

THE IMPLEMENTATION ELEMENT

The Town of Somerset Comprehensive Plan provides for the rural development and open space preservation objectives recommended by the Town of Somerset Planning Commission. However, the plan is not complete without the selection of mechanisms to implement it. This section identifies public land use ordinances such as zoning, subdivision controls, and official mapping. It describes such mechanisms as purchase and transfer of development rights and conservation easements as means to preserve open space and agricultural lands. It also reiterates the implementation strategies for each Plan Element.

ZONING

The most common implementation tool used by local governments to implement plans is the zoning ordinance. A zoning ordinance regulates the use of property in the public interest. Zoning is essentially a means of insuring that the land uses of a community are properly situated in relation to one another, providing adequate space for each type of development. It allows the control of development density in each area so that property can be adequately served by such governmental facilities as the street, school, recreation and utility systems. This directs new growth into appropriate areas and protects existing property by requiring that development afford adequate light, air and privacy for persons living and working within the community. Zoning ordinances commonly contain a number of different zoning districts, such as: single-family, multi-family, commercial, industrial, agricultural, and conservancy. The zoning ordinance indicates specific uses permitted within each district and typically establishes minimum lot sizes, maximum building heights, and building setbacks for each district.

The Town of Somerset is currently participating in St. Croix County Comprehensive Zoning. The County is rewriting its zoning ordinance to reflect its development plan recommendations. The County is working closely with the towns to get input on the new zoning ordinance.

The county zoning ordinance and zoning district map should be reviewed against the Town's Comprehensive Plan presented in this document and its recommendations. If there are provisions of the county zoning ordinance and zoning districts that are inconsistent with the plan, the Town will request that the County make zoning ordinance revisions which are consistent with the plan.

It is important to recognize that the recommended Town Comprehensive Plan is a long-range plan and that some areas proposed for residential, commercial, and industrial use on the future land use map will not be developed for a number of years. Consequently, the County's zoning district map doesn't need to immediately reflect the Comprehensive Plan. The application of zoning districts in these areas should proceed incrementally. Zoning should always be consistent with the current or appropriate use of the land. Rezoning should occur only when the uses in the proposed district are appropriate for the given parcel of land.

The Town of Somerset will continue participation with the Village of Somerset on the Extraterritorial Zoning Committee to ensure the Town's interests are served.

INTERGOVERNMENTAL AGREEMENTS

Intergovernmental agreements may be defined as adopted arrangements between two or more local units of government to facilitate achievement of common goals or to further common interests. Such arrangements can prove useful in the implementation of the Town Comprehensive Plan in that they can facilitate sound urban development in areas along common municipal boundaries and can facilitate efficient provision of essential public facilities and services. There are basically two types of such agreements that are most commonly used among cities, villages and towns in Wisconsin that would be helpful in Comprehensive Plan implementation: cooperative boundary agreements and intergovernmental cooperation agreements, authorized under Sections 66.023 and 66.30, respectively, of the Wisconsin Statutes.

Cooperative boundary agreements may serve to abate or eliminate often long-standing conflicts with respect to planning, zoning, property tax base, and ultimately, future urban development patterns between local units of government. In the absence of intergovernmental boundary agreements, development may proceed in a manner that is not in accord with the Town Comprehensive Plan, nor in the best interests of the communities involved.

Under Section 66.30 of the Wisconsin Statutes, "Intergovernmental Cooperation", any municipality may contract with other municipalities for the receipt or furnishing of services or joint exercise of power or duties required or authorized by law. It should be noted that the term "municipality" in Section 66.30 refers to the State, counties, cities, villages, towns, school districts, sanitary districts, public library systems, regional planning commissions, and other governmental and quasi-governmental entities. The requirements and procedures set forth for intergovernmental cooperation are minimal and are intended to be liberally interpreted in favor of cooperative action among the agencies involved. Formal agreements under Section 66.30 are often undertaken for common provision of such essential public services as public sanitary sewer and water service, solid waste management, police and fire protection, inland lake protection and rehabilitation, public libraries, public transit; or for shared functions such as engineering, planning, and administration of land use regulations. Intergovernmental cooperation in this regard should be undertaken whenever an opportunity exists to provide essential public services and achieve an economy of scale that would reduce the cost of such services to the public.

Under Section 66.023 of the Wisconsin Statutes, "Boundary Change Pursuant to Cooperative Plan", two or more adjacent municipalities, defined therein as cities, villages, and towns, may determine the boundary lines between themselves under a "cooperative plan" subject to approval by the Wisconsin Department of Administration. Section 66.023 sets forth the requirements and procedures for municipalities to follow in undertaking such agreements. The process for achieving boundary agreements begins with each community involved adopting a resolution authorizing participation. The communities must then cooperatively undertake preparation of a plan which must include, for the areas concerned, elements pertaining to the physical development of the area; to urban facilities and services; to environmental impacts; to housing needs; and importantly, to boundaries. The planning period to be utilized must be specified and a public hearing must be held on the proposed plan. Following adoption of the cooperative plan by the communities involved, the plan is submitted to the Wisconsin Department of Administration for review and approval. Upon approval by the Department, the cooperative plan provisions with respect to the maintenance of existing boundaries; to changing boundaries and

the time of such changes; and to the delivery of services becomes a contract binding on the parties to the plan and have the force and effect of a contract. In addition, a boundary change ordinance is enacted pursuant to the plan by the local unit of government identified under the plan for enacting of such an ordinance.

The Town of Somerset should explore how intergovernmental coordination with the Village of Somerset might help meet this plan's goals, objectives and policies. For example, a transfer of development rights program might work better by using boundary agreements and shared revenue to transfer some development to higher densities next to the Village. The Town could receive shared revenue for such land that is phased into the Village over time. It is important to remember that residential development while increasing a community's tax base often results in costs for the additional demand for services that can exceed the revenues gained from increases in community assessed values.

LAND SUBDIVISION ORDINANCES

Land subdivision control ordinances are of particular importance to plan implementation since decisions concerning the subdivision of land are among the first official activities involving public policy as it applies to a proposed development. Minimum requirements for subdivision plats are set forth in Chapter 236 of the Wisconsin Statutes. Towns are authorized under the Section 236.45 to adopt subdivision control ordinances that are at least as restrictive as Chapter 236 to regulate the manner in which land is subdivided and prepared for development.

The Town will review and amend its subdivision ordinance to implement its stated policies.

OFFICIAL MAPPING

Official mapping powers granted by reference under Sections 60.22(3), 61.35, 62.23(6) to towns which have adopted village powers, provide a means for reserving land for future public use as streets, highways, parkways, railways, transit facilities, drainageways, parks and playgrounds. The official map represents a particularly effective means to reserve land for future public use, once those lands have been precisely identified in a Comprehensive Plan. The Town should consider how official mapping might help in the orderly development of the community as it implements the plan. Laying out future road corridors in an official map can help ensure orderly development.

PURCHASE OF DEVELOPMENT RIGHTS

Programs for the purchase of development rights in agricultural lands, or PDR programs, involve the use of public or private funding to acquire assumed development rights of privately held lands. Under a PDR program, a landowner sells the development rights attendant to a parcel of land at a fair market price established by an appraisal process. These rights are relinquished and are not to be transferred to another parcel of land. A qualified appraiser estimates the fair market value of the property with and without the development rights, and the difference between the two estimates is the value of the development rights, or the amount to be paid to the landowner. Deed restrictions are commonly used to ensure that the lands concerned remain in agricultural or other open use. Such restrictions are attached to the land, and remain in effect regardless of

future sale or other transfer of the land. Conservation easements can also be applied to the land, which define the allowable uses of the property once the development rights have been sold. Such easements are a contract, preferably between the landowner, local unit of government and a conservation organization or land trust.

Purchase of development rights provides assurance that the land will be permanently retained in open use. Landowners receive a potentially substantial cash payment, while retaining all other rights to the land, including the right to continue farming. The money paid to the landowner may be used for any purpose, such as debt reduction, capital improvements to the farm, investment, or retirement income. Lands included in a PDR program remain on the tax roll and continue to generate property taxes, but the lands are assessed at the value for agricultural or open space use. The land can be sold to another, but only at a value that corresponds to its only use, agricultural land. Since the land remains in private ownership, the public sector does not incur any land management responsibilities.

TRANSFER OF DEVELOPMENT RIGHTS

Transfer of development rights (TDR) techniques involve the transfer of assumed development rights from one parcel of land to another. TDR techniques have the effect of removing the development potential from one parcel and increasing the development intensity permitted on another. When the parcels concerned are held by the same owner, the development rights are, in effect, simply transferred from one parcel to the other by the owner; when the parcels are held by different landowners, the transfer of development rights will necessarily involve a sale of rights from one owner to another, at fair market value. A qualified appraiser estimates the fair market value of the property with and without the development rights, and the difference between the two estimates is the value of the development rights, or the amount to be paid to the landowner. Deed restrictions are used to ensure that the lands concerned remain in agricultural or other open use. Such restrictions are attached to the land, and remain in effect regardless of future sale or other transfer of the land. Conservation easements can also be applied to the land, which define the allowable uses of the property once the development rights have been sold. Such easements are a contract, preferably between the landowner, local unit of government and a conservation organization or land trust.

Within the Town of Somerset, TDR techniques should be used to protect agricultural land and highly valued open space through the transfer of residential development rights from "sending" parcels, which would remain in agricultural or other open space use, to "receiving" parcels, where there is land which can accommodate the additional residential development. In this regard, TDR techniques can help to achieve the overall recommended rural residential density by concentrating development in areas that are best suited for development, while maintaining other areas for continued farming or other open use. The amount of development potential which is transferred is dependent on the amount of dwelling units that would be allowed on the "sending" parcel under previous regulations and the acceptable and appropriate density of the "receiving" parcel. The transfer of development rights techniques can be implemented only where accommodated under local zoning and subdivision regulations.

PURCHASE OR TRANSFER OF DEVELOPMENT RIGHTS FOR AGRICULTURAL AND OPEN SPACE LANDS

Efforts to protect farmland from non-farm encroachment have historically relied upon the application of agricultural zoning districts intended to limit the use of farming areas to agriculture and agriculture-related uses. Other techniques, such as cluster subdivision design, combined with rural residential zoning, are beginning to be used, not primarily to preserve conventional agriculture in an area, but rather to preserve the rural appearance of the landscape and to avoid the need for more costly urban infrastructure. Maintenance of the rural appearance of the landscape requires the preservation of substantial areas of open space. Still other techniques, involving the voluntary sale or transfer of development rights in land, have been proposed to be used to supplement rural residential zoning.

Techniques involving the purchase of development rights (PDR) and the transfer of development rights (TDR) are based upon the premise that development rights are distinct attributes of land ownership which can be sold or otherwise transferred, similar to other rights associated with land, such as mineral rights or air rights. It is important to recognize that no widespread agreement exists on the nature or extent of development rights that may be inherent in fee-simple ownership of land. There is general agreement that landowners have a right to develop their land within the limits set by public land use regulations. Such regulations must, however, be legally defensible, leaving landowners a reasonable use of their land so as not to constitute a public taking of the land without payment of just compensation. When a landowner is compensated for relinquishing development rights it is to alleviate the impact of the regulations designed to preserve agricultural or open space lands.

The sale or other transfer of development rights in farmland could be used to supplement the agricultural zoning in the Town. Within the Town, purchase of development rights programs, as described above, should be considered for use as a farmland preservation technique within the areas zoned exclusive agricultural. The application of purchase of development rights is grounded in a position that farming will not be economically viable in such areas over time; that the political position of the Town government will be sympathetic to rezoning; and that, accordingly, purchase of such assumed development rights will be the only way, in the long-term, to preserve such agricultural land intact.

The transfer of development rights technique, also described above, should be considered for use in agricultural land and open space preservation. The application of transfer of development rights is grounded in the position that the technique enables the development of lands appropriate and able to handle such uses while preserving land that is suited to agriculture or significantly contributes to rural character. Hence, this can create a win-win-win situation. The community at large wins because agriculture, open space and rural character are preserved, developers win because the same amount of development occurs, and landowners win because there is a return on land investment and their preferred lifestyle and livelihood of farming is still available to them.

It should be noted that the purchase and transfer of development rights techniques have also been utilized to ensure preservation of areas other than agricultural land. These include important

natural resource features such as woodlands and wetlands, scenic views, historic places, and critical species habitat, among others.

TAX INCENTIVES TO PRESERVE FARMLAND

One of the most frequently raised objections to the use of zoning to preserve farmland in developing areas is the high property tax burden, which compounds the difficulty of keeping farming operations economically viable. The high property tax burden in urbanizing areas is a result of the relatively high land value assessments reflecting the perceived development potential of the land, as well as rising property tax rates which are required to provide basic services to the development in surrounding areas. The Wisconsin Legislature has taken two actions to lessen the property tax burden faced by farmers in the State. In 1977, the Legislature enacted the Wisconsin Farmland Preservation Program, a program that combines planning and zoning provisions with tax incentives to promote the preservation of farmland. In 1995, the Legislature took an additional action to lessen the property tax burden on farmers by mandating the "use-value" assessment of agricultural land, under which agricultural land is now assessed based solely on its value for farming, without regard for its development potential.

WISCONSIN FARMLAND PRESERVATION PROGRAM

The Wisconsin Farmland Preservation Program is intended to help counties and local units of government preserve farmland through local plans and zoning and to provide property tax relief, in the form of State income tax credits, to farmland owners who participate in the program. It is important to note that the exclusive agricultural zoning required as a condition for receipt of tax credits under the Wisconsin Farmland Preservation Program does not ensure the preservation land held by participating farmers. Land owners can petition the concerned Town or other local unit of government for a change in zoning to accommodate development, although those who have claimed a tax credit are then liable to pay back a portion of the credits. Thus, even with the Farmland Preservation Program, the effectiveness of preserving farmland through exclusive agricultural zoning is dependent upon the level of commitment of the Town to such zoning.

USE-VALUE ASSESSMENTS

State legislation enacted in 1995 freezes the assessed value of agricultural land at current levels through 1996. After 1996, assessed values are to be reduced to "use" values over a ten-year period. This was accelerated and a court decision fully implemented use-value assessment about seven years early. Under this legislation, all agricultural land is to be assessed at use-value, regardless of zoning or market sales of land. Landowners who sell their land after owning the land for less than five years will be required to pay a penalty to the Wisconsin Department of Revenue in an amount equal to five percent of the difference between the sale price and the use-value of the land during the last year of ownership. Thus, while the new program may be expected to provide substantial property tax relief to all owners of farmland, it will do so without attaching any significant restrictions to the land. Recently, assessments on wooded and wetland portions of farms have seen dramatically increasing evaluations. This has forced some farmers to encroach on wetlands and pasture woodlots. Legislation is currently being development to adjust evaluations on these lands as well.

STORMWATER MANAGEMENT REGULATIONS

Commercial development and the complex of proposed transportation improvements impacting the Town of Somerset make it necessary to consider regulations for stormwater management. Development of buildings, parking lots and roads creates increased impervious surfaces, which increases runoff to streams, rivers and lakes. Increased runoff also carries with it pollutants and sediment which adversely impacts surface water quality.

The Town of Somerset will consider a stormwater management program that would result from the recommendations of a water quality management or stormwater study. Such a program would include construction site erosion control and stormwater management ordinances that provide minimum standards for new development to meet the objectives of the stormwater study recommendations. Provisions for local stormwater management can be addressed in an ordinance under the authority of Section 60.627, Wisconsin Statutes and can be incorporated into subdivision regulations in accordance with Section 60.627 (6), Wisconsin Statutes.

PLAN MONITORING, EVALUATION AND UPDATE

Any Comprehensive Plan is subject to the passage of time making its objectives and recommendations obsolete. The Town of Somerset Planning Commission, therefore, will deliberately monitor the progress of plan implementation and evaluate the plan against changing conditions. The Planning Commission will review and evaluate the plan and its implementation annually.

Plan monitoring and evaluation is an ongoing process and will, at some time, lead to the realization that the plan requires updating. The time that elapses between the completion of the plan and the need to update it depends on the newly realized conditions and issues which demand plan update. Many agencies require plans to be updated every five years without consideration whether or not changing conditions warrant an update. Usually, a five-year update of the plan corresponds with an ongoing capital improvements program, and for this purpose a five-year plan update is valuable. The Somerset Planning Commission will remain flexible in this regard. However, generally a plan update should not be expected to be necessary more often than every two years, but State law requires that it should be conducted within ten years. A lot can happen to a community in a couple of years and the Town of Somerset will be prepared to address changing conditions with plan updates. The Town will generally use a five-year plan update cycle.

CONCLUSION

The Town of Somerset Comprehensive Plan is designed to provide the Somerset Planning Commission and Town Board the background information regarding where the Town has been, where it is now and where it wants to be in the future, and is the major tool which can be used to develop and justify or legitimate town land use regulations and development management programs. Hence, the Town of Somerset Comprehensive Plan is a basis for decision-making founded in information and consensus. It contains the information that supports and validates the need for the Town to act in development and land use matters in a reasoned, responsible and deliberate manner.

TOWN OF SOMERSET COMPREHENSIVE PLAN IMPLEMENTATION

ISSUES AND OPPORTUNITIES

1. Update background information within one year after decennial Census is available. Evaluate the U.S. Census Bureau's American Community Survey information for its appropriate application in updating background information.
2. Codify existing Town ordinances within 18 months of approval of the Comprehensive Plan.
3. Once existing ordinances are codified, codify new ordinances within three months after passage by the Town Board.
4. Examine and update the Comprehensive Plan at least every 10 years, but not more often than every 5 years from the date of original approval.
5. Establish a yearly noticed joint meeting of the Planning Commission and Town Board to address current issues of the Town.

HOUSING

1. The Town of Somerset will maintain, in cooperation with the St. Croix County Zoning Office, accurate mapping and housing data that reflects housing trends at least once a year. The Town of Somerset will make a practice of analyzing housing trends at least once a year. This analysis might be part of the annual joint meeting of the Planning Commission and the Town Board.
2. The Town of Somerset will act, with the support of the St. Croix County Zoning Office, on situations where housing is grossly deteriorating or debris is collecting to the extent that it is a public nuisance. The current Town and County ordinances regarding these issues are out of date and need rewriting or replacement.

TRANSPORTATION

1. Create and maintain an accurate road map of the Town, including future road corridors and connections.
2. Identify possible park and ride facilities in cooperation with the Village of Somerset and the county and state highway departments. Some of the land taken by the state for freeway right-of-way might provide space for such facilities.
3. Establish and maintain the WISLR system for road analysis and management with the support of the Wisconsin Department of Transportation.
4. Develop and utilize support at the Village, Town and County levels for development of bikeways and walkways in the Town.

UTILITIES AND COMMUNITY FACILITIES

1. Continue to support the joint fire/rescue service in cooperation with the Village of Somerset.
2. Maintain and improve lines of communication with the fire/rescue service to anticipate future needs.
3. Develop a system of random well testing supported by the County and State that would monitor the quality and safety of our water supply.
4. Encourage the County to develop a system to analyze the effectiveness of private on-site wastewater treatment systems. Encourage the County to establish a requirement for septic tank pumping on a two or three year basis as is practiced by several northern Wisconsin counties.
5. Establish a Parks and Recreation Committee by 2004 to advise the Planning Commission and Town Board on park and recreation needs.

AGRICULTURAL, NATURAL, AND CULTURAL RESOURCES

1. Design a Conservation Development Ordinance with assistance from the St. Croix County Planning Department and the West Central Wisconsin Regional Planning Commission that will allow continuing development with less alteration of the existing landscape. This ordinance should be presented to the Town Board for approval within one year of approval of the Comprehensive Plan.
2. Appoint an on-going citizen advisory group made up of citizens representing various segments of the Town of Somerset community. This group would meet on a regular basis of their choosing and then join the Town Board and Planning Commission at least twice a year to share their concerns and ideas regarding the Town. Appointments to this group would be made by the Town Board in consultation with the Planning Commission.

ECONOMIC DEVELOPMENT

1. The Town Board in cooperation with the Planning Commission will develop a position paper that carefully identifies the types of businesses the Town can support and where they might best be placed considering the problems and opportunities presented by the new 35/64 corridor. This document should be prepared within one year after approval of the Comprehensive Plan.
2. The Town will initiate discussions with the County Zoning Department regarding how freeway corridor development will be addressed and what enforcement tools the County can, and is willing to provide to guide and control such development. The results should be included in plan updates.
3. Set review standards, in cooperation with the County, for all commercial ventures from home occupations to the largest of commercial establishments. Such standards should deal with traffic

volume, outdoor lighting, type of business, hours of business, landscaping, screening, parking, noise, pollution, etc.

INTERGOVERNMENTAL COOPERATION

1. Strengthen existing cooperative relationship with the St. Croix County Zoning and Planning Offices by establishing a monthly informal contact with zoning and planning staff to discuss our mutual concerns for the Town of Somerset and its place in St. Croix County.
2. Continue our diligent attention to working out ETZ issues with the Village of Somerset in a way that does not alter the essentially rural character of the Town of Somerset.
2. Once an ETZ plan has been approved by the ETZ Committee representing the Town and Village of Somerset, a Town of Somerset ETZ Committee member will attend those Village of Somerset Planning Commission and Village Board meetings that focus on ETZ issues. Additionally, when issues that come before the Village Board that might have significant impact on the Town of Somerset, members of the Planning Commission and/or the Town Board may attend such meetings.
4. The Town of Somerset will continue to support the ongoing efforts to better organize the presently very good joint Somerset Fire and Rescue Department

LAND USE

1. Design a Conservation Development Ordinance with assistance from the St. Croix County Planning Department and the West Central Regional Planning Commission that will allow continuing development with less alteration of the existing landscape. This plan should be written into ordinance form and be presented to the Town Board for approval within one year of approval of the Comprehensive Plan.
2. The Town Board and the Planning Commission should investigate ways in which the Town might encourage development in patterns that might require less road building and maintenance.
3. Investigate the possibilities of finding funding for purchase of development rights for some lands that would require major reconstruction to be suitable for housing and not require management by the Town.