

IMPLEMENTATION OF COMPREHENSIVE PLANS

Wisconsin's comprehensive planning law requires that county and local general zoning ordinances; county, city, and village shoreland zoning ordinances; county and local subdivision ordinances; and local official mapping ordinances enacted or amended on or after January 1, 2010, be consistent with the comprehensive plan adopted by the unit of government enacting or amending an ordinance (see Section 66.1001(3) of the *Wisconsin Statutes*). In 2010, the Wisconsin Legislature amended the comprehensive planning law to include the following definition: "'Consistent with' means furthers or does not contradict the objectives, goals, and policies contained in the comprehensive plan" (Section 66.1001 (1) (am)).

This fact sheet describes the type of ordinances used to help implement comprehensive plans.

General Zoning Ordinances

Zoning is one of the major plan implementation devices available to a community. The primary function of zoning should be to implement the community's comprehensive plan. A second important function of zoning should be to protect desirable existing development and natural resources. Zoning authority is granted to cities, villages, and towns with village powers under Section 62.23(7) of the *Wisconsin Statutes*, and to counties under Section 59.69 of the *Statutes*.

A zoning ordinance is a law that regulates and restricts the use of property in the public interest. The ordinance typically divides a community into districts to confine or promote certain land uses in areas well suited to those uses. Zoning ordinances typically include a list of land uses that are allowed in each district subject to issuance of a building permit (principal uses) and uses that may be allowed subject to approval of a conditional use permit (conditional uses). Within a given zoning district, the ordinance sets forth requirements for the height, size, shape, and placement of structures on sites, with the intention of assuring adequate light, air, and open space for each building; reducing fire and flooding hazards; preventing traffic congestion and the overloading or underuse of utility systems; and enforcing community design standards. Zoning may also be used to protect and preserve natural resources.

A zoning ordinance typically consists of two parts. The first part, the text, consists of regulations that apply to each of the various zoning districts, together with related procedural, administrative, and legal provisions. The second part, the map, shows the boundaries of the various districts to which the regulations apply.

Shoreland and Floodplain Zoning Ordinances

Shoreland and floodplain ordinances enforce the requirements of Chapters NR 115 (shoreland rules for counties), NR 116 (floodplain regulations for all levels of government), and NR 117 (shoreland-wetland rules for cities and villages) of the *Wisconsin Administrative Code*. There are also shoreland setback requirements in Sections 62.233 and 61.353 of the *Statutes* that apply in certain cities and villages, respectively. The wetland protection requirements of NR 103 and NR 151, which apply Statewide, also apply within the shoreland.

Shoreland zoning has the goal of protecting water quality, fish and wildlife habitat, recreation, and natural beauty. Shorelands are those areas lying within 1,000 feet of the shoreline, referred to as the ordinary high-water mark (OHWM), of navigable lakes, ponds, or flowages; or within 300 feet of the shoreline of navigable rivers or streams. If the 100-year recurrence interval floodplain extends more than 300 feet from the river or stream, the shoreland regulatory area extends to the landward edge of the floodplain. The same definition of the shoreland area applies within towns, villages, and cities. The regulations that apply within the shoreland area differ significantly depending on whether the shoreland is within a town, village, or city, and when a shoreland area became part of a village or city.

Within towns, the shoreland regulations in NR 115 are enforced by county shoreland zoning ordinances. NR 115 requirements include a 75-foot building setback and a 35-foot vegetated buffer strip around navigable waters; controls on impervious surfaces and the intensity of development; limits on dredging, filling, and excavating; and protection of wetlands within shorelands, regardless of the size of the wetland. County shoreland ordinances must be updated by October 1, 2016 to reflect updated NR 115 regulations that took effect in 2014 and limits on county shoreland zoning authority enacted by the Legislature in 2015.

NR 117 requires cities and villages to enact shoreland-wetland zoning regulations to protect wetlands of five acres or larger if all or a portion of the wetland is located in the shoreland. City and village zoning ordinances must also require a 50-foot building setback from the OHWM of navigable waters in areas annexed by the city or village after May 7, 1982, or incorporated after April 30, 1994, if the area annexed or incorporated was subject to a county shoreland zoning ordinance prior to the annexation or incorporation (in accordance with Sections 61.353 and 62.233 of the Wisconsin Statutes, respectively, for villages and cities). County shoreland regulations continue to apply in such annexed and incorporated areas if the city or village has not adopted a shoreland ordinance under Section 62.233 or 61.353. State shoreland regulations for areas that were part of a city or village prior to May 7, 1982 are limited to the shoreland-wetland requirements in NR 117. A city or village may adopt regulations that are more restrictive than State requirements if they so choose.

NR 116 sets forth regulations for areas that have been or may be covered by floodwaters during the regional flood. The regional flood is defined as a flood with a 1 percent chance of being equaled or exceeded in any given year, which is also referred to as the 100-year flood. The goal of Wisconsin's floodplain management program is to protect people and property from unwise development in the floodplain, and to minimize the costs associated with floods. These costs include rescue, relief, and clean-up operations, temporary housing for displaced residents, and business interruption. Floodplain regulations are enforced by counties for unincorporated (town) areas and by cities and villages for areas within the city or village. Typically, floodplain regulations are adopted as part of a county, city, or village zoning ordinance; although they may be adopted as a separate ordinance or as part of a combined shoreland and floodplain zoning ordinance.

Land Division Ordinances

A land division ordinance is a public law that regulates the division of land into smaller parcels. Much of the form and character of a community is determined by the quality of its land divisions and the standards that are built into them. Land division ordinances provide for public oversight of the creation of new parcels and help ensure that new development is appropriately located; lot size minimums specified in zoning ordinances are observed; arterial street rights-of-way are appropriately dedicated or reserved; access to arterial streets and highways is limited in order to preserve the traffic-carrying capacity and safety of such facilities; public access is provided to navigable waters; adequate land for parks, drainageways, and other open spaces is appropriately located and preserved; street, block, and lot layouts are appropriate; and adequate public improvements are provided. Land division ordinances can be enacted by cities, villages, and towns. Counties may also adopt land division ordinances to regulate land divisions in unincorporated (town) areas. Cities and villages also have "extraterritorial" plat approval jurisdiction over subdivisions proposed near their municipal boundaries.

Chapter 236 of the Wisconsin Statutes sets forth general requirements governing the division of land, including, among others, surveying and monumenting requirements, necessary approvals, time limits for county and local reviews, recording procedures, and requirements for amending or changing subdivision maps. The Statutes also grant authority to county and local governments to review subdivision maps, commonly referred to as plats, with respect to local ordinances. Chapter 236 further authorizes county and local governments to adopt their own land division ordinances, which may, to the extent permitted by Chapter 236, be more restrictive than State requirements. County and local land division ordinances often establish basic design standards and improvements required in new land divisions, such as the width of street rights-of-way and pavement; the installation of curbs, gutters, sidewalks, street lamps, street trees, and stormwater management facilities; and the dedication of land for public parks, streets, or trails.

Official Mapping Ordinances

Official mapping authority, granted under Section 62.23(6) of the Wisconsin Statutes to cities, villages, and towns with village powers, is an important but not widely used plan implementation tool. An official map, which must be adopted as an ordinance by the governing body, is one of the most effective and efficient devices to reserve land for future public use, and to ensure that such lands are dedicated to the public when an area is subdivided. An official map is intended to identify the location and width of existing and proposed public streets, highways, parkways, drainageways and airports, and the location and extent of railway rights-of-way, public transit facilities, parks, and playgrounds. An official map for a city or village may include those areas within the extraterritorial plat approval jurisdiction of the city or village.

Counties do not have authority under State law to adopt official mapping ordinances, but a County Board may adopt a “highway width map” in accordance with Section 66.1031 (formerly Section 80.64) of the Statutes. A highway width map may establish the location and width proposed for an existing or future street or highway, subject to approval by the governing body of the city, village, or town in which the street or highway is located or proposed to be located.

Summary prepared by the Southeastern Wisconsin Regional Planning Commission (SEWRPC). Model land division and official map ordinances are on the SEWRPC web site at www.sewrpc.org. Commission staff may be contacted by telephone at (262) 547-6721, or by e-mail at sewrpc@sewrpc.org.