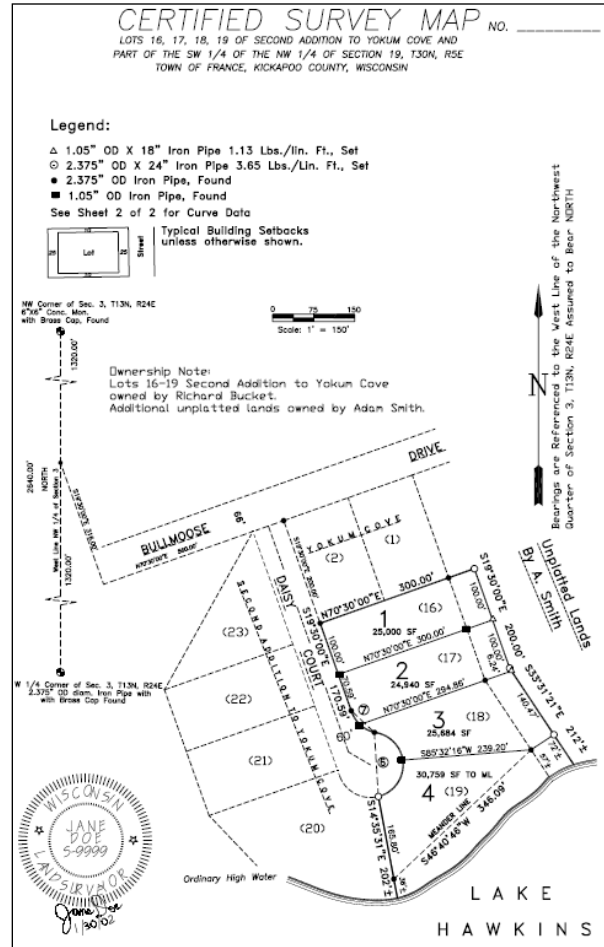
[14] Wis. Stat. § 236.34

RECOMMENDED RESOURCES

Land Divisions and Subdivisions

Wisconsin Platting Manual. 2010. Wisconsin Department of Administration, Plat Review Unit.
 Available online: www.doa.state.wi.us/section.asp?linkid=131&locid=9

Land Division Control Guide. 2001. Southeastern Wisconsin Regional Planning Commission.
 Available online: www.sewrpc.org/SEWRPCFiles/Publications/pg/pg-01_land_division_control_guide.pdf

Guide to Community Planning in Wisconsin, Chapter 7: Subdivision Regulations. 1999. Ohm,
 Brian. University of Wisconsin-Madison/Extension. Available online:
 www.lic.wisc.edu/shapingdane/resources/planning/library/book/contents.htm

The full text of Wisconsin's Subdivision Law can found in *Wisconsin Statutes Ch. 236* and may
 be accessed on the internet at https://docs.legis.wisconsin.gov/statutes/prefaces/toc

Model Ordinances

Model Land Division Ordinance. 2001. Southeastern Wisconsin Regional Planning Commission.
 Available online: www.sewrpc.org/SEWRPCFiles/CommunityAssistance/ModelOrdinances/land_division_ordinance.pdf

Sample Subdivision Ordinance for Use by Towns. 2010. Wisconsin Towns Association.
 Available online: www.wisctowns.com/uploads/ckfiles/files/Subdivision.doc

An Ordinance for a Conservation Subdivision. 2000. University of Wisconsin-Extension.
 Available online: http://urpl.wisc.edu/people/ohm/consub.pdf

Sample Pre-Application Checklist

City of
New Berlin
City Living with a Touch of Country

PRE-APPLICATION CHECK LIST

General

___ Y ___ N Master Plan and Future Land Use Map Compatible
___ Y ___ N Allowed use in current Zoning District
___ Y ___ N Sewer Basin Capacity available
___ Y ___ N Is a wetland delineation required
___ Y ___ N Application given out
___ Y ___ N Application Handout / Checklist given out
___ Y ___ N Developer's Handbook given out
___ Y ___ N Application Deadline / Plan Commission Meeting schedule given out

§275-24C(2) Plan of Operation

___ This is a letter or report
- The proposed use of the land, building and/or structures
- Activities to occur both inside and outside all principal and accessory buildings
- The frequency and duration of all activities, including the season, days, and hours of operation
- The total number of employees and number of employees in largest work shift
- The estimated number of occupants of a multifamily residential use;
- The number, size and type of all vehicles associated with the use,
- Number of vehicle trips or Traffic Impact Analysis if required by §275-58C
- The expected starting and completion dates of construction
- The proposed phasing of the project, if appropriate
- Resolution or mitigation of any hazards or adverse impacts

§275-24C(3) Site Plans

___ Site Plan drawn to a scale no greater than 1"=100' on no smaller than 24" x 36" sheets (eight copies required).
___ Site Plan drawn and colored suited for public presentation to fit on a single 11" x 17" sheet (eighteen color copies required).
- Property boundaries and dimensions
- Limits of Disturbance boundary, §275-54A
- Prominent natural areas, such as streams and wetlands
- Existing and proposed buildings and structures
- Neighboring uses labeled
- Zoning setbacks labeled
- Parking areas and on-site/adjacent access drives
- Driveway locations for ingress and egress
- Loading and unloading areas
- Pedestrian access / Sidepaths / Trails
- Traffic generation and circulation
- Outside storage (dumpsters, inventory, trucks, rec. vehicles, etc)

§275-24C(4) Architectural Plans

___ Architectural Plans at a scale no smaller than 1/8" = 1' (eight copies required).
___ Building elevation drawn and colored suitable for public presentation at a scale no smaller than 1/8" = 1' (one copy required).
___ Building elevation OR architectural rendering drawn and colored suitable for public presentation to fit on a single 11" x 17" sheet (eighteen color copies required).
- Building Plans
- Architectural Renderings
- Elevations of existing and proposed building & structures
- Material Samples
- Floor Plans
- Dumpster Enclosures
- Cross sections of all RTU, wall mounted meters or air handling units.
- Lighting Plan – Parking Lot and Street Lighting if required

§226 & §275-55 Stormwater & Drainage Plan

___ Stormwater Management Plan meeting the requirements of Chapter 226
___ Master Grading Plan drawn to a scale no greater than 1"=100' on no smaller than 24" x 36" sheets
___ Erosion Control Plan drawn to a scale no greater than 1"=100' on no smaller than 24" x 36" sheets

§275-24C(3) Utility Plans

___ The Utility Plan may be incorporated into the site plan as long as it remains readable.
___ Utility Plans draw to a scale no greater than 1" = 100' on no smaller than 24" x 36" sheets (four copies required).
- Sewage Disposal with location of pipe, septic field, holding tank or sampling manhole
- Water Supply source with location of pipe or well
- Location of electric, gas and telecommunication equipment
- Location of existing and proposed utility easements
- RTU, wall mounted meters or air handling units.

§275-56 Landscaping Plan

___ Landscaping Plan to a scale no greater than 1" = 100' on no smaller than 24" x 36" sheets (four copies required)
___ Landscaping Plan drawn and colored suited for public presentation to fit on a single 11" x 17" sheet (eighteen color copies required)

- Signature of Landscape Architect that prepared plan
- Fiscal security – installation and maintenance bond or letter of credit
- Limits of Disturbance boundary, §275-54A
- Size, location, type and height of new and existing landscaping
- Screening materials
- Location of electric, gas and telecommunication equipment screening
- RTU, wall mounted meters or air handling units screening.
- Buffer yard landscaping
- Existing wooded areas
- Watercourses
- Scenic or significant vistas
- Pedestrian Access / Sidepaths / Trails

§275-54 Natural Resource Preservation

___ Limits of Disturbance (LOD) boundary shown on Site Plan and Landscaping Plan

- No development, grading or vegetation removal or alteration (other than approved landscaping) shall occur outside the LOD
- Residential uses: No more than 60% of the total gross area to be within the LOD
- Non-Residential uses: No more than 75% of the total gross area to be within the LOD
  Woodland, tree and vegetation protection shown on Landscaping Plan
- Location and size of all significant trees (deciduous trees with a DBH of 5 inches or larger or conifers trees 10 foot and taller)
- Significant trees to be removed shall be identified
- Location and size of all replacement trees, see §275-54B(6)
  Wildlife conservation plan (only if required by staff) in accordance with §275-54C

§275-37B(4)(b) Wetland Field Verification

___ Wetland stacking request application form

- All C-2 zoning boundaries shall be field verified unless the area has an previously approved field verified wetland survey
- Survey financial assurance

§275-22 Rezonings

___ A rezoning is required

- The proposed rezoning is consistent with the Master Plan and the stated purposes of the zoning ordinance
- Adequate public facilities and services (including sewage and waste disposal, water, gas, electricity, schools, police and fire protection, and roads and transportation, as applicable) will be available to serve the subject property while maintaining adequate levels of service to existing development;
- Provision of public facilities to accommodate development will not place an unreasonable burden on the ability of the City to provide them;
- The proposed development has taken into account impacts on surrounding properties or the natural environment, including air, water, noise, stormwater management, soils, wildlife, and vegetation;
- The land proposed for rezoning is suitable for development and will not cause unreasonable soil erosion or have an unreasonable adverse effect on rare or irreplaceable natural areas;
- The proposed rezoning will not be used to legitimize, or "spot zone," a nonconforming use or structure; and
- The proposed rezoning is the minimum action necessary to accomplish the intent of the petition, and an administrative modification, variance, or conditional use permit could not be used to achieve the same result.

§275-22 Conditional Use

___ A conditional use permit is required

§275-29 Sign Permits

___ A Sign Permit is required

§235 Land Division / Subdivision

___ A land division or subdivision is required

Special / Master Plans

___ Alternative Transportation Facilities Plan
___ City Center Plan
___ Economic Development Plan
___ National Avenue Corridor Plans
___ Park and Open Space Plan
___ Rural Commercial Development Guide
___ West National Avenue Redevelopment Plan

Surety Instrument

___ Letter of Credit (If required)

Sample Application Form

City of New Berlin

City of New Berlin Department of Community Development
3805 S. Casper Drive, New Berlin, WI 53151
Phone (262) 797-2445 / Fax (262) 780-4612 / www.newberlin.org/dcd

Subdivision / Land Division / Developer's Agreement Application Form

Applicant / Surveyor / Engineer
(Surveyor or Engineer required for all Subdivision Plats)

RLS/PE Name_____

Company _____

Address _____

City, State. Zip _____

Phone_____

Fax _____

Email _____

Project Name / New Company Name (if applicable) _____

_____

Representing _____

_____

Property Information

Property Address_____

Tax Key Number(s)_____

Current Zoning _____

Property Owner(s) _____

_____

_____

Property Owner's Address_____

_____

Existing Use of Property _____

Development Size _____

Application Type & Fees

Land Division (4 lots or less)	# Lots _____		Subdivision (5 or more lots) *Impact Statement Required*	#Lots _____	
☐ Preliminary	$200 / Lot	_____	☐ Preliminary	$100 / Lot	_____
☐ Plan Review* (Initial)	$125 / Lot	_____	☐ Plan Review* (Initial)	$125 / Lot	_____
☐ Developers Agreement	$250	_____	☐ Developers Agreement	$250	_____
☐ Conceptual	$50 / Lot	_____	☐ Conceptual	$50 / Lot	_____
Filing Fee	$50	_____	Filing Fee	$50	_____
TOTAL		_____	TOTAL		_____

Checklist

_____ 1. CSM/Plat document at a scale not to exceed 1"=100'.
5 copies required for review.
25 copies for distribution.
1 digital copy required ACAD format.
_____ 2. Utility Plans (Sewer, Water)
5 copies required for review.
1 digital copy required.
_____ 3. Grading Plans (Include stormwater facility & calcs.)
_____ 4. Impact Statement (Subdivision Only)
_____ 5. Perc Test(s) (If applicable)

By the execution of this application, applicant hereby authorizes the City of New Berlin or its agents to enter upon the property during the hours of 7:00 A.M. to 7:00 P.M. daily for the purpose of inspection. Applicant grants this authorization to enter to the City of New Berlin or its agents even if applicant has posted this land against trespassing pursuant to Section 943.13 Wis. Stats.

Applicant / RLS / PE Signature_____ Date: _____

Please do not write below this line

Accepted by: _____ Date: _____

Plan Commission / BPW Date:_____

Total Fee*: _____

File Number: _____

*Does not include fee for re-submittals.

Make Checks Payable To: CITY OF NEW BERLIN

City of New Berlin, Subdivision Application Form. Available: www.newberlin.org/index.aspx?NID=219

Sample Preliminary Plat Materials

Woodland Meadows Subdivision, City of New Berlin, WI

City of New Berlin, Development Projects and Applications. Available: www.newberlin.org/index.aspx?nid=204

16

Sample Final Plat

Sample Certificates of Compliance
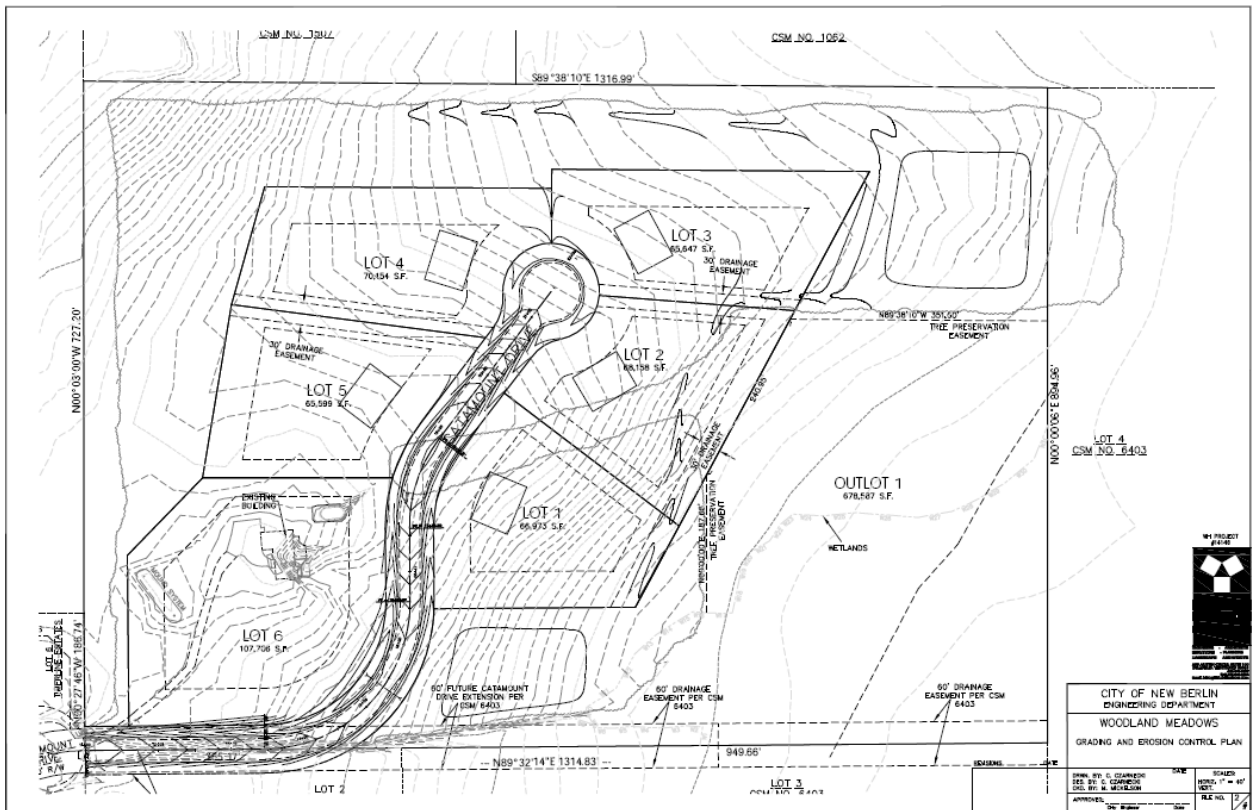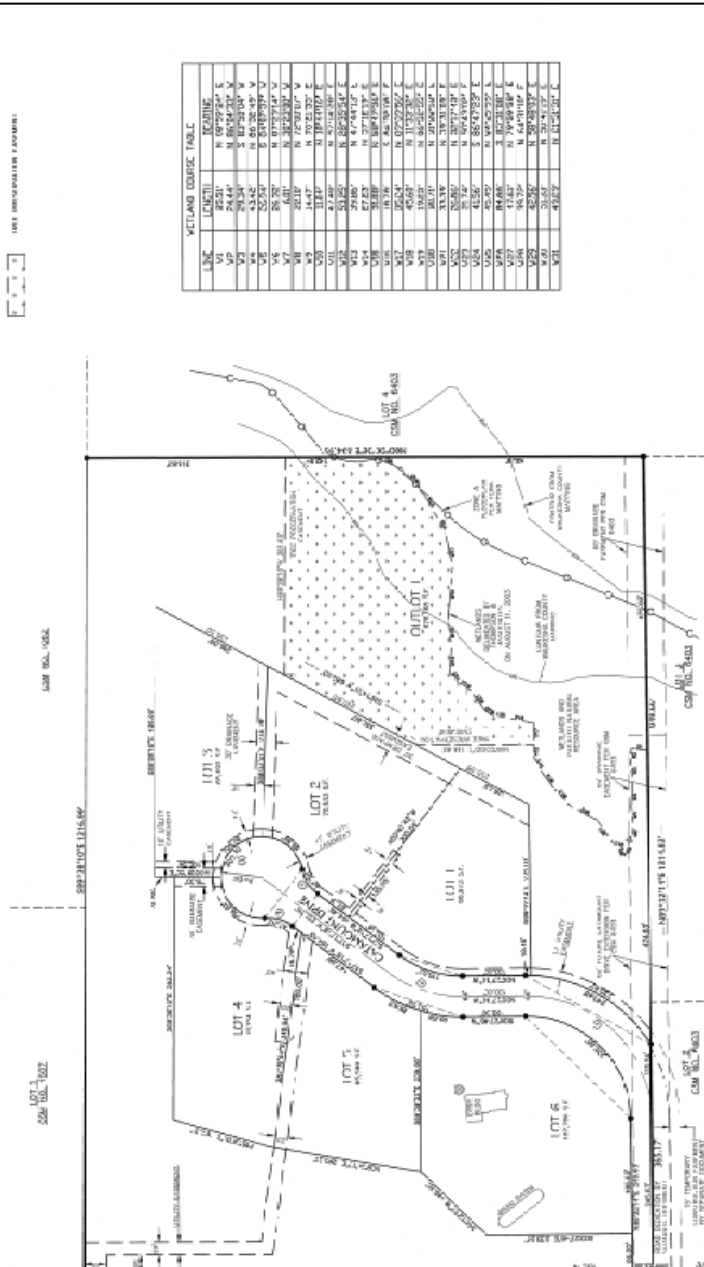
WOODLAND MEADOWS

ALL OF LOT 1 CSM NO. 6403 BEING A PART OF THE NORTHEAST 1/4, SOUTHEAST 1/4, SOUTHWEST 1/4, AND THE NORTHWEST 1/4 OF THE NORTHEAST 1/4 OF SECTION 17, TOWNSHIP 6 NORTH, RANGE 20 EAST, CITY OF NEW BERLIN, WAUKESHA COUNTY, WISCONSIN

THIS INSTRUMENT DRAFTED BY ANNETTE C. NELSON.

PROJECT NO. 14141
SHEET 2 OF

Sample Completed Application Form

CITY of BELOIT
Neighborhood Planning Division
100 State Street, Beloit, WI 53511   Phone: (608) 364-6700   Fax: (608) 364-6609

Application for Review of a Minor Subdivision

(Please Type or Print)   ₹ 2426   File Number: _CSM-2011-09_

1. Address of property: 2357 Field Crest Road

2. Tax Parcel Number(s): 22180010, 22180600

3. Property is located in (circle one): **City of Beloit** or **Town of: Turtle**; **Beloit**; **Rock** or **LaPrairie**

In the NW Quarter of Section 21 , Township 1 North, Range 13 East of the 4th P.M.

4. Owner of record: _____ Phone: _____

    _____
    (Address)   (City)   (State)   (Zip)

5. Surveyor's name: _____ Phone: _____

    _____
    (Address)   (City)   (State)   (Zip)

6. Number of new lots proposed with this land division is 2 _____ lot(s).

7. Total area of land included in this map: 29.6 +/- Acres

8. Total area of land remaining in parent parcel: 0

9. Is there a proposed dedication of any land to the City of Beloit? yes

10. The present zoning classification of this property is: DH

11. Is the proposed use permitted in this zoning district: Proposed R1A

12. *THE FOLLOWING ITEMS MAY NEED TO BE COMPLETED AND/OR ATTACHED:*

    ☑ **Site Assessment Checklist**; is required if the total area of CSM is over 5 acres.
    ☑ **Pre-application meeting**; a pre-application meeting was held on 10/31/2011
      with City of Beloit Staff.
    ☐ **Developer's Statement**; as required by section 12.02(7) of the Subdivision Ordinance.
    ☐ **Phase One Environmental Assessment**: as per section 12.05(1)(c) of the Subdivision Ordinance.
    ☑ **Certified Survey Map**: one copy as required by section 12.05(1) of the Subdivision Ordinance.

The applicant's signature below indicates the information contained in this application and on all
accompanying documents is **true and correct**. The undersigned does hereby respectfully make application
for and petition the City Plan Commission or City Council for approval of this Certified Survey Map for the
purpose stated herein. The undersigned also agrees to abide by all applicable federal, state and local laws,
rules, and regulations.

_____ / 11-15-2011
(Signature of applicant)   (Name of applicant)   (Date)

This application must be submitted at least 21 days prior to the Plan Commission meeting date.

Review fee: $150 plus $10 per lot   Amount paid: $170.⁰⁰

Scheduled meeting date: Dec. 7, 2011

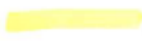Application accepted by: Drew Pennington   Date: 11/16/11

Sample Context Map

## Sample Certified Survey Map

CERTIFIED SURVEY MAP

OF PART OF THE N.W. 1/4 OF THE N.W. 1/4 AND PART OF THE N.E. 1/4 OF THE N.W. 1/4 OF SECTION 21, T. 1 N., R. 13 E., OF THE FOURTH P.M., CITY OF BELOIT, ROCK COUNTY, WISCONSIN

Key:
- Existing Property Lines
- Proposed Property Lines
- Proposed ROW Dedication
- Proposed Easement
- ROW Frontage for Lot 1
- ROW Frontage for Lot 2

LOT 1

LOT 2
1.474 acres

FIELD CREST ROAD

This property retains 31.53' of ROW Frontage

"DEDICATED TO THE PUBLIC"

INGRESS/EGRESS EASEMENT AREA FOR THE BENEFIT OF LOT 2

EXISTING DRIVEWAY

HOUSE

66' RESERVED FOR ROAD R.O.W.

NORTH

BEARINGS BASED UPON THE NORTH LINE OF THE NORTHWEST QUARTER THAT BEARS N 88°38'19" W IN THE WISCONSIN COUNTY COORDINATE SYSTEM ROCK DATUM

SCALE: 1" = 60'

0   30   60   120
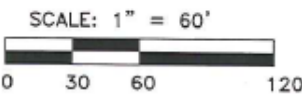
ORDER NO. 31256
FOR:
DATE: NOVEMBER 16, 2011
BOOK/PG *SEE FILE
File Name: J:\31250-31299\31256\31256.DWG
Plotted on 11/16/11 at 13:44:08.
SHEET 2 OF 4

MONUMENT KEY
- Iron Rebar Set: 3/4" x 24"(1.5 Lbs./Ft.)
- Iron Pipes Found
- Iron Rebar Found
- Fences

Batterman
engineers surveyors planners

2857 Bartells Drive   Beloit, Wisconsin 53511
608.365.4464   www.rhbatterman.com

Sample Staff Report

CITY OF BELOIT
REPORT TO THE BELOIT CITY PLAN COMMISSION

Meeting Date: December 7, 2011   **Agenda Item:** 4   **File Number:** CSM-2011-09

Applicant: R.H. Batterman & Co., Inc.   **Owner:**   **Location:** 2357 & 2426 Field Crest Road

Existing Zoning: DH, Development Holding District   **Existing Land Use:** Single-Family Dwelling and Agricultural   **Total Area:** Approx. 29.49 Acres

Request Overview/Background Information:
R.H. Batterman & Co., Inc. has submitted an Application for the Review of a Minor Subdivision and a two-lot Certified Survey Map (CSM) for the properties located at 2357 & 2426 Field Crest Road. According to Section 12.05(1)(c) of the Subdivision Ordinance, the Plan Commission shall recommend to the City Council approval, conditional approval, or rejection of any minor subdivision of land within the City that involves the dedication of land to the public.

Key Issues:
- The intent of the proposed CSM is to separate a 1.474-acre parcel for the existing single-family home in the northeast corner of the property located at 2357 Field Crest Road from the remainder of this primarily agricultural parcel. However, since the property located at 2357 Field Crest Road does not have any right-of-way frontage, the proposed CSM also involves the dedication of land to the public to create some frontage for both proposed lots.
- As shown on the attachments, the proposed CSM extends the Field Crest Road right-of-way by 70 feet. This dedication creates 70 feet of right-of-way frontage for proposed Lot 2 and 92.46 feet of frontage for proposed Lot 1, which is 28.02 acres (the remainder of the parcel). A small triangular portion of the proposed dedication involves the property to the north (2426 Field Crest Road), which will retain 31.57 feet of frontage following this dedication.
- The land to be dedicated to the public will not be improved as a public street until additional development occurs.
- Since there is an existing driveway leading from the existing end of Field Crest Road to the house, the proposed CSM includes an ingress/egress easement over a portion of proposed Lot 1 to benefit proposed Lot 2, which will preserve driveway access in the event that proposed Lot 1 is sold in the future.
- Following this land division, proposed Lot 2 must be rezoned to R-1A, Single-Family Residential District.
- The City Engineer has requested that the remainder of Field Crest Road be officially mapped as shown.
- The City's other Review Agents have reviewed the proposed CSM and have not submitted any comments or concerns.

Consistency with Comprehensive Plan and Strategic Plan:
The Comprehensive Plan recommends Planned Neighborhood uses for the eastern 1/3 of the subject property and Community Commercial uses for the remainder of the subject property. This proposed land division, including the road dedication and reservation, is consistent with this recommendation. Consideration of this request supports City of Beloit Strategic Goal #4.

Sustainability: (Briefly comment on the sustainable long term impact of this policy or program related to how it will impact both the built and natural environment utilizing the four following eco-municipality guidelines)

- **Reduce dependence upon fossil fuels** – N/A
- **Reduce dependence on chemicals and other manufacturing substances that accumulate in nature** – N/A
- **Reduce dependence on activities that harm life sustaining eco-systems** – N/A
- **Meet the hierarchy of present and future human needs fairly and efficiently** – N/A

Staff Recommendation:
The Neighborhood Planning Division recommends **approval** of the attached two-lot Certified Survey Map (CSM) for the properties located at 2357 & 2426 Field Crest Road, subject to the following conditions:
1. The property owner shall apply to rezone proposed Lot 2 to R-1A, Single-Family Residential, by April 1, 2012.
2. The final CSM shall be recorded with the Rock County Register of Deeds, ideally by December 31, 2011.

Fiscal Note/Budget Impact: N/A

Attachments: Location & Zoning Map, CSM, and Application.

City of Beloit, Plan Commission Agenda Packet, December 7, 2011.
Available: www.ci.beloit.wi.us/index.asp?Type=B_LIST&SEC={A17F8B17-1E7E-4A26-A73E-159548C7BB08}