

# 7 Implementing Preservation Tools

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## INTRODUCTION

The planning and implementation of a farmland and open space protection program may be complex due to the competition for farmland and open space lands, concerns about the efficient use of public funds, and the array of preservation tools and available funding sources. As a result, communities need to follow a well thought out program planning process. The selection, creation, and implementation of a preservation program will need to be based on the needs and concerns of local citizens and governments. Political, community, financial, and legal issues will need to be addressed throughout the planning and implementation process. This chapter broadly describes the issues and processes that may be taken into consideration when beginning a preservation program.

## GOVERNMENT STRUCTURE AND AUTHORITY

Washington County and its Towns have an atypical relationship pertaining to land use regulations as compared to other Wisconsin Counties. In 1986, general zoning authority was passed from Washington County to the Towns in Washington County. Washington County has the authority to administer shoreland, shoreland-wetland and floodplain regulations for all unincorporated areas of the County, land division regulations, sanitary systems and private onsite wastewater treatment systems regulations, nonmetallic mining requirements and erosion control and stormwater management requirements within Washington County. Each Town in Washington County administers its own zoning ordinances. Many towns also have land division ordinances, non-metallic mining ordinances and erosion control and stormwater management requirements. Washington County has adopted the Regional Land Use Plan prepared by the Southeastern Wisconsin Regional Planning Commission. Over the years, most Town Boards have developed and adopted individual land use plans.

Based on the government structure and authority in Washington County and its Towns, implementation of many of the preservation tools outlined in Chapter 4 will likely require the cooperation and communication of adjoining governments to create a successful preservation program.

## COOPERATION

Although most examples in Chapter 4 and the Appendix demonstrate successful preservation programs at either the municipal or county level, several preservation tools require the cooperation of one or more government entities for success. For example, the implementation of a transfer of development rights or purchase of development rights program would necessitate the cooperation of many levels of government.

Cooperation is essential to the success of any preservation program since some tools may be best utilized at different levels of government. Some tools may require large areas of land, which may be located within two separate Towns, making the success of a preservation program reliant on intergovernmental cooperation.

A successful farmland and open space preservation program should also incorporate a combination of tools. Both regulatory and incentive based tools, as described in Chapter 4, can be implemented by different levels of government to reach the preservation goals outlined in a program.

Several municipalities and local agencies in Washington County have already demonstrated interest in farmland and open space preservation as stated in Chapters 1 and 5. With the multi-jurisdictional comprehensive planning process starting in Washington County, there will be ample opportunity for adjoining governments to discuss their preservation goals and determine the best implementation strategies to accomplish their goals.

Since there is a great deal of competition for outside funding, intergovernmental cooperation may also provide an advantage in acquiring grant funding. Based on a score ranking, additional points are often given to grant applicants who are partnering with other governments and organizations to achieve their preservation goals. Furthermore, certain funding sources may actually require a county or regional partnership to qualify for specific funding.

## **PLANNING**

Prior to implementing any preservation tool, a community needs to develop a plan for a farmland and/or open space preservation program that outlines the areas for protection, determines the implementation tools that may be used to protect these resources, and summarizes financing strategies. The planning process to create such a program should develop a vision and outline the goals and objectives of a preservation program along with identifying the organization responsible for administering and maintaining the preservation program. The vision and goals of a program should be broad and long ranged representing the end result of the preservation efforts. A series of objectives should outline specific steps in achieving a community's preservation goal.

When planning a preservation program, a community needs to look at the long term impacts of implementing preservation tools that restrict development. Careful consideration should be given when deciding what tools, if any, to use and how a tool's restrictions may impact a community twenty or more years in the future.

Starting a planning process may raise the need for a community to consider temporary moratoriums. Cities, villages, and towns with village powers have express authority to freeze existing uses while the community plans, which is described in sections 62.23(7)(da) and 61.35 of the Wisconsin Statutes<sup>1</sup> (See Appendix M for State Statutes). A temporary moratorium is a planning technique that can be used to provide this needed time. Moratoria have taken various forms, including moratoria on rezonings, building permits, and subdivision plats<sup>2</sup>.

Another planning tool that may assist in reserving farmland and/or open space is an Urban Growth Boundary. This tool is designed to control the timing and phasing of urban growth and to determine the types of land use that will be permitted within a boundary. A simple version of an urban growth boundary (UGB) consists of a perimeter "drawn" around an urbanized area, within which urban development is strongly encouraged, and outside of which development is limited. This tool encourages higher density and infill development within the urban growth boundary, while maintaining rural character in areas outlying the boundary<sup>3</sup>. UGB's may reduce the pressure to convert agricultural land to

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<sup>1</sup> *Land Use Laws*, Brian Ohm

<sup>2</sup> *Guide to Community Planning in Wisconsin*, Brian Ohm

<sup>3</sup> Toolkit for Best Practices, Georgia Quality Growth Partnership

other land uses (see Appendix N for Portland, Oregon UGB). For a UGB to be implemented in Wisconsin, the State legislature would need to change current state law to allow local municipalities to use this tool. In November 2004, Oregon voters approved Measure 37, which allows landowners to gain a waiver to current zoning rules to develop their property under zoning regulations in effect at the time the property was acquired, or sell the land to the community for market prices (See Appendix O for Measure 37).

## **PUBLIC PARTICIPATION**

For a preservation program to be successful, community leaders must build a strong foundation based on public understanding and support. This support becomes valuable when local officials propose preservation or funding strategies. Involving the public throughout the planning process will improve their understanding in the value of a preservation program and position a community to support local preservation goals. There are numerous methods to engage the public at differing levels of involvement. Methods listed from passive to active include (see Appendix P for public participation methods):

- **Public Awareness** increases through the use of direct mail, news releases, and mass media, as well as displays and exhibits.
- **Public Education** provides citizens with balanced and objective information to assist them in understanding issues and alternatives for addressing them.
- **Public Input** can be obtained through various participatory efforts such as surveys, focus groups, open houses, and public meetings.
- **Public Interaction** increases the public's opportunity to give direct input through community visioning processes and open houses reflecting recommendations developed through public input activities.
- **Public Partnership** is the highest form of participation which may include giving decision-making authority on a program's planning committee to having citizens vote on the plan.

But even the best public participation efforts that gain public support of a preservation program cannot determine the success of implementing a program. In addition, there needs to be the support by the local government officials as well as the citizens to move a program towards implementation.

## **RESOURCES**

There are numerous resources available to educate a community about the various methods of preserving farmland and open space as well as funding sources. Appendix Q lists several communities, agencies, and organizations that may assist a community in deciding how to approach farmland and open space preservation in their community.

## **SUMMARY**

- The selection, creation, and implementation of a preservation program will need to be based on the needs and concerns of local citizens and governments.
- Cooperation is essential to the success of any preservation program since some tools may be best utilized at different levels of government.
- A farmland and open space preservation program may also incorporate a combination of tools. Both regulatory and incentive based tools, as described in Chapter 4, can be implemented by different levels of government to realize the preservation goals outlined in a program.

- Prior to implementing any preservation tool, a community needs to develop a farmland and/or open space preservation program that outlines the areas for protection, determines the implementation tools that may be used to protect these resources, summarizes financing strategies, and identifies the organization(s) that will administer and maintain the program.
- Public participation activities provide communities with important information in determining the support for preservation and funding of preservation tools.