

9. Implementation

The Implementation element includes a compilation of programs and specific actions to be completed in a stated sequence. These include, but are not necessarily limited to, proposed changes to any applicable zoning ordinances, official maps, sign regulations, erosion and storm water control ordinances, historic preservation ordinances, site plan regulations, design review ordinances, building codes, mechanical codes, housing codes, sanitary codes or subdivision ordinances. These programs and specific actions will be used to implement the goals, objectives, policies, and recommendations contained within the earlier elements of this plan.

9.1 Implementation Strategy

Develop a Township Plan

Township plans establish the general policy framework for local decision-making. The land use element of the plan identifies areas targeted for a variety of different uses including agriculture, forestry, residential, commercial and industrial. In addition, the plan's implementation element defines the community's implementation strategy.

State legislation defines the elements of a township plan and requires that all programs and actions of local governmental units that affect land use must be "consistent with" the state's plan. Therefore, any local governmental unit that wants, for example, regulate the subdivision of land or regulate land use through zoning or any other means is required to have a plan. Adoption of this plan by the Town of Beaver meets the intent of the legislation.

Citizen Participation

Just as citizen involvement is an important step required throughout the planning process, it is also an essential implementation tool. Citizens and local officials must be made aware of the goals of their township's plan when they consider and make decisions such as reviewing land division requests. The more participation, the more ownership the plan or any implementation tool will likely receive. In addition, a public hearing is always required before an ordinance of any type can take effect.

9.2 Regulatory Land Use Management Tools

Regulatory tools stem from local government's responsibility and authority to protect public health, safety, and welfare. Most regulatory tools are in the form of ordinances. The following regulatory tools were reviewed and discussed as part of the Town of Beaver plan process:

Conventional Zoning

Under Wisconsin Statutes, counties, cities, villages, and towns with village powers are authorized to adopt zoning ordinances. Zoning is one method of implementing or carrying out the township's plan. Zoning regulates the use of land, lot size, density, and the height and size of structures. A conventional zoning ordinance is probably the most commonly used land use implementation tool especially in villages and cities. Under conventional zoning, districts (defined areas of consistent use and density) are established which typically follow parcel

boundaries and legal descriptions. Each district or zoning category contains a list of permitted and conditional uses which define “rights” within the district. In Wisconsin, towns are either “under” their respective county’s zoning ordinance, administer their own zoning ordinance or do not administer zoning. Although zoning is very common, some people believe zoning is inequitable in that some landowners win while others lose. In Clark County all incorporated communities have a zoning ordinance while most towns do not.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not administer a conventional (land use) zoning ordinance.

Recommendation(s): The town should monitor the need for a town conventional zoning ordinance. A zoning ordinance should be considered if the use of a land division ordinance is determined ineffective in meeting the purpose and goals of the land use management areas. (Element 8)

Timeline: Monitor continuously.

Performance Zoning

Performance zoning is a method that permits controlled development while also being sensitive to the landscape. It tries to regulate the impacts of land uses, rather than the uses themselves, by outlining general goals for developers that they can meet in different ways. Landowners are permitted a wide variety of uses, so long as they meet certain numeric standards such as a certain density, a certain amount of open space, or certain noise, smell or lighting level standards.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not administer a performance zoning ordinance.

Recommendation(s): Monitor for future need.

Overlay Zoning

Overlay zones allow special regulations within all or a portion of a zoning district or several districts. This type of zoning can be helpful if there is one particular resource that needs to be protected a consistent way, regardless of what district it is located in. In Clark County, shoreland zoning regulations are an example of an overlay.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not administer any local (town) overlay zoning provisions.

Recommendation(s): Monitor for future need.

Land Division Ordinance

Achieving the goals, objectives and policies of the township's plan will be significantly influenced by how land will be divided and developed in the future. Pursuant to Section 236 of the Wisconsin Statutes, communities, by ordinance, could review the subdivision of land within its corporate limits. A land division ordinance is a tool to control how, when, and if rural farmland, woodlands, and open spaces will be divided and developed while protecting the needs and welfare of the town. It also regulates how new lots will be made ready for future development such as provisions for adequate access (required roads, driveways), wastewater treatment and water supply.

The impact of land division regulations is more permanent than zoning (which regulates the type of development that takes place on a parcel) because once land is divided into lots and streets are laid out, development patterns are set. Local review and regulation of future divisions of land can therefore be an effective tool to realize plan goals to maintain agriculture as a strong part of the local economy, protect natural resources, and retain rural character.

A town can require a new land division be in conformance with their town's plan as a basis of approval. The key to implementing this objective is twofold. First, the ordinance should clearly state that consistency with the community's plan is a criteria of approval. Secondly, the ordinance should contain a provision requiring the proponent for a land division to submit a clear and concise letter of intent as part of the land division application. The letter of intent submitted as part of the application record can be used to decide if the lot proposed to be created will adequately accommodate the future use of the property.

Development of a local land division ordinance could also incorporate "conservation design guidelines and standards" to help implement the plan goals, objectives and policies supporting protection of the community's agricultural lands, and open spaces. Conservation subdivisions are intended to be an alternative approach to the conventional lot-by-lot division of land in rural areas which spreads development evenly throughout a tract of land without regard to the natural features of the area.

The development and ultimate success of a local land division ordinance in plan implementation will require the community to address regulatory, administration, and intergovernmental considerations. Adoption of the local land division ordinance must be consistent with state statutes and will require local administration (e.g., application review, fee collection, public hearings, inspection, enforcement, etc.).

Many rural “unzoned” towns which do not want to pursue traditional zoning often adopt a land division ordinance as a baseline need to manage future uses. However, towns must remember a land division ordinance only affects new development which requires a land division. New uses on existing parcels remain unregulated.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not administer a land division ordinance.

Recommendation(s): The town should develop a locally administered (town) land division ordinance to meet the purpose and goal of the land use management areas. The ordinance shall contain a minimum lot size of one acre for non-farm related use in the AEA management area. (Element 8, Recommendation 1)

Timeline: Monitor continuously.

Driveway Ordinance

Driveway ordinances are developed to establish standards for driveways that will provide for safe and adequate access from private development to public right-of-ways, and also to maintain appropriate access spacing, access-point design, and total number of access points to public roads. In addition, a driveway ordinance provides an opportunity for local review to ensure that the driveway is providing proper access for such uses as a single-family residence which is consistent with the community’s plan. The term “driveway” is generally defined to mean private driveway, road, field road or other means of travel through any part of a private parcel of land or which connects or will connect with any public roadway. The ordinance typically only impacts new driveways or driveways which serve major land use modifications. Use of a driveway or “access” ordinance to regulate land use is limited but a significant number of towns throughout the state, due to the requirement to service existing development for emergency purposes (i.e. fire, ambulance), have adopted driveway ordinances.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver administers a “culvert policy” but not an established driveway or road access ordinance.

Recommendation(s): Convert the current driveway policy into an ordinance which includes dimensional standards.

Timeline: Monitor Continuously.

Cooperative Boundary Agreements

Cooperative boundary agreements can reduce some of the conflict regarding boundary issues, including annexation, that often arise between towns and their incorporated neighbors (cities and

villages). The Legislature has provided express enabling authority for these agreements. The communities involved in such agreements undertake cooperative preparation of a plan for the areas concerned. The plan for changing or maintaining boundaries, and for controlling land use and services is sent to the Department of Administration. If the plan is approved, a contract binding the parties to it is put into effect.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not have a boundary agreement with the Towns of Green Grove, Loyal, Unity or Warner.

Recommendation(s): The town shall consider discussions relative to executing a border agreement. The town shall determine the preferred statutory method of intergovernmental cooperation agreements (i.e., 66.0301, 66.023, etc.) as part of any agreement negotiating process.

Timeline: Monitor continuously.

Specialized Ordinances

Given specific issues and needs within a particular town, a number of “specialized” ordinances maybe required to locally regulate public health and safety concerns, protect private property and avoid public nuisances. The following ordinances have received increased attention due to local issues.

Right-To-Farm Ordinance

Right-to-farm laws are designed to accomplish one or both of the following objectives: 1) to strengthen the legal position of farmers when neighbors sue them for a private nuisance; and 2) to protect farmers from anti-nuisance ordinances and unreasonable controls on farming operations. Most laws include a number of additional protections. Right-to-farm provisions may also be included in state zoning enabling laws, and farmers with land enrolled in an agricultural district may have stronger right-to-farm protection than other farmers. A growing number of counties and towns are passing their own right-to-farm legislation to supplement the protection provided by state law.

The common law of nuisances forbids individuals from using their property in a way that causes harm to others. A private nuisance refers to an activity that interferes with an individual's reasonable use or enjoyment of his or her property. A public nuisance is an activity that threatens the public health, safety or welfare, or damages community resources, such as public roads, parks, and water supplies.

Right-to-farm laws are intended to discourage neighbors from suing farmers. They help established farmers who use good management practices prevail in private nuisance lawsuits. They document the importance of farming to the state or locality and put non-farm rural residents on notice that generally accepted agricultural practices are reasonable activities to expect in farming areas. Some of these laws also limit the ability of newcomers to change the local rules that govern farming. Local right-to-farm laws often serve an additional purpose:

They provide farm families with a psychological sense of security that farming is a valued and accepted activity in their town.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not have any local right to farm ordinance.

Recommendation(s): The town should support any right to farm ordinance the county may want to develop. However, a “right to farm” provision should be part of the town’s future land division ordinance when new lots are created in the AEA management area.

Timeline: Monitor continuously.

Telecommunications Ordinance

Ordinances can be used to minimize the visual effects of towers, maximize the capacity of existing towers and reduce impacts to adjacent properties. Local governments cannot unilaterally prohibit cell towers by ordinance, zoning or any other means. However, local governments can enact ordinances to prohibit towers from certain specially identified areas, regulate tower height, specify minimum setbacks, require collocation strategies, and encourage landscaping and disguising techniques. An important benefit of having a telecommunications ordinance is that it provides decision-making consistency and decreases the chances of discrimination against a particular company. The ordinance provides a basis for conditional use provisions or denials. The Telecommunications Act of 1996 requires all denials to be in writing and supported by sufficient evidence. Telecommunication ordinances seek to balance business and industry needs with community character, aesthetics and resident needs.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not have a telecommunications ordinance.

Recommendation(s): The town should monitor the need for this type of ordinance or support the development and/or administration of an ordinance through the county. (Element 8).

Timeline: Monitor Continuously.

Utility Accommodation Ordinance

The state, county and local governments operate road systems to provide a safe and convenient means for the vehicular transportation of people and goods, and utility companies provide essential services to the public. Both the governments and utility companies typically provide facilities which consider present as well as future needs. Cooperation between these two entities is essential if the public is to be served at the lowest possible cost. Although the governments should strive to accommodate utility facilities whenever possible, the permitted use and occupancy of the road right-of-way for non transportation purposes is subordinate to the primary interests and safety of the traveling public. The purpose of a utility accommodation policy or ordinance is to prescribe the policies and procedures that shall be met by any utility whose facility currently occupies, or will occupy any road right-of-way or bridge within the governments jurisdiction. The policy should apply to all public and private utilities.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does have Underground Utility Lines Ordinances.

Recommendation(s): Monitor continuously.

Other Ordinances

Wisconsin Towns Association recommends that all towns, villages, and cities should strongly consider adopting the following “basic” ordinances. They include:

1. An ordinance to regulate specific operations (e.g., adult entertainment).
2. An ordinance to regulate mobile homes and mobile home parks.
3. An ordinance on town and village board meeting procedures and town board and village administration of the town.
4. An ordinance regulating billboards.
5. An ordinance regulating events and large assemblages.
6. An ordinance to regulate fire control in fire regulation and reimbursement for fire costs.
7. An ordinance to regulate vehicle road weight limits, truck routes and other road uses.
8. An ordinance to regulate use of roadways by snowmobile, ATVs and horses.
9. An ordinance to regulate dogs running at large.
10. An ordinance to regulate unlicensed motor vehicles.

Most of these ordinances are considered nuisance type ordinances.

Nuisance Ordinance

A nuisance can generally be defined as an action, or lack there of, which creates or permits a situation that annoys, injures or endangers the peace, welfare, order, health or safety of the public in their persons or property. Nuisance ordinances can be defined in many ways, depending what issues are present in the community. Possible nuisances include noxious weeds, storage of vehicles, odors, noise, signs, obstruction of streets, animals, fireworks and any number of related type nuisances. Concisely defining nuisances as well as enforcement, abatement and recovery of costs for abatement are very important in the creation of a nuisance ordinance. A nuisance

ordinance provides landowners and residents with a mechanism for identifying and preventing non-compliant situations. Authority for a town to engage on action to recover damages or abate a public nuisance is granted under Chapter 823 of the Wis. Stats. Although a town may pursue action through the State Department of Justice to prosecute the action, most Wisconsin municipalities pursue developing a local public nuisance ordinance because the statute does not specifically address all potential nuisance situations.

Further, there are some practical but nevertheless important reasons for developing a local ordinance. They include: 1) the ability to set a minimum and a maximum forfeiture amount; 2) the ability to decide a protocol for providing notice and the time to cure or abate the nuisance; and 3) the ordinance can state that the unpaid bill for the cost of abating the nuisance can be placed on the tax bill as a special charge. Most public nuisance ordinances cover five (5) broad areas. They include:

- ◆ Noxious weeds.
- ◆ Environmental health.
- ◆ Morality (sexually oriented businesses).
- ◆ Public safety and peace.
- ◆ Junk vehicle or equipment.

Town of Beaver Status/Recommendation(s)

1. An ordinance to regulate specific operations (e.g., adult entertainment).

Status: No existing ordinance.

Recommendation: Monitor future need.

n:

Timeframe: Annually assess future need.

2. An ordinance to regulate mobile homes and mobile home parks.

Status: The Town of Beaver has an ordinance which regulates mobile homes, mobile home parks and other housing (Element 8).

Recommendation: Monitor need for revisions to that ordinance in the future.

n:

Timeframe: Annually assess need for revisions.

3. An ordinance on town and village board meeting procedures and town board and village administration of the town.

Status: No existing ordinance.

Recommendation: Monitor future need.

n:

Timeframe: Annually assess future need.

4. An ordinance regulating billboards.

Status: No existing ordinance.

Recommendation: Monitor future need.

n:

Timeframe: Assess future need.

5. An ordinance regulating events and large assemblages.

Status: No existing ordinance.

Recommendation: Monitor future need.

n:
Timeframe: Assess future need.

6. An ordinance to regulate fire control in fire regulation and reimbursement for fire costs.

Status: No existing ordinance.

Recommendation: Monitor future need.

n:
Timeframe: Annually assess future need.

7. An ordinance to regulate vehicle road weight limits, truck routes and other road uses.

Status: The Town of Beaver can regulate at the Town's discretion.

Recommendation: Monitor future need.

n:
Timeframe: Annually assess future need.

8. An ordinance to regulate use of roadways by snowmobile, ATVs and horses.

Status: No existing ordinance.

Recommendation: Monitor future need.

n:
Timeframe: Annually assess need for revisions.

9. An ordinance to regulate dogs running at large.

Status: Subject of state regulation.

Recommendation: Monitor future need.

n:

Timeframe: Annually assess future need.

10. An ordinance to regulate unlicensed motor vehicles.

Status: No existing ordinance.

Recommendation Monitor future need.

Timeframe: Annually assess future need.

11. An ordinance to regulate mining.

Status: On and after the effective date of this ordinance, all persons proposing to mine in any form must obtain a Conditional Use permit and/or have a public hearing with the Planning Committee and/or the Board members.

Timeframe: Assess future need

Intergovernmental Agreements

Any municipality may contract with other municipalities to receive or furnish services or jointly exercise power or duties required or authorized by law. The term “municipality” is defined to include 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 agreements are minimal. Such arrangements can prove useful in the implementation of a plan by facilitating efficient provision of public facilities and services. In Clark County, intergovernmental agreements have been used to execute cooperation between communities for services such as fire and emergency rescue.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not have a boundary agreement with either the Town of Green Grove, Loyal, Warner and Unity. The town also has no formal agreements with any of the adjacent towns other than some road maintenance “handshake” agreements.

Recommendation: Monitor future need.

Timeline: Assess future need.

Building and Housing Codes

Cities, villages, towns, and counties may enact building and sanitary codes. Building codes are sets of regulations that set standards for the construction of buildings in a community. Building codes ensure that new and altered construction will be safe. These codes must conform to the state building, plumbing, and electrical codes. Housing codes define standards for how a dwelling unit is to be used and maintained after it is built. To enforce the codes, inspections are required by the local municipality. This code is concerned with keeping housing from falling into dilapidation and thus keeping neighborhoods from falling into blight.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver administers an ordinance which contains permit fees for family dwellings and establishes set-back requirements. Please refer to Section 8.4 in the Land Use Element of this report for changes to the UDC dwelling code and its impacts on the town.

9.3 Non-Regulatory Land Use Management Tools

There are several non-regulatory options available to local municipalities to influence local land use. The following tools were considered as part of the planning process.

Acquisition Tools

Land Acquisition

Communities and non-profit conservation organizations can acquire land for conservation purposes simply by purchasing it outright. This is recommended when public access to the property is required.

Town of Beaver Status/Recommendation(s)

Status: The Town of Beaver does not have a town land acquisition program.

Recommendation: Monitor for future need.

Conservation Easements

Conservation easements limit land to specific uses and thus protect it from development. These voluntary legal agreements are created between private landowners (grantors) and qualified land trusts, conservation organizations or government agencies (grantees). Conservation easements may be purchased but are frequently donated by conservation-minded landowners. Grantors can receive federal tax benefits as a result of donating easements. Grantees are responsible for monitoring the land and enforcing the terms of the easements. Easements can be tailored to the unique characteristics of the property and the interests of the landowner. Easements may apply to entire parcels of land or to specific parts of a property. The easement is recorded with the deed to the property to limit the future uses of the land as specified in the easement. Land protected by conservation easements remains on the tax roll and is privately owned and managed.

Town of Beaver Status/Recommendation

Status: The Town of Beaver does not pursue securing conservation easements.

Recommendation: The town should support conservation non-profit organizations in their acquisition of conservation easements from private landowners. Monitor for future need.

Purchase of Development Rights (PDR)

The purchase of development rights is a land conservation tool that communities can use to protect important natural resources such as farmland, hillsides, and wetlands. Under a PDR program, a unit of government (city, village, town, county, or state) or a nonprofit conservation organization (such as a land trust) purchases a conservation easement that limits the use of the land to accomplish a certain purpose, including protecting the land from development. The rights purchased are recorded in a conservation easement. PDR programs are voluntary and participants retain ownership of their land. They can sell or transfer their property at any time; but, because of the easement, the land is permanently protected from certain types of development.

Town of Beaver Status/Recommendation

Status: The Town of Beaver does not administer a purchase of development rights (PDR) program.

Recommendation: Monitor for future need.

9.4 Town of Beaver Township Plan Amendments and Updates

Amendments

The Town of Beaver shall regularly evaluate its progress towards achieving the goals, objectives, policies and recommendations within the town plan. It may be determined that amendments are needed to maintain the effectiveness and consistency established within the plan. Amendments are minor changes to the overall plan and should be done after careful evaluation to maintain the plan as a planning tool upon which decisions are based.

According to town planning legislation, the same process that was used to initially adopt the plan shall also be used when amendments are made. The town should be aware that as more compliant plans are developed the amendment procedure may be clarified or changed and should therefore be monitored.

Updates

The Town of Beaver's planning statutes require that the town's plan be updated at least once every ten years. An update requires revisiting the entire planning document. Unlike an amendment, an update is often a substantial re-write of the text, updating of the inventory and

tables and substantial changes to maps, if necessary. The plan update process should be planned for in a similar manner as was allowed for the initial creation of this plan including similar time and funding allotments. State statutes should also be monitored for any changes, new or removed language.

9.5 Implementation Goals and Objectives

Goal 1: Require consistency between and integration of the town's plan recommendations and local ordinances.

Objectives

1. Require that administration, enforcement and implementation of land use regulations are consistent with the town's plan.
2. Conduct periodic reviews of the town's plan for consistency with the goals, objectives, maps, policies and programs contained within and amend as appropriate.
3. Update the town's plan every 10 years to coincide with the release of census data.

Goal 2: Coordinate any future land use regulations and/or programs with the Clark County Planning and Zoning Department.

Objectives

1. Schedule periodic meetings between town officials and the Clark County Planning and Zoning Department to discuss land use management options and program administration.

9.6 Implementation Policies and Recommendations

Policies

1. The plan commission shall make recommendations to the town board regarding land use and development proposals.
2. The town shall maintain a code of ordinances that conform to the town's plan.
3. The town's plan shall be updated every 10 years.
4. Areas of the plan which are disputed or litigated in the future shall be reviewed by an attorney to ensure his/her knowledge of the plan and offer suggestions to reduce conflict.
5. The recommendations located within the plan shall be updated when tasks are accomplished and new items shall be added when appropriate.
6. An annual review, if necessary, of the plan shall be done in a committee format with public involvement including citizens, landowners, town officials and staff to evaluate the plan in an un-biased manner.
7. State of Wisconsin Comprehensive Planning Legislation shall be monitored for new additions and/or omissions that will affect the town or compliance with the legislation.

Recommendations

Please refer to prior Sections 9.2 and 9.3 of this report for specific recommendations.