

Planning Focus

Linking You to Richland County Comprehensive Planning

Fact Sheet 12

Common Land Protection Tools

When planning for land use, and specifically for the protection of open space and farmland, there are a number of tools communities can consider. Each tool has advantages and disadvantages that vary depending upon the perspective of the community and the landowner. No tool provides a cure-all, and a tool that works somewhere else may not be effective for your community. Always consider tools in light of how they might move you towards or away from your community's vision for the future.

Large Minimum Lot Size: Typically associated with Exclusive Agricultural Zoning and Agricultural Protection Zones, minimum lot sizes are set large to prevent fragmentation of viable agricultural lands and to discourage non-farm residential development from occurring.

Advantages: can be changed; easy to administer; prevents creation of small housing lots; helps protect large agricultural fields; discourages purchasing land for non-farming uses

Disadvantages: not a strong disincentive to rural home development; each housing site that develops consumes relatively large amounts of land; encourages upper-income housing

More Information:

- ◆ “Planning for Agriculture in Wisconsin: A Guide for Communities” http://www.doa.state.wi.us/dhir/documents/ag_guide.pdf

Overlay Zones: A separate zone is applied on top of a pre-existing zone imposing additional requirements without altering the requirements of the underlying zone.

Advantages: administered through usual zoning process; allows for application of overlay zone in certain areas of community while not in others; can be used to provide additional protection to environmentally sensitive areas

Disadvantages: adds additional restrictions; variances can be allowed that may dilute power and usefulness of this type of zoning

Example Wisconsin Communities:

- ◆ Town of Little River (rural overlay zone) http://www.omni.com/Archive%20Projects2004_03_16/Little_River/M1106_SPOT_Development.PDF
- ◆ Village of Weston (source water protection overlay zone) http://www.stormwatercenter.net/Model%20Ordinances/Source_Water_Protection/wellhead%20protection%20district.htm

More Information:

- ◆ University-Wisconsin Extension, “Protecting Our Waters Overlay Districts” <http://clean-water.uwex.edu/plan/overlay.htm>
- ◆ Iowa State University Extension, Land Use Series, “The Zoning Ordinance” <http://www.extension.iastate.edu/Publications/PM1868G.pdf>

Cluster Development: Development pattern that groups/clusters the total allowable residential units for a parcel into one portion of the parcel rather than allowing them to spread evenly throughout the parcel.

Advantages: appropriate in areas wishing to balance remaining rural with accommodating additional growth; saves infrastructure costs; appropriate for sensitive environmental areas; saves farmland/open space

Disadvantages: restricts development outside of clustered area; requires a variance to conventional building patterns; increases density and decreases lot size; does not occur without incentives or a requirement in the zoning code

Example Wisconsin Communities:

- ◆ Village of Greendale (Milwaukee suburb)
- ◆ Town of St. Joseph in St. Croix County (160-acre rural cluster development being designed)

More Information:

- ◆ Ohio State University Extension, Land Use Series Fact Sheet, “Cluster Development” <http://ohioline.osu.edu/cd-fact/1270.html>
- ◆ University-Minnesota Extension Service, “Residential Cluster Development Overview of Key Issues” <http://www.extension.umn.edu/distribution/naturalresources/components/7059-01.html>

Conservation Subdivisions: Type of cluster development in which compact lots are clustered along or around a common open space typically used for farming or recreation.

Advantages: protects farmland and/or natural resources while allowing the same number of lots built in the conservation subdivision as would be built in a conventional subdivision; can establish an open space network on the landscape as these types of subdivisions are purposefully linked together; does not require public expenditure of funds or landowner charity; helps protect water quality

Disadvantages: generally used for parcels 40 acres or larger; used alone they cannot fully accomplish open space preservation goals; need to be effectively attached to already developed areas; many conservation subdivisions are expensive properties; lot sizes are condensed with 50-70% of them set aside as farmland or natural open space with restricted activities

More Information:

- ◆ “Wisconsin Model Conservation Subdivision Ordinance” http://www.doa.state.wi.us/dhir/documents/conserv_subdiv_Model_ordinance_Feb2001.pdf
- ◆ University-Wisconsin Extension Center for Land Use Education, Land Use Tracker Vol. 2 Issue 1, “An Innovative Tool for Managing Rural Residential Development: A Look at Conservation Subdivisions” <http://www.uwsp.edu/cnr/landcenter/tracker/Summer2002/conssubdiv.html>
- ◆ Wisconsin Chapter of American Planning Association, “Implementing Smart Growth, Conservation Subdivision Ordinances” http://www.wisconsinplanners.org/wapanews/Winter%202000/v_story.html
- ◆ University of Connecticut Cooperative Extension System, NEMO Project Fact Sheet 9, “Conservation Subdivisions” http://nemo.uconn.edu/publications/fact_sheets/nemo_fact_sheet_9_s.pdf

Conservation Easements: A legally binding agreement made between a landowner and a land trust or local community, permanently limiting development and restricting the use of the land to farming, open space or wildlife habitat.

Advantages: allows land to remain in private ownership; can entitle landowner to several types of tax deductions if easement is donated; voluntary; protects land’s agricultural or conservation value

Disadvantages: restricts use of land; permanently limits development; attached to deed even if land sold or inherited; some long-term expense to monitor easements; marketability of the property could be limited

Example Wisconsin Communities:

- ◆ Jefferson County Land Trust <http://www.gojefferson.com/landtrust/>

More Information:

- ◆ American Farmland Trust, “Frequently Asked Questions About Easements” <http://www.farmland.org/farmlegacy/easements.htm>
- ◆ Nature Conservancy, “Protect Land While Retaining Title with a Conservation Easement” <http://nature.org/wherework/northamerica/states/wisconsin/contact/art10554.html>

Purchase of Development Rights (PDR): Landowners voluntarily sell the development rights of their land to a land trust or local government, thus limiting its future development but keeping the land in private ownership.

Advantages: owner retains all other rights to the land; owner is compensated and can use money to pay debts, make improvements, et cetera; young farmers more able to afford lower cost farmland; neighboring residential value is enhanced by retention of open space.

Disadvantages: permanently limits future development of land; requires a purchasing entity; substantial acquisition costs; attached to deed even if land is sold or inherited; most useful near urban areas where there is a sense of threat; can result in scattered preservation if only some landowners participate

Example Wisconsin Communities:

- ◆ Town of Dunn <http://town.dunn.wi.us/>
- ◆ Town of Bayfield <http://www.brcland.org/pdrprocedure.htm>
- ◆ Sauk County <http://www.uwsp.edu/cnr/landcenter/forestplanning/pdfandpowerpoint%20files/CaseStudyPDRSaukCounty.pdf>

More Information:

- ◆ Wisconsin Chapter of the American Planning Association, “Preserving the Land: PDRs in Wisconsin” <http://www.wisconsinplanners.org/wapanews/pdr.html>
- ◆ Ohio State University Extension, *Land Use Series*, “Purchase of Development Rights” <http://ohioline.osu.edu/cd-fact/1263.html>

Transfer of Development Rights (TDR): The right to develop the land is sold and then transferred from the “sending” (original) property to the “receiving” (new) property where it is used to develop at a higher density than otherwise allowed.

Advantages: method for protecting farmland and open space; provides certainty about where development will happen because “receiving sites” are designated; costs of purchasing easements are recovered from developers who are then able to build at higher densities in other areas

Disadvantages: depends on a stable and predictable real estate environment; in communities with a fragmented agricultural land base it is difficult to find viable sending and receiving areas; creates distinct preservation and growth zones; difficult to find the right mix of incentives for people to participate

Example Communities:

- ◆ Dane County, Wisconsin <http://www.co.dane.wi.us/plandev/planning/tdr/section1.htm>
- ◆ Montgomery County, Maryland
- ◆ Pinelands, New Jersey <http://www.state.nj.us/pinelands/density.htm>

More Information:

- ◆ Cornell University, “Transfer of Development Rights Programs: Using the Market for Compensation and Preservation” <http://government.cce.cornell.edu/doc/html/Transfer%20of%20Development%20Rights%20Programs.htm>
- ◆ Ohio State University Extension, *Land Use Series*, “Transfer of Development Rights” <http://ohioline.osu.edu/cd-fact/1264.html>

Planned Unit Development (PUD): Typically a larger developed area including clustered homes mixed with other appropriate land uses including commercial, public or quasi-public, agricultural or recreational.

Advantages: treats the development site as an integrated whole under unified control; allows for the promotion of mixed used development; can be designed to preserve and protect amenities such as wetlands and open space; building placement and development standards more flexible than conventional zoning requirements

Disadvantages: not commonly used in rural areas; zoning and subdivision regulations in development need not be uniform with community’s traditional codes; usually contain 20% open space or less; requires negotiation between the developer and plan commission

More Information:

- ◆ Iowa State University Extension, *Land Use Series*, “The Zoning Ordinance” <http://www.extension.iastate.edu/Publications/PM1868G.pdf>
- ◆ Ohio State University Extension, *Land Use Series Fact Sheet*, “Cluster Development” <http://ohioline.osu.edu/cd-fact/1270.html>

Definitions of Terms Commonly Used in Addressing Land Use

A number of terms are commonly used when discussing land use in the planning setting. In order to move towards consensus on land use implementation tools, it is helpful to have an understanding of what those terms mean.

- ◆ **Zoning** regulates the allowable uses of land, lot size and the height and bulk of structures within specified zoning districts. **Zoning districts** specify appropriate uses of land (e.g. commercial, residential, industrial) as well as what uses are conditional and can be granted a variance. **Special zoning** includes floodplain zoning and shoreland zoning which are both set by the state; however the local community can be more restrictive in their regulations.
- ◆ **Lot size** refers to the actual size of the parcel of land. Lot size can be regulated through zoning ordinances and can differ from one zoning district to another. A **minimum lot size** indicates the minimum area (ex. 1-1/2 acres) that a parcel is allowed to be reduced to. A **maximum lot size** indicates the maximum area that a parcel is allowed to consume.
- ◆ **Density** refers to the amount of units (ex. residences) allowed per specified area. Density can be regulated through zoning ordinances and can differ from one zoning district to another. Low density might allow for two residences per 20 acres, whereas a higher density might be 10 residences per 20 acres. Density can be coupled with lot size requirements. With our low density example of two residences per 20 acres, you might limit the allowable lot size to a 10-acre minimum thus dictating that each of the two lots are 10 acres in size (for a total of 20 acres combined). You might instead set a minimum lot size of 5 acres. In this scenario one residence may be on a 5-acre lot while the other one is on a 15-acre lot, or as in the previous scenario both residences could be on 10-acre lots. This same concept can be applied at higher density levels.
- ◆ **Subdivision regulation** allows communities to control the division of land and the quality of development by specifying the subdivider's responsibility for installing on-site facilities (ex. roads). Subdivision regulations can also address land suitability, and environmental and design issues. They might in some cases (see Conservation Subdivisions) require clustering of units on the parcel of land.

Sources: Author unknown. (no date). *Community Planning Implementation Tools*. University-Wisconsin Cooperative Extension. Haines, A. (September, 2004). *Local tools for agricultural-based communities*. Presented to Green County towns, villages and cities. Center for Land Use Education, UW-Extension and UW-Stevens Point. Daniels, T. L., Keller, J. W., and Lapping, M. B. (1995). *The small town planning handbook*. (2nd ed.). American Planning Association. Chicago: IL. Additional sources noted under each land protection tool.

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