

11.0 IMPLEMENTATION



Introduction

The Implementation Element is the “how to” portion of the plan. It prescribes those actions necessary to realize the visions, including proposed changes to any applicable zoning ordinances, sign regulations, site plan regulations, design review ordinances and subdivision ordinances.

This chapter includes all of the goals, objectives and policies highlighted in previous chapters of the plan. In this way, this chapter serves as the master “to do” list for implementing the plan.

According to the community survey, 74 percent of respondents support the use of a plan to guide decisions in the City and Town of Brillion. The survey results also indicated that residents support the enforcement of ordinances designed to protect important community resources. For example, 84 percent of respondents support ordinances to protect wetlands, woodlands and lands adjacent to streams and lakes in the City of Brillion. Likewise, 86 percent of respondents support similar ordinances in the Town of Brillion.

A vast majority, 72 percent of Town residents and 74 percent of City residents responding to the community survey, support the City and Town considering ways to provide “joint” or regionalized services. When asked to which services the City and Town should consider “joint” or regionalized approaches, the most popular choices were ambulance service, public utility projects (such as road improvements), and land use planning.

Implementation Vision

The widely supported Coordinated Comprehensive Plan is the accepted guide for the area’s growth and development. It outlines the cooperative activities necessary to provide both communities with effective and efficient municipal services. It contains the flexible tools needed to preserve the small town and rural character of the area.

Relationship Amongst Elements

Throughout the plan, coordination between the nine required elements has been highlighted as a special section of each chapter. In several instances, a single objective applies to more than one element of the plan and was reprinted in several chapters.

Special attention has been given to the milestone dates to ensure that individual objectives act in harmony with other stated goals and objectives.

To ensure that the plan elements are understood in their totality over the life of the plan, the City Planning Commission and Town Plan Commission will annually review the goals and objectives. The two commissions will meet together every year to discuss implementation and concerns for the future.

Measuring Progress

To track planning progress and help to ensure that the plan is implemented, milestone dates are provided for each objective. The Coordinated Plan Committee reviewed the milestone dates to ensure that they are feasible expectations for the town. Likewise, the City Planning Commission and Town Plan Commission reviewed the milestone dates before recommending plan adoption to the City Council and Town Board, respectively.

Milestone Date

A specific date, after the adoption of the Comprehensive Plan, when the City and Town will review the plan implementation actions to see if the objective has been met and consider additional implementation strategies to achieve the stated goal.

Implementation Responsibilities

The City and Town of Brillion adopted this plan separately. Therefore, plan implementation will be the responsibility of the City and Town, acting independently, but in a coordinated fashion.

In the City, implementation of the Coordinated City and Town of Brillion Comprehensive Plan will be the primary responsibility of the City of Brillion Planning Commission and City Staff. They will use this plan as a guide for making future land use decisions and recommendations to City Council.

Likewise, the City Council will use the plan as a guide for making final land use related decisions.



Example of an open farm area in the Town of Brillion that could be protected from development

In the Town, implementation of the Coordinated City and Town of Brillion Comprehensive Plan will be the primary responsibility of the Town of Brillion Plan Commission. This group of individuals will meet regularly to consider development applications and the objectives outlined in this plan. The Town of Brillion Plan Commission will make recommendations pertaining to development issues, in accordance with this plan, to the Town Board and County.

Updating the Comprehensive Plan

As stipulated in 1999 Wisconsin Act 9, a comprehensive plan must be updated at least once every 10 years. However, in order to ensure that the plan is an effective management tool, the City and Town will independently review the plan goals and objectives annually to track those activities that have been completed and add additional objectives as needed to accomplish the stated goals. The City Planning Commission and Town Plan Commission will meet together every year to discuss plan implementation progress, changes, and concerns for the future.

In 2003, based on current scheduled release dates, the City and Town will update the population projection information available from the Wisconsin Department of Administration. Any mutually agreed upon annexation areas will also be updated on the Future Land Use Maps. In addition, when the 2002 Agricultural Census information is available, the City and Town will review this data to better understand the characteristics and needs of local farm populations. As determined necessary by the City and Town, appendices may be added to this plan to accommodate additional information.

Special Implementation Considerations

Over the course of the planning effort, some specific implementation considerations were raised. To adequately address these topics, information is provided in this section.

Growth Management in the Town

Enforcing a strong growth management policy is one method to maintain farmland, protect wildlife habitat and open spaces, preserve rural character, and maximize the use of existing public infrastructure in sanitary districts.

Extensive scattered rural housing development undermines the visions, goals, objectives and policies of this plan and the directives of the community survey. Likewise, this pattern of development presents a real threat to the future of farmland. Therefore, an important aspect of the successful implementation of this plan is the development

of a growth management policy in the Town. The policies presented here also appear in the Future Land Use Chapter:

- All new development is encouraged in the Forest Junction area, within the limits of the Growth Service Area identified by Calumet County.
- Limited, rural home development, in accordance with the Calumet County Zoning Ordinance, is permissible, but landowners must consider opportunities to locate their homes on the edges of farm fields and the use of landscape screening to minimize the visual impact of rural development.
- Rural subdivisions, beyond the limits of the Calumet County Growth Service Area, are not permissible. If exceptions are made by the county, any such development must be a conservation or cluster style development, designed to preserve at least half of the development area.

Boundary Agreement

A boundary agreement is a formal contract between the City and Town to set ultimate boundaries and other provisions related to shared municipal services. It is a legal, binding plan and agreement for maintaining or changing the natural and developed uses of the City and Town for a period of 10 or more years.

A boundary agreement can last up to 20 years. In some cases, parties to an agreement have included language stipulating that the agreement will last forever. The important point is that new City and Town administrations cannot unilaterally dissolve or amend an agreement without the consent of all the government units involved.

Once an agreement is approved, annexations initiated by individual property owners are no longer possible. Annexations (attachments) occur only as specified in the agreement. In many cases, attachments are phased in over a period of several years to give residents ample lead-time. Utilities, road maintenance, easements and revenue sharing can all be parts of the agreement.

There are several advantages to developing a boundary agreement based on the Coordinated Comprehensive Plan Future Land Use Maps. These advantages include:

- Avoid lengthy, bitter, costly, time-consuming lawsuits
- Avoid potential loss of discretionary state aids
- Cooperation and shared services can save taxpayers money
- Developers and businesses prefer a stable, peaceful political climate
- Stable borders and specific timetables allow for easier planning
- City can grow without opposition;
- Residents know what the future will hold
- Allows the City and Town to decide boundary issues and related development matters, rather than be put in the position of reacting to often unpredictable private proposals.



Example of a scenic, open farm area in the Town of Brillion that could be protected from development

Purchase of Development Rights (PDR)

One of the most serious land use problems facing Wisconsin today is the accelerating rate at which prime farmland is being sold, subdivided and developed for non-agricultural use. Evidence of rural land conversion can be seen virtually everywhere, including the Brillion Community.

One way of protecting farmland is purchasing of development rights (PDR). PDR is a voluntary program, where a land trust or some other agency usually linked to local government, makes an offer to a landowner to buy the development rights on the parcel. The landowner is free to turn down the offer, or to try to negotiate a higher price.

When the development rights to a farm are sold, the farmer receives payment equal to the difference between the fair market value of the land a developer would pay if it could be developed and the price the land would command for agricultural use. In return for this payment, a conservation easement is recorded on the deed to the property. This easement stays with the land so it is binding not only on the current owner, but future owners of the property as well.

When the development rights to a farm are sold, the farm remains as private ownership. The private landowner still retains the right to occupy and make economic use of the land for agricultural purposes. The landowner gives up the right to develop the property for some other use in the future. Farmers are not compelled to sell their development rights. Participation in PDR programs is entirely voluntary.

Advantages and Disadvantages of PDR

Restrictions on land use, including zoning, have been used to protect agriculture for many years. One of the primary benefits of PDR is that it is completely voluntary. Under PDR, the landowner is not deprived of any of the value of the property. This is very important because many farmers rely on their property in order to fund their retirement. Simply depriving them of the opportunity to realize the full economic value of their property has important ethical, socioeconomic, and perhaps legal ramifications. Moreover, zoning regulations may be easily changed in the future.

The main advantage of PDR over other approaches to farmland preservation is that it offers a permanent, long-lasting solution. PDR virtually assures that land will remain forever in agriculture because it extinguishes the right to develop agricultural land for non-agricultural uses. Farmland preservation tax credits and use value assessment of agricultural land encourage farmers to keep their land in agricultural use somewhat longer than otherwise might be the case, but do not assure that land will remain in agricultural use.

Another major advantage of PDR is that it is perceived as an equitable, fair, and voluntary way to preserve agricultural land. A third advantage is that it provides a way to correct a major shortcoming of the current Farmland Preservation Program by targeting limited financial resources to preserve and protect agricultural land most worthy of preservation.

Another benefit of PDR is that it makes it much easier for a farmer to pass their farm on to an heir interested in farming the land. Once the development rights have been separated from the land, the value of the parcel typically declines to its agricultural value. This generally has an enormous effect on reducing the inheritance tax liability. If taxed at the full development value, many parcels are simply taxed out of agriculture, because the heirs are not able to pay the taxes without selling the land.

The main disadvantage of PDR is cost. Development rights can be expensive to purchase, and so funding for PDR needs to be selectively targeted to preserve and protect agricultural land that is most worthy of preservation. As a result, not every farmer who wants to sell his or her development rights will be able to do so.

PDR in the Brillion Community

In recent years, purchase and transfer of development right programs have been the topic of much discussion in the region. In the Brillion Community Survey, residents were asked two questions about these types of programs. Specifically, residents were asked:

To what extent would you support municipal government protecting land by purchasing permanent or temporary development rights for land in the Town?

If you own land in the Town, would you consider taking advantage of opportunities to protect your land from development by selling development rights?

City and Town residents did not provide responses that were significantly different to the question of purchasing temporary and permanent development rights. The responses indicate that about 35% of the respondents were supportive of such a program. This is not a majority. Moreover, approximately 30% of respondents indicated they were uncertain of the idea. This means additional education and information must be made available to gain support for such a program. Of great concern is the fact that the majority of landowners indicated that they were very unlikely (28%) or unsure about selling their development rights (34%).

How to Establish and Operate a PDR Program

The establishment of a PDR program would begin with the Town. The newly formed Town of Brillion Agricultural Committee, jointly with the Plan Commission, would be responsible for the initiation of this program. Together, they would seek to educate farmers and landowners about the concept. This could be accomplished through direct letters, a town newsletter, articles on a future town web page and public meetings. Next, they would need to coordinate with the county to gain county awareness and acceptance of such an effort. Finally, they would seek to raise the capital needed to purchase local development rights. This may mean asking residents to consider a tax increase specifically dedicated to this program, or perhaps seeking foundation, land trust, or grant funds to initiate the program.

Once the pool of funds has been established, the Plan Commission and Agricultural Committee would review applications of landowners who wish to sell development rights. This process would require obtaining appraisals, prioritizing parcels, negotiating agreements, and ensuring that deed restrictions are enforced.

The WDNR is also very supportive of purchase of development rights as a tool to protect areas adjacent to the Brillion Wildlife Area from development pressures. The WDNR is very willing to act as a partner in Town efforts to establish a local PDR program.

Transfer of Development Rights (TDR)

Like a PDR program, the landowner who voluntarily sells his or her development rights will not be able to develop their property. It will remain as agricultural land. However, unlike a PDR program, where a body that has no intention of using them acquires the development rights, in a TDR transaction the development rights are applied, or transferred, to another property.

A TDR program is premised on the idea that legally certain property rights can be separated from one property owner and transferred to another to achieve community development goals. In the case of the Town, the development rights would be transferred from rural areas to the Forest Junction Sanitary District. The two basic elements of TDR are “sending” and “receiving” areas. Sending areas are those parcels that are deemed less desirable to be developed. For example, areas that have been identified as primary farmland. As a result, these parcels send or transfer their development rights to properties in the receiving areas. The receiving areas are those parcels that are deemed desirable for development, like the sanitary district. They “receive” transferred rights, therefore allowing development to occur at a density greater than would be normally allowed. The primary challenge of a TDR program is administration. Successful programs require strong administration policies to keep track of development rights sold and transferred.

Maximum Lot Size

In many Wisconsin counties, including Calumet, the minimum lot size for residential development in areas zoned Exclusive Agricultural, AED, is 35-acres. Initially, this 35-acre requirement was designed to deter non-agricultural development. The 35-acre minimum dates back to a time when acquiring 35-acres would have been nearly

impossible based on its costs. Today, 35-acres is affordable to more and more people. As such, some are capitalizing on the opportunity to purchase a 35-acre parcel, place a house in the middle of it and eliminate its agricultural integrity and promote sprawling rural development.

Jefferson County, as part of its comprehensive planning efforts, took a stand against this pattern of residential development. It overhauled the county zoning code to:

- Prohibit residential development in exclusive agricultural areas, except for the replacement of existing buildings;
- Limit the number of potential lots per rural property, depending on the size and agricultural soil types, to one to three lots per parcel;
- Limit rural residential lot size to two acres per lot, and
- Require clustering of all rezoned proposed lots in rural areas to maintain contiguous agricultural and natural areas.

The City and Town encourage Calumet County to consider similar measures to overhaul the county zoning ordinance to protect rural areas of the county from sprawling residential development.

Comprehensive Plan Policy Statements

Rather than develop policy statements, this plan includes a series of vision statements. These visions represent the desired future and act as policy when considering proposals. In three areas, supplemental policy statements are provided to further enhance the ideas presented in the vision. These policies have far-reaching implications for all of the required plan elements.

Agricultural, Natural and Cultural Resources Element Chapter

Direct new residential and commercial/industrial development to areas within the Forest Junction Sanitary District and the City of Brillion in order to maximize available infrastructure and protect rural farmland areas, wildlife habitat areas and corridors, woodlands, grasslands, and the Brillion Marsh.

Land Use Element Chapter

It is the policy of the City and Town of Brillion to direct future residential, commercial and industrial development within the City limits and the limits of the Forest Junction Sewer Service Area, in accordance with the Calumet County Growth Management Boundaries, and the City and Town's desire to protect farm operations, rural character and the local quality of life.

In accordance with this policy, the Town will work with the City to establish a growth boundary and the Town will coordinate with Calumet County to restrict building activity beyond the limits of the Forest Junction Sanitary District.

Intergovernmental Cooperation Element Chapter

The City and Town will seek to cooperate with all neighboring municipalities, counties, state agencies and school districts for mutual benefit.

These policies impact all of the required plan elements. In addition, it is fully anticipated that in carrying out the objectives of this plan, additional policies will be developed. In fact, some of the objectives specifically state a policy will be developed after additional research and investigation.