

COUNTY FOREST COMPREHENSIVE LAND USE PLAN

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CHAPTER 400

FOREST OWNERSHIP

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400 OBJECTIVE

The purpose of Chapter 400 is to identify policy and procedures relating to:

1. The acquisition of land to be enrolled in County Forest pursuant to s. 28.11(4)(b), Wis. Stats. or other lands possessing special or unique values areas that are not suited primarily for timber production to be entered under s. 28.11(4)(c), Wis. Stats., special use classification.
2. The acquisition of lands throughout the county for the purpose of future trading for priority parcels to be enrolled in County Forest pursuant to s. 28.11(4)(b), Wis. Stats.
3. The acquisition of land interests such as conservation easements, first right of refusal, or other land rights of the benefit to county forests.
4. Location, identification, and protection of county forest ownership boundaries.

405 COUNTY FOREST OWNERSHIP

The majority of the County Forest lands throughout the State were previously in private ownership and came under public ownership in a substantially degraded condition, by way of real estate tax delinquency and subsequent tax deed to Counties. Continued attempts to sell much of the degraded tax deeded lands were unsuccessful. In response to the lack of demand from private owners, counties worked in cooperation with State and Federal Agencies to restore these lands into productive forests and recreational assets. (“The County Forests of Wisconsin”, WI Conservation Dept., 1938)

Over time, counties have realized benefits from continuing to retain select tax deeded land, acquiring select land from willing sellers by purchase, trade, or gift, and the continual protection of county forest ownership boundaries.

410 LAND OWNERSHIP GOALS

It is the goal of Marathon County to acquire land from willing landowners for fair prices established pursuant to Uniform Standards of Professional Appraisal Practices or other method approved by the County. See section 425 for criteria on how to achieve these goals.

415 COUNTY FOREST BLOCKING

Since the beginning of the County Forest Program in the State of Wisconsin, counties established boundaries for the purpose of distinguishing between lands that were best suited for forestry and lands best suited for agricultural production. This boundary became referred to as a “Blocking Boundary” and provided public information, assisted long-term planning, and guided

management decisions.

In the early stages of the development of County Forests, counties commonly traded tax deed parcels that were located outside of the Blocking Boundary for the remaining privately-owned parcels within the Blocking Boundary. A primary purpose for these trades was to promote agricultural economic development by assisting farmers with obtaining the most productive agricultural lands available in a given County.

Blocking Boundaries are dynamic and should be evaluated on a routine basis to evaluate adequacy relative to the current priorities. Forestry staff will notify the Committee as parcels become available within the Blocking Boundary.

County Forest Blocking Boundaries are established by Committee and by subsequent approval of the Marathon County Board. A map of the official boundaries is found in the Appendix.

420 PRIVATE INHOLDINGS

Marathon County recognizes that extensive private landholdings lie within the forest boundaries. The County will respect the rights of the private landowners who are its neighbors. The County may approach private landowners with proposals for land purchases or trades, but will not coerce landowners to sell or trade. Marathon County will not attempt to pursue properties through condemnation to add lands for the County Forest.

Marathon County may wish to list priority properties to be pursued as they become available.

425 ACQUISITION OF LAND WITHIN THE COUNTY FOREST BLOCKING BOUNDARY

The land within the blocking boundary primarily includes private land. It is not the deliberate intent of Marathon County to acquire all lands within the blocking boundary.

Determination of a parcel's value to the County shall be made by the Committee in consultation with the County Forest Administrator.

Certain lands are considered to be of higher priority for acquisition due to:

1. Lands that improve management efficiencies such as reducing the length of private/public boundaries or improve access to existing county forest.
2. Lands that will increase the counties inventory of productive timberland and provide a consistent source of raw material to the forest products industry.
3. Lands that conserve surface and groundwater, maintain undeveloped shoreline, and increase public access to water features.
4. Lands that are threatened by private development or fragmentation that may result in a long-term negative impact on adjacent public lands.
5. Lands that are threatened by private development or fragmentation that may result in a long-term net negative impact to local and county governments.
6. Lands that will provide for priority trail connections and expansions or reduce or eliminate existing user conflicts.
7. Lands that contain threatened or endangered plant, animals, or communities; or other natural features considered to be of high conservation value.
8. Lands that, when acquired by the county, will not result in an unreasonable negative impact to local tax collections as determined by the Committee in consultation with the affected Towns.

430 ACQUISITION OF LAND OUTSIDE THE COUNTY FOREST BLOCKING BOUNDARY

Counties may consider acquisition of lands outside the blocking boundary in instances where:

1. Land becomes available to the County which possess values consistent with the priority criteria listed above and is eligible to be enrolled as County Forest Special Use under s. 28.11(4)(c) Wis. Stats.
2. Land becomes available to the County that, if acquired by the County, will facilitate a fair trade or other transaction resulting in county ownership of land within the county forest blocking boundary.

435 ACQUISITION OF LAND RIGHTS

In addition to acquiring fee simple land ownership, Counties may find it advantageous to acquire other interests in private or public lands within the blocking boundary such as:

1. Conservation easements for such purposes as:
 - a. Limiting residential density.
 - b. Managing runoff that affects county land.
 - c. Achieving greater silvicultural consistency, pest management, invasive species

control, research, or other on adjacent private lands.

2. First right of refusal.
3. Flowage easements.
4. Ingress and egress easements for county management purposes.

440 METHODS AND AUTHORIZATION FOR ACQUISITION LAND TITLE OR RIGHTS

Acquisition may be by outright purchase or trade based on competent appraisal of the value or values involved, or by gift, bequest or action to foreclose tax liens. The County Forest Administrator will be the agent of the Committee in making first contact with potential sellers and in carrying on acquisition activities.

In the event that the County Forest Administrator determines that a land or land rights acquisition is in the best interest of the County, in consideration of the factors described above, the County Forest Administrator shall present a recommendation to the Committee. Upon approval of the Committee, an authorizing resolution shall be forwarded for consideration by the Environmental Resource, Human Resources, Finance and Property Committees and County Board.

County Board authorization is required for execution of any legal instruments that bind the county to acquiring title or other land rights. In the event that any legal documents are signed by an agent(s) of the county, prior to County Board authorization, said legal documents must include an explicit contingency requiring County Board approval.

445 FINANCING

County Forest Administrators shall propose financing options as part of any recommendations to acquire and shall be forwarded to the Committee. Typical funding sources include:

1. Fund balance that has resulted from previous county forest withdrawal proceedings.
2. Funds that have accumulated within the County Forest Segregated Land Purchase Account.
3. Funds appropriated through the County's capital improvement program.
4. Funds appropriated in the State and Forestry Account under land.
5. Funds appropriated in the County Forest Budget under land.
6. Grants and Loans, including:
 - a. Loans
 - i. County Forest Project Loans (s. 28.11(8)(b)(2)), Wis. Stats)
 - ii. Variable Acreage Share Loans (s. 28.11(8)(b)(1)), Wis. Stats)

- iii. Board of Commissioners of Public Lands State Trust Fund Loan Program
(s. 24.61(3)(a)(2)., Wis. Stats.)
- b. Grants
 - i. Warren Knowles-Gaylord Nelson Stewardship Program (s. 23.0953, Wis. Stats.)
 - ii. County Forest Stewardship Subprogram (s. 23.0953, Wis. Stats.)
 - iii. Acquisition and Development of Local Parks Subprogram (s. 23.09(20), Wis. Stats.)
 - iv. Lake Protection (s. 281.68 Wis. Stats.)
 - v. River Protection (s. 281.70 Wis. Stats.)
 - vi. County Forest Wildlife Habitat (s. 20.370(5)(as)), Wis. Stats.
 - vii. County Forest Fish and Game Projects (s. 23.09(12), Wis. Stats.)
 - viii. ATV/UTV Trail Aids (s. 23.33(9), Wis. Stats.)
 - ix. Snowmobile Trail Aids (s. 23.09(26), Wis. Stats.)
 - x. Federal Funding (s.20.370(5)(cy), Wis. Stats.)
 - xi. Any Other Grants That Are Made Available For Land Acquisition.

450 ENTRY OF LANDS

Lands to be entered under the regular classification of the County Forest Law must be suitable for forestry purposes and be within the County Forest blocking boundary. Lands designated for classification as County Forest Special Use need not be contained within the county forest blocking boundary nor suitable primarily for timber but they must be suitable for scenic, outdoor recreation, public hunting and fishing, water conservation or other multiple-use purposes.

450.1 TIME OF ENTRY

Application for entry of newly acquired lands under the County Forest Law will be made as soon as possible. Applications for entry will be prepared with the assistance of the DNR. The County Forest Administrator will secure the signatures of the proper county officials and transmit the application to DNR's County Forest Specialist.

455 WITHDRAWAL OF LANDS FROM COUNTY FOREST LAW

Lands within the County Forest blocking boundary will not normally be considered for withdrawal from the County Forest Law. Applications for the purchase of these lands by the private sector will be discouraged by the committee, unless a greater public benefit can be demonstrated. If, in the opinion of the committee and county board, the land will be put to better and higher use and will benefit people of the county and State to a greater extent by being withdrawn from the County Forest

Law program, the County should follow the withdrawal procedure as outlined by the Public Lands Handbook. The legal means by which counties may apply for withdrawal of lands from County Forest status is provided by s. 28.11, Wis. Stats. Initially the County Forest Administrator notifies the DNR Liaison Forester of the County Forestry/Recreation Committee meeting at which the proposed withdrawal will be considered. At that meeting DNR personnel and the County will discuss the proposed withdrawal and, if approved by the County Forestry/Recreation Committee, the withdrawal will be recommended by the Committee by resolution to the County Board. If approved by the Board by the necessary 2/3 majority, the application is prepared by the County and submitted to the appropriate DNR designee. The DNR may ask for additional information from the County and will then coordinate the public notice. Pending the results of any investigatory hearings deemed advisable, the DNR will act on the withdrawal application. If the application is denied, the County may appeal as provided in s. 28.11(11)(a)4., Wis. Stats.

455.1 WITHDRAWAL PROCEDURE

The purpose of this section is to provide general information in formulating and processing applications for withdrawal of County Forest lands under s.28.11(11) Wis. Stats. And ch. NR 48, Wis. Adm. Code. The legal means by which counties may apply for withdrawal of lands from county forests is provided by s.28.11(11)(a) Wis. Stats. This section states in part: “The County Board shall first refer the resolution to the county forestry committee which shall consult with an authorized representative of the department in formulating its withdrawal proposal.” Section 28.11(11)(a) Wis. Stats. Also states: “The county board shall not take final action thereon until 90 days after such referral or until the report thereon of the forest committee has filed with the board.”

Consequently, if the county board takes final action on a withdrawal application without referring it to the County Forestry Committee, the application is not valid. On the other hand, if the County Forestry Committee does not report to the county board within 90 days after receipt of the referral, the Board may act upon the application without a Committee recommendation.

460 LAND SURVEYING

The importance of survey corner monumentation is recognized in the interest of avoiding the problems of trespass both by and against the County, facilitating the settlement of those cases which would occur, and aiding in the proper transfer of property.

460.1 LEGAL SURVEYING

Of prime importance are the forest boundaries and property lines in common with other owners. All such surveying shall be under the supervision of a registered surveyor. When the office of the county surveyor is not staffed, the committee will comply with the provisions of Chapter 59, Wisconsin Statutes by hiring registered surveyors to perform the necessary running of property lines. Section corners, one-quarter corners and forty corners (1/16 corners) will be reestablished where needed and Certified Land Corner Restoration forms filled out in duplicate as time permits, under the direction of registered land surveyor.

460.2 LOCATION OF LINES BY OTHER THAN LEGAL SURVEY

Forestry personnel who are not registered surveyors may, with all possible prudence, establish lines for forest management purposes including those necessary for ordinary management activities such as timber sales and road / trail locations using available equipment including, but not limited to, Global Positioning Systems (GPS), air photos, quadrangles, county surveyor's records and known corners. In the absence of known corners, lines abutting other ownership may be established by mutual agreement to avert trespass claims. At a minimum, the County will notify the adjoining landowner(s) of the management boundary in writing. This documentation will be retained in the timber sale file.

460.3 PRESERVATION OF LANDMARKS, MONUMENTS, AND CORNER POSTS

Section 59.74, Wis. Stats., provides:

1. Penalties for destruction of landmarks, monuments and corner posts established by government survey, the county surveyor or a surveyor or public record.
2. A procedure for notification of intent to destroy such surveying evidence and referencing prior to destruction.
3. The assignment of enforcement responsibility to the Department of Natural Resources, District Attorneys, and professional land surveyors.

All personnel with land management responsibilities are directed to:

1. Make a reasonable search for the above-mentioned surveying evidence prior to implementing any soil moving or cover type manipulation projects, including timber sales, that could result in covering, destruction or removal of such evidence.
2. In the event such evidence is found:
 - a. If practical, redesign the project so that the evidence will not be disturbed or

- b. If destruction is unavoidable, (s. 59.74(2)(b), Wis. Stats.) notify the County surveyor at least 30 days prior to destruction giving the legal description of the monument and the reason for destruction or other obliteration. The notice shall include a description of the landmark, monument of survey, or corner post and the reason for removing or covering it.
3. If reasonable search fails to uncover survey evidence in the suspected vicinity, conduct an additional search if he / she sees fit.
4. In order to further reduce the possibility of inadvertent destruction of invaluable survey evidence:
 - a. Each forester with county forest responsibilities should discuss with county administrators the need for including adequate protective clauses in easements, rights-of-way, timber sale contracts, and other agreements that might result in destruction of monuments.
 - b. Personnel advising landowners regarding forestry or other land management practices should alert such owners to possible monument destruction that may be caused by them.
 - c. Any instances of potential or accomplished obliteration of survey monumentation discovered in the course of field operations should be brought to the County surveyor's attention.

465 PROPERTY RIGHTS CONVEYANCES

The instrument used for property right conveyance shall be the one which relinquishes the least amount of County control over public land. All property right conveyances will be made on a case by case basis. Examples are listed below:

1. Easements: An easement is a permanent right that entitles the easement owner to use of the land of another for a special purpose not inconsistent with the general property rights of the owner. Easements run with the land and do not expire. They may be appropriate for public utilities, such as gas, electric and communication uses, and public road rights-of-way.

Easements shall not be used for access to private lands unless there is exceptional advantage to the County Forest, and unless the easement further promotes the purposes of the County Forest program. The committee may consider easement requests on a case by case basis. The County Forest Administrator will consult with DNR's County Forest Specialist on these cases.

2. Lease: A lease is a written document which grants use of real property and/or improvements to another party for a specified period of time, for monetary or other consideration. Specific

County Forest Law provisions regarding leases can be found in ss. 28.11(3)(i) and (j), Wis. Stats. Leases on County Forest lands shall be negotiated for the shortest possible period of time and in no case shall they exceed ninety-nine years.

3. Permit: A permit is a written document conferring a right, power or privilege to do a particular act or series of acts on land of another without possessing any interest therein. A permit can be revoked with cause and cannot be assigned to other parties. A permit, unlike an easement, does not imply an interest in the land and is not transferred with the land. Permits issued on County Forest lands shall be issued for the shortest possible period of time and in no case shall they exceed ninety-nine years. Permits shall be the preferred property rights conveyance for private driveways and most other activities dealing with the private individuals using County Forest lands. Driveway permits expire when the land changes ownership or after expiration date of permit. A prospective new property owner may receive a driveway permit in advance of completing a property purchase. Advance permits will not become effective until the new property purchase is recorded by the Register of Deeds office. The County will retain the right to revoke a driveway permit with cause. "Cause" can include, but is not limited to, violation of permit terms, misuse of County land, damage to County property, and noncompliance with County ordinances.
4. Agreement: An agreement is a written document executed by two or more persons or entities expressing a mutual and common purpose. An agreement details the responsibilities, obligations, conditions, liabilities, etc. of all parties concerned and would be an appropriate instrument for dealing with activities such as public school forests, flowages, gravel crushing operations, and concessions. Agreements shall be effective for the shortest possible time.

465.1 TERMS OF PROPERTY RIGHTS CONVEYANCES

Any agreement, license, permit, lease or easement must contain at least the following information, requirements and terms. More restrictions may be added as needed to protect the interests of the public.

1. Location by legal description.
2. Permitted uses under the conveyance.
3. Fee for the use of the land.
4. Expiration date.
5. Right of the County to cancel or suspend the conveyed rights with cause.
6. Requirement for restitution to original condition upon expiration or cancellation of the conveyance.

465.2 PROCEDURES FOR PROPERTY RIGHTS CONVEYANCE

Proposals to use County Forest lands for private purposes without purchasing the land may be approved depending on the nature of the proposal and its consistency with the purpose of the forest.

The following steps are required to consider property rights conveyance to a second party:

1. All proposals must be filed with the Parks, Recreation and Forestry Department on the appropriate form with the required processing fee and supportive documentation. Municipalities, other units of government, and public utilities may be exempted from the processing fee by the Forestry/Recreation Committee.
2. If the proposal can be addressed through a permit or agreement as defined in Chapter 500, then a report shall be presented at a regular meeting of the Forestry/Recreation Committee. The Committee shall consult with the DNR Liaison on the matter. The Committee may then approve, deny, or modify the proposal.

470 TAX DEED LAND

Occasionally tax delinquent lands revert to the County. The lands may lie within the County Forest boundaries and may be added to the County Forest lands. The following procedure shall be observed:

1. The County Clerk on behalf of the Human Resources, Finance and Property Committee notifies the Forest Administrator who examines the property and determines if it should be added to the County Forest.
2. The Forest Administrator advises the Forestry/Recreation Committee, which considers the proposal and decides whether or not to add the land to the County Forest. The Forest Administrator advises the County Clerk of the Forestry/Recreation Committee decision.
3. If the proposal for addition is approved, the Forestry/Recreation Committee shall apply to the Wisconsin Department of Natural Resources to enter the land under County Forest Law.