

Appendix G – Implementation Tools

Shown below is a partial list and description of additional plan implementation tools available to local governments to assist in following through on specific actions and to achieve the goals and objectives of a comprehensive plan.

Purchase of Development Rights Program (PDR)

The purchase of development rights is a *voluntary* protection technique that compensates the landowner for limiting future development on their land. The programs are primarily used for retention of agricultural lands, but the concept can be applied to all types of land use scenarios. Under a PDR program, an entity such as a town, county, or private conservation organization purchases the development rights to a designated piece of property. The land remains in private ownership, and the landowner retains all the other rights and responsibilities associated with the property.

Transfer of Development Rights (TDR) Program

The TDR program is a non-regulatory (voluntary) approach that allows the right to develop property to be transferred from one parcel (or zoning district) to another. Under a TDR program, development rights to a parcel of land are transferred from a “sending area” to another parcel referred to as the “receiving area”. Sending areas are typically those areas where development is discouraged or limited, and receiving areas are areas where growth and development are encouraged. Under some TDR programs, local government awards development rights to each parcel of developable land in the community or in selected districts on the basis of the land's acreage or value. Landowners can then sell the development rights on the open market. The TDR program has been widely implemented at the local level due to the fact that it requires no major financial contribution by local government.

Benefits of the TDR program include:

- ▶ The public benefits from the conservation easements, which protect and preserve sensitive natural features and wildlife habitat.
- ▶ Owners of sending area properties receive economic compensation for their properties where development would normally be precluded due to sensitive natural features or zoning restrictions.
- ▶ Owners of receiving area properties can increase their development density, accommodating a greater number of uses or tenants.
- ▶ Little financial contribution on behalf of local government.

Acquisition

This type of land preservation tool involves the direct purchase of land for the purposes of preservation and protection. This tool should be used in cases where other protective mechanisms fail to meet objectives and/or in cases of high-priority acquisition lands. Acquisition efforts should be coordinated with other local, state, and national acquisition

initiatives (lake associations, environmental groups, USFS, WWDNR, etc.). Depending on the acquisition, funding assistance from federal, state, or not-for-profit groups may be found.

Conservation Easements

When a landowner sells their development rights, a legal document known as a conservation easement is drafted. The easement restricts the use of the land to agricultural use, open space, or other desired use in perpetuity. A conservation easement permanently limits residential, commercial, or industrial development to protect its natural attributes or agricultural value. The conservation easement becomes a part of the landowner’s deed and remains on the deed even if the land is sold or passed through inheritance thereby ensuring the development will not occur on the property.

The conservation easement does not automatically allow public access to the land; the land remains in the hands of the owner, as only the right to develop it has been purchased. All remaining rights of property ownership remain with the landowner including the right to transfer ownership, swap, deed, or sell the land. A purchase of development rights program works to ensure that incompatible development will not take place; the PDR becomes a part of the deed and keeps the land in its agricultural or natural state in perpetuity. An effective purchase of development rights program requires initial financial support and on-going administration. Additionally, the program requires a review board to assess the lands of landowners requesting entry of their parcel into the PDR program.

Land Trusts

Land trusts are non-profit voluntary organizations that work with landowners to use a variety of tools to help them protect their land. Such organizations are formed with the purpose of protecting open space, scenic views, wildlife, etc.; and they use a variety of techniques to raise money for operating expenses and the acquisition of easements. Land trusts also provide adequate monitoring and stewardship. In the United States, land trusts can hold conservation easements, which means that the organization has the right to enforce the restrictions placed on the land.

Land Protection Tool	Pro	Con
Donated Conservation Easements	<ul style="list-style-type: none"> • Permanently protects land from development pressures. • Landowners may receive income, estate, and property tax benefits. • No or low cost to local unit of government. • Land remains in private ownership and on the tax rolls. 	<ul style="list-style-type: none"> • Tax incentives may not provide enough compensation for many landowners • Little local government control over which areas are protected.
Purchase of Development Rights	<ul style="list-style-type: none"> • Permanently protects land from development pressures. • Landowner is paid to protect their land. • Landowners may receive estate and property tax benefits. • Local government can target locations effectively. • Land remains in private ownership and on the tax roles. 	<ul style="list-style-type: none"> • Can be costly for local unit of government.

Land Protection Tool	Pro	Con
<p>Transfer of Development Rights</p>	<ul style="list-style-type: none"> • Permanently protects land from development pressures. • Landowner is paid to protect their land. • Landowners may receive estate and property tax benefits. • Local government can target locations effectively. • Low cost to local unit of government. • Utilizes free market mechanisms. • Land remains in private ownership and on tax roll 	<ul style="list-style-type: none"> • Can be complex to manage • Receiving area must be willing to accept higher densities.

Town Subdivision Ordinance

The development of a subdivision (land division) ordinance is intended to control the division of land within the town in order to promote public health, safety, and welfare by regulating the division and re-division of land. The ordinance must be at least as restrictive as the county ordinance but can be more restrictive. The Wisconsin Towns Association has developed a model Subdivision Ordinance for consideration by towns in Wisconsin.

Conservation Design Subdivisions

The conservation design subdivision concept is an alternative development design to the conventional residential subdivision. Conventionally designed subdivisions are typically characterized by land divided into house lots and streets, with minimal (if any) open space. Usually, the remaining open space lands consist of the undevelopable portion of the subdivision (steep slopes, wetlands, floodplain, etc.). The conventional subdivision lacks communal open space, community woodlands, or other open areas where people can meet and interact.

The purpose of a conservation design subdivision is to provide opportunity for development while maintaining open space characteristics, encouraging interaction among residents through site design, and protection of habitat and environmental features. A typical conservation design subdivision contains the same number of lots that would be permitted under a conventional design. The lots are typically smaller than conventional lots and are designed for single-family homes reminiscent of traditional neighborhoods found in small towns throughout America.

The compact design of a conservation subdivision allows for the creation of permanent open space (typically 50 percent or more of the buildable area). This undeveloped land typically serves as community open space land and provides recreational, aesthetic, and social benefits to subdivision residents.

The conservation design subdivision has proven economic, environmental, and social advantages over conventionally designed subdivisions¹ including:

Economic Advantages

- ▶ Lower infrastructure and design (engineering) costs
- ▶ Attractiveness of lots for home development

¹ Randall Arendt, *Conservation Design for Subdivisions*, (Island Press, Washington D.C., 1996), pp 3-16.

- ▶ Reduction in demand for public parklands

Environmental Advantages

- ▶ Protection of conservation areas and upland buffers (which would normally be developed)
- ▶ Reduced runoff due to less impervious surface cover
- ▶ Improved water filtration due to presence of vegetation and buffers
- ▶ Opportunities for non-conventional septic system design

Social Advantages

- ▶ Opportunities for interaction among residents (common open space)
- ▶ Pedestrian friendly
- ▶ Greater opportunity for community activities

Best Management Practices (BMP)

Best management practices describe voluntary procedures and activities aimed at protection of natural resources. BMP's are described in detail in the Wisconsin Department of Natural Resources publications titled "Wisconsin Construction Site Best Management Practice Handbook", and "Wisconsin's Forestry Best Management Practices for Water Quality". Shoreland BMP's are a set of specific actions that landowners can take to help protect and preserve water quality. Detailed information on the use and implementation of shoreland BMP's is available from the University of Minnesota Extension (UM-EX).

Special Plans

Special plans may arise through the planning process to address other specific issues. These plans often supplement the master plan and are important implementation tools. Some examples might include a downtown design plan, neighborhood plans or waterfront development plans.

Eminent Domain

Eminent Domain allows government to take private land for public purposes, even if the owner does not consent, as long as the government compensates the landowner for their loss. The legislature has delegated the power of eminent Domain to local government for specific purposes.

Annexation/Incorporation

Cities and villages have the power to annex lands within their extraterritorial boundaries. The power to extend municipal boundaries into adjacent unincorporated land allows a community to control development on its periphery, therefore, minimizing land use conflicts.

As an alternative to annexation, an unincorporated area may incorporate as a city of village, provided the unincorporated area meets certain statutory criteria.

Building Codes

Municipalities may choose to enact building codes as part of their ordinances. Building codes are sets of regulations that set standards for the construction and maintenance of buildings in a

community, which ensures that these buildings are safe. The codes are usually concerned with maintaining buildings in order to keep them from becoming dilapidated and/or rundown.

Moratoria

Then enactment of a moratorium temporarily stops all development in a specified area in order to plan for growth. This includes identifying and protecting sensitive lands and other community resources. Local units of government can enact this tool.

General Zoning

Zoning is a tool that gives governmental bodies the power to intervene in the lives of private citizens for the protection of public health, safety, and welfare. Zoning separates conflicting land uses and ensures that development is directed in certain areas that can accommodate that particular land use. Several different types of specialized zoning exist.

- **Floodplain Zoning** - Floodplain zoning ordinances are required by Wisconsin law and pertain to cities, villages, and towns. The Wisconsin DNR specifies minimum standards for development in floodplains, but local ordinances may be more restrictive than these rules.

- **Shoreland Zoning** - Wisconsin law requires that counties adopt zoning regulations in shoreline areas that are within 1,000 feet of a navigable lake, pond, or flowage or 300 feet of a navigable stream or the landward side of the floodplain, whichever distance is greater. Minimum standards for shoreland zoning ordinances are specified in rules developed by the Wisconsin DNR, while local standards may be more restrictive than these rules.

- **Exclusive Agricultural Zoning** - Municipalities may adopt exclusive agricultural zoning for farmland under the Farmland Preservation Program. For farmers to be eligible for income tax credits, they must meet standards that require a minimum parcel size of 35 acres limit the use of the land to those that are agriculturally related. The ordinance must comply with the county farmland preservation plan.

- **Extraterritorial Zoning** - Any city or village that has a plan commission may exercise extraterritorial zoning power in the unincorporated areas surrounding the city or village. The extraterritorial zoning power may be exercised in the unincorporated areas located within three miles of the corporate limits of a first, second, or third class city, or within 1 ½ miles of a fourth class city or village.

- **Performance Zoning** - Performance zoning uses performance standards to regulate development. Performance standards are zoning controls that regulate the effects or impacts of a proposed development, instead of separating uses into various zones. The standards often relate to a sites development capability. For example, in agricultural areas, performance zoning could be used to limit development on prime agricultural soils and allow development on lower quality soils.

- **Bonus and Incentive Zoning** - Bonus or incentive zoning allows local governments to grant a bonus, usually in the form of density or the size of the development, in exchange for amenities such as parks or walking paths for example.
- **Overlay Zoning** - Overlay zones are designed to protect important resources and sensitive areas. The underlying zoning regulates the type of uses permitted, while the overlay zone imposes specific requirements to provide additional protection.
- **Mixed-Use Zoning** - Mixed-use zoning is an effective way to enhance existing urban and suburban areas and encourage infill development. Mixed-use zoning recognizes the existing mixture and encourages its continuance and may offer an alternative to struggling with nonconforming use complexities.
- **Inclusionary Zoning** - Inclusionary zoning provides incentives to developers to provide affordable housing as part of a proposed development project. For example, in exchange for higher density, a developer would have to build a specified number of low and moderate income dwelling units.

Planned Unit Developments (PUD’s)

Planned Unit Developments (PUD’s) are planned and built developments that create a variety of compatible land uses. These developments vary in densities and are subject to more flexible setbacks, design, and open space requirements than are afforded by traditional or general zoning.

Reserved Life Estates

This is a tool in which a landowner has the opportunity to sell or donate his or her land to a conservation organization but is able to continue living on and managing the property until there death.

Capital Improvement Program (CIP)

Capital Improvement Programs are a fiscal tool that can help communities plan for the timing and location of community facilities and utilities (such as municipal sewer and water service, parks or schools). CIP’s ensure that proper budgets are allocated for future developments or improvements to community infrastructure.

Impact Fees

Impact fees are financial contributions imposed on new developments to help pay for capital improvements needed to serve the development. Local governments can impose impact fees to finance highways, other transportation facilities, storm water facilities, solid waste and recycling facilities, fire and police facilities etc.

Tax Increment Financing (TIF)

Cities and villages may designate tax increment financing districts to finance public improvements through the property taxes generated on future increases in the value of taxable properties in the district. Under TIF, the overlying taxing jurisdictions do not receive any tax revenues based on the increase in property valuation in a district until all improvement costs are

paid. In this way, the TIF district assures that all taxing jurisdictions benefiting from development pay a share of the costs.

Other Adjoining and Overlapping Jurisdiction Comprehensive Planning Processes

The Town of Sherman encourages early dialog between all adjoining and overlapping jurisdictions (towns and counties) as they update or revise their comprehensive plan. This dialog will ensure that local input and consistency between comprehensive plans is reached. Where inconsistencies are identified and a resolution cannot be reached, future actions can be developed to bring the parties together to address their concerns.