

COUNTY FOREST COMPREHENSIVE LAND USE PLAN

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CHAPTER 500

LAND MANAGEMENT AND USE

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500 LAND USE

500.1 OBJECTIVES

1. To identify policies and procedures employed to effectively manage, utilize and sustain the resources of the County Forest.
2. To identify regulated management activities, land uses and special resource areas.
3. To layout proper permits needed for certain activities on the County Forest.

505 TIMBER SALES

Regulated cutting of timber is essential to the goals and objectives of this plan. Timber harvesting will be conducted to achieve a sustainable harvest level. Harvest areas will be distributed in the forest to accommodate such needs as biodiversity, wildlife, aesthetics, watershed protection and other biological needs. WisFIRS will be used for planning all timber harvests activities on the County Forest. All sales will be established, administered and reported in accordance with the DNR Timber Sale Handbook (2461). All sales on the forest are to be advertised for public bidding, with the exception of sales with an estimated volume of 500 cord equivalents or less or an estimated value of \$10,000 or less or sales that would qualify under a salvage provision (s. 28.11(6)(c), Wis. Stats.). These sales may be sold direct without advertising.

505.1 FIELD PREPARATION OF TIMBER SALES

The County and the DNR will cooperate to locate, designate and prepare harvest areas for sale. The Forest administrator and DNR liaison forester shall jointly be responsible to see that the field work on sales is accomplished. Administrator and Liaison will also jointly be responsible for ensuring that all proper documentation for each timber sale is properly filled out and routed for signatures.

505.2 ADVERTISING FOR BIDS

After field work is completed and necessary reports receive DNR approval, the administrator shall prepare a sale prospectus and make it available to interested loggers. Under s. 28.11(6)(b) Wis. Stats, timber sale advertisements will be by classified ad in a newspaper having general circulation in the county (i.e. Wausau Daily Herald) and will appear a minimum of 14 calendar days before opening bids. A longer advance time will be given when feasible. Sealed bid sales will generally be offered in early spring and fall, or as needed.

505.3 PROSPECTUS

The following information will be made available to prospective bidders:

1. Timber sale description summary.
2. Invitation for bids.
3. Maps of sale areas with species, volumes, and harvest specifications.
4. Contract provisions.
5. Procedures for bidding.
6. Bid forms and Statement of Qualifications.
7. Timber sales bond and advance stumpage schedule.

505.4 METHOD OF BIDDING

Bids will be publicly read at the location and time advertised. A sealed envelope showing the tract number and marked "sealed bid" will be submitted on forms provided by the County for each tract. Bids will contain:

1. Tract number.
2. The bid price per ton or per thousand board feet for each species offered and the total for each species bid. The total value of the bid will be indicated.
3. A bidder's name, address, phone, and signature.
4. A bidder's statement of qualifications.
5. A minimum of 10 percent of the bid value of each tract must accompany the bid as a bid bond payable to the County. It must be in the form of a bid bond, personal or business check, cashier's check, letter of credit or money order.

505.5 AWARDED SALES

1. The Committee will award the sale contracts at a meeting of the Committee. The high bidder is normally awarded the sale contract; however, the committee reserves the right to reject any or all bids and accept the bid offer most advantageous to the county. Grounds for rejecting bids may include without limit:
 - a. Non-compliance with County Forest contract requirements.
 - b. Delinquent financial obligations.
 - c. Unsatisfactory past performances.
 - d. Inability to demonstrate financial or professional capability. Evaluation criteria on timber sales will be price and documented ability to satisfactorily complete the contract. Factors to be assessed may include proposed equipment and

operation, references, proof of financial stability, past performance and documented training completed. The award of contract to the successful bidder shall be based upon the bid determined most advantageous to the County.

2. Tie bids may be settled by toss of a coin if both parties are agreeable; otherwise the bids on that tract will be rejected and the sale re-advertised.
3. Sales remaining unsold after being advertised for one bid opening may be sold direct at not less than the advertised value even though their estimated value exceeds \$10,000. (See DNR Timber Sale Handbook).

505.6 SALE CONTRACTS

1. Contracts will be prepared with copies provided to the Purchaser and the DNR and the original filed in the Forest Administrator's office.
2. Contracts are to be signed by the successful bidder within 15 working days' of the contract award, with payment being made according to the County timber sale bond and advance stumpage payment schedule. Failure to sign the contract within 15 working days will be cause for the forfeiture of the bid bond.

505.7 TIMBER SALE PERFORMANCE BOND

1. Performance bonds will be not less than 25 percent of the total bid value for each contract.
2. Surety bonds or an irrevocable letter of credit issued by a bank which is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation may be used in lieu of cash as a performance bond on sales. The letter of credit or surety bond must be in effect for a period of time equal to the term of the contract, plus at least 60 days to allow for possible extension(s) and for closeout of the contract after cutting is completed.
3. The bid bond may be transferred to the performance bond.

505.8 CONTRACT PROVISIONS

All timber sale contracts will be on the form approved by the committee and all provisions therein shall apply. A copy of the timber sale prospectus will be attached and become a part of the contract. The following items are essential contract provisions that should be covered in each contract.

505.8.1 Contract Number and Contract Name

Every contract shall have a unique numerical number and depending on county policies/procedures shall have a unique name.

505.8.2 Contract Parties

Contracts must have Name, Address, and other contact information of the Purchaser.

505.8.3 Duration and Extension of Contracts

1. Contracts will be issued for not less than six months or more than three years, unless otherwise stated. Contracts will be dated to expire on June 30 or December 31. Exceptions may be made in cases of extenuating circumstances.
2. Extensions may be granted if deemed in the best interest of the County. The Marathon County policy on timber sale extensions and renewals is located in the contract in the appendix.
3. The maximum time duration of a timber sale contract, including extensions, will be four years. Extension beyond this period of time will be considered by the Committee only in the event of special justification. Special stumpage rate adjustments may be made.
4. If purchasers do not wish to have contracts renewed or extended or if a contract renewal or extension is not approved by the Committee, the Forestry Division may advertise the sale for two separate bid openings or until the sale is resold, whichever occurs first. If the sale is resold, the original Purchaser will:
 - Pay 10% of the original sale price (same amount as the original bid bond) as an administrative fee for the costs of advertising and reestablishing the sale, or
 - Pay the difference between the new sale price and the original price, but not less than 10% if the new sale price is less than the original price.If the sale is not resold after two separate bid openings, the Purchaser is liable for liquidated damages including the total performance bond.
5. The Purchaser may request a contract release due to severe physical or financial disability. The Committee will determine whether or not a release will be granted and may withhold all or a portion of the performance bond for damages.

505.8.4 Termination of Contract by Seller

Contracts have a termination clause. This is a protection to the county for breach of contract by the purchaser. (See attached timber sale contract in the appendix).

505.8.5 Performance Bond, Contract Violations, Damages, and Future Contracts

Performance Bond

1. Performance bonds will be not less than 25 percent of the total bid value for each contract.
2. Surety bonds or an Irrevocable Letter of Credit issued by a bank which is a member of the Federal Reserve System or insured by the Federal Deposit Insurance Corporation may be used in lieu of cash as a performance bond on sales.
3. The bid bond may be transferred to the performance bond.

Contract Violations

Field enforcement of timber sale contracts will be the responsibility of the Forest Administrator employing the following procedure:

1. The Forest Administrator or designee will attempt to resolve inadvertent or minor violations by verbal contact with the Purchaser.
2. The Forest Administrator designee may immediately suspend logging operations when a serious violation or emergency situation arises. The suspension will be followed by written notice to the Purchaser stating the nature of the violation and informing them of Committee action taken or pending.
3. Suspension of operation will remain in effect until receipt of written notice from the County.
4. The Committee, in consultation with legal counsel, may consider, but is not limited to, the following remedies:
 - a. Charge double stumpage.
 - b. Assess damages.
 - c. Suspend contracts.
 - d. Retain all deposits.
 - e. Foreclose on cut products on sale.
 - f. Refer to District Attorney for prosecution.
 - g. Refer to Corporation Counsel for civil action.

Damages If damages exceed the performance bond amount the bond may be used. Examples of damages include:

1. Undesignated timber removed.
2. Removal of timber without payment.
3. Damage to residual timber, roads or other infrastructure.
4. Restoration of sale area.
5. Costs associated with resale of uncut timber.
6. Other costs as determined by the Forestry/Recreation Committee.

Future Contracts

Failure of the Purchaser to comply with timber contract provisions, laws, ordinances, or regulations may result in cancellation of all timber contracts with the County. All deposits may be retained and forest products on sale areas may be seized and sold by the County. The Purchaser may be banned from future purchase of County timber sales for a period of two years or until the Purchaser can demonstrate and provide documentation of satisfactory contract compliance from other ownerships (State, industrial, private, County). The Purchaser may also be required to pay a higher performance bond, up to 100 percent bond.

505.8.6 Title to Timber

Title to all cut forest products shall remain with the County until paid for by Purchaser. Purchaser shall be responsible for payment of all damage or loss of all forest products resulting from fire, flood, theft caused by his own fault during the contractual term. Forest products and stumpage remaining on the sale area at the expiration of the contract or upon breach, revert to the ownership of the County without any refund of monies paid.

505.8.7 Payment Schedule

All contracts will have a payment schedule that will layout the responsibilities of the seller and purchaser for payments under this contract. This schedule will vary based on sale type (lump sum or scaled sale).

505.8.7.1 Removal Without Payment

Timber or other forest products may not be removed from the sale area until paid for as provided in this contract or other guarantees for payment have been made with and to the satisfaction of the County. Upon removal of timber or other forest products in violation of this paragraph, the Purchaser agrees to pay as liquidated damages double the mill value of the timber removed, and in addition to pursuing its remedies for breach of contract, the County may seek charges against the Purchaser for Timber Theft under s. 26.05, Wis. Stats., or a violation of ch. NR 45, Wis. Adm. Code, consider it a breach of contract and pursue all remedies provided in this contract.

505.8.8 Training Requirement

The Purchaser is responsible for ensuring that the actual logging contractor engaged in performance of this contract complies with the Wisconsin SFI® (Sustainable Forestry Initiative®) Training Standard as adopted by the Wisconsin SFI® Implementation Committee (SIC). Criteria for the standard can be found at the website http://www.fistausa.org/sfi_standards.html or by contacting the Forest Industry Safety & Training Alliance (FISTA). Purchaser agrees to provide documentation to Seller that training has been attained prior to initiating sale.

505.8.9 BMPs, Roads, Landings, Mill Sites, Campsites and Erosion Control

1. When not otherwise designated by the County, the location of roads, landings, mill sites and campsites on County's property is subject to advance approval and under the conditions established by the County. All restoration, cleanup or repair of roads, landings, mill sites and campsites, or the cost of the cleanup, if not completed by the Purchaser to the satisfaction of the County, is the responsibility of the Purchaser.
2. All logging debris accumulated at landing areas, including bark, tops and slash, shall be scattered within the sale area to the satisfaction of the County.
3. Berms constructed on the County's property shall be leveled to restore the area to the County's satisfaction unless they are constructed at the direction of the County under par. 4.
4. Roads and landings shall be graded or closed upon the request of and to the County's satisfaction upon completion or termination of this contract.
5. Other restoration requirements (e.g., seeding, gravel, rutting, culvert removal, etc): NONE

6. Erosion control and Best Management Practices (BMPs) requirements:
 - a. The Purchaser shall comply with all recommended BMP guidelines as described in “Wisconsin’s Forestry Best Management Practices for Water Quality” published by the Wisconsin Department of Natural Resources, publication Pub-FR-093, unless specifically provided otherwise below. A copy of this publication is available upon request to the County if not possessed by the Purchaser. Purchaser’s certification in Wisconsin BMP training through a FISTA coordinated BMP workshop is also required.
 - b. The Purchaser shall make every attempt to comply with Forestry BMPs for Invasive Species as described in “Wisconsin’s Forestry Best Management Practices for Invasive Species” published by the Wisconsin Department of Natural Resources, publication Pub-FR-444-09 unless specifically provided otherwise below. In particular, the purchaser agrees to work cooperatively with the administering forester and any subcontractors to address the considerations in BMPs 4.4, 4.5, 4.6, 5.1, 5.2, 5.3, 5.5 and 9.1. A copy of this publication is available upon request to the Seller if not possessed by the Purchaser. The publication can also be found at the Council on Forestry website at: <http://council.wisconsinforestry.org/invasives/forestry>.
 - c. The Purchaser shall comply with all General Guidelines as described in “Wisconsin’s Forestland Woody Biomass Harvesting Guidelines” published by the Wisconsin Department of Natural Resources, publication Pub-FR-435-09, unless specifically provided otherwise below. A copy of this publication is available upon request to the County if not possessed by the Purchaser. The publication can also be found at the Council on Forestry website at: <http://council.wisconsinforestry.org/biomass/>
 - d. Other: None.

505.8.10 Soil Disturbance and Rutting

1. The Purchaser agrees to take all steps and precautions to avoid and minimize soil disturbances, such as soil compaction and rutting. If soil disturbances occur, the Purchaser agrees to work cooperatively to mitigate and repair any and all instances of soil disturbance.

2. Excessive soil disturbance (as defined in the following table) shall not be permitted. Purchaser agrees to contact Seller in the event of an excessive soil disturbance.

Table – <u>Thresholds for Soil Disturbances</u>	
<u>Timber Sale Infrastructure</u>	<u>Soil disturbances are excessive if:</u>
<u>Roads, Landings, Skid Trails, and General Harvest Area</u>	<ul style="list-style-type: none"> ▪ <u>A gully or rut is 6 inches deep or more and is resulting in channelized flow to a wetland, stream, or lake.</u>
<u>Roads, Landings, and Primary Skid Trails</u>	<ul style="list-style-type: none"> ▪ <u>In a riparian management zone (RMZ) or wetland, a gully or rut is 6 inches deep or more and 100 feet long or more.</u> ▪ <u>In an upland area (outside of RMZ), a gully or rut is 10 inches deep or more and 66 feet long or more.</u>
<u>Secondary Skid Trails and General Harvest Area</u>	<ul style="list-style-type: none"> ▪ <u>A gully or rut is 6 inches deep or more and 100 feet long or more.</u>

Note: The depth is to be measured from the original soil surface to the bottom of the depression. If individual lug depressions are visible, the depth would be measured to the lesser of the two depths (the “top” of the lug). The length is measured from the start of the “too deep” section to the end of the “too deep” section. Measurements are not cumulative.

Note: In high use forest recreation areas such as the Nine Mile Unit and County park lands we will require the purchaser to follow a lower threshold for soil disturbance (than defined in table above). The lower threshold will be communicated to the Purchaser during the pre-logging meeting and documented on the pre-logging form.

3. The County may temporarily suspend operations under this contract due to excessive soil disturbances (as defined in table above).
4. Prior to sale completion the Purchaser shall mitigate and repair soil disturbances to the Seller’s satisfaction.

5. Other restoration requirements (e.g. repair of soil disturbance or rutting on recreational trails used for skidding): NONE

505.8.11 Liability and Workers Compensation Insurance

All contracts require proof of insurance. The proof of insurance shall be kept in the sale folder and must cover the entire operation period of the contract.

505.8.12 Scaling and Conversion Factors

1. Product Removal - No forest products shall be removed until scaled or marked by a County representative unless prior arrangements have been made with the County.
2. Sawlogs
 - a. All sawlogs must be separated from pulpwood when piled.
 - b. Purchaser will mark the length of all logs on the small end with a lumber crayon to facilitate scaling.
 - c. Purchaser will pile all logs with the small end facing the road to facilitate scaling.
 - d. All logs must be scaled with the Scribner Decimal C Log Rule.
3. Pulpwood – All pulpwood must be piled for scaling. Piles must be level and square with at least five cords.
4. Conversion Factors - Conversion of MBF (thousand board feet) to cords or cords to MBF will be 2.44 cords per MBF for softwoods and 2.20 cords per MBF for hardwoods.
5. Peeled Cordwood - When peeled cordwood is measured, it is stipulated that 12.5% will be added to hand-peeled or stroke delimeter processor peeled volume and 16% to ring debarked volume to compute equivalent unpeeled volume.
6. Weight Conversions - County will accept mill weight conversion (Mill Scale) unless that conversion results in less volume than those conversions set forth in Wisconsin Department of Natural Resources Handbook 2461.

505.8.13 Forest Certification

Timber sales are certified to the standards of the Sustainable Forestry Initiative®. Certification language will appear on all haul tickets, invoices, and scale sheets.

505.8.14 Other Contract Conditions for Consideration

1. Cleanup and use of sale area
 - a. The Purchaser shall remove, to the satisfaction of the seller, all equipment, tools, solid waste, oil filters, grease cartridges, trash and debris remaining on the sale area or Seller's property upon completion of performance under this Contract, termination of this Contract due to breach by the Purchaser or when requested by the County.
 - b. No residence, dwelling, permanent structure, or improvement may be established or constructed on the sale area or other property of the County.
 - c. The Purchaser agrees to properly use and dispose of all petroleum products, including but not limited to oil, hydraulic fuel and diesel fuel. Any on-site spillage must be properly removed and cleaned up by the Purchaser to the satisfaction of the County.
2. Stump heights/tops – The maximum stump height may not exceed the stump diameter; except for stumps of a diameter of less than 10 inches, the height of the stump may not exceed 10 inches. Additionally, clumps of stumps shall be treated as individual stumps and maximum height may not exceed each individual stump diameter. Title to tops shall remain the owner's and may not be utilized by the Purchaser, or at the Purchaser's discretion, unless otherwise specified in this contract.
3. Zone/Unit completion – The Purchaser agrees to complete all operations on each portion of the sale area or each zone as designated on the sale area map, or other attachments or in the cutting requirements before beginning cutting in the next portion or zone, unless agreed to otherwise by the County.
4. Slash requirements – Slash as defined in s. 26.12, Wis. Stats., shall be disposed of as follows:
 - a. Slash falling in any lake or stream, in a right-of-way or on land of an adjoining landowner shall be immediately removed from the waters, right-of-way or adjoining land. Tops from felled trees may not be left hanging in standing trees. All trees shall be completely felled and not left leaning or hanging in other trees.
 - b. Other: None
5. Forest fire prevention – The Purchaser agrees to take reasonable precautions to prevent the starting and spreading of fires. Those precautions include, but are not

limited to:

- a. A minimum of one fully charged 5 pound or larger ABC fire extinguisher with a flexible spout shall be carried on each off-road logging vehicle.
 - b. All chainsaws and all non-turbocharged off-road logging equipment used in the operation shall be equipped with spark arrestors which have been approved by the U.S. Forest Service. Such arrestors may not be altered in any manner or removed and shall be properly maintained. (Information on approved arrestors may be obtained from the Seller.)
 - c. If a fire occurs, the Purchaser agrees to promptly cooperate in the control and suppression of the fire.
 - d. The Purchaser shall comply with requests regarding forest fire prevention and suppression made by the Seller and take all reasonable precautions to prevent, suppress and report forest fires. Those requests may include ceasing or modifying operations.
 - e. The Purchaser shall be responsible for damage and forest fire suppression costs, including that provided in s. 26.14 and 26.21, Wis. Stats., caused by their operation under this Contract.
 - f. Other: None
6. Survey monument restriction – The Purchaser agrees to pay for the cost of repair or replacement of any land survey monuments or accessories which are removed or destroyed or made inaccessible. In the event that the performance bond is insufficient to cover such cost, the provisions of Statute 59.74, Perpetuation of Landmarks, shall be enforced.
 7. Hold Harmless – Purchaser hereby agrees to release, indemnify, defend, and hold harmless Marathon County, their officials, officers, employees and agents from and against all judgments, damages, penalties, losses, costs, claims, expenses, suits, demands, debts, actions and/or causes of action of any type or nature whatsoever, including actual and reasonable attorney's fees, which may be sustained or to which they may be exposed, directly or indirectly, by reason of personal injury, death, property damage, or other liability, alleged or proven, resulting from or arising out of the performance of contractor, its officers, officials, employees, agent or assigns. Marathon County does not waive, and

specifically reserves, its right to assert any and all affirmative defenses and limitations of liability as specifically set forth in Wisconsin Statutes, Chapter 893 and related statutes.

8. Independent contractor – The Purchaser is an independent contractor for all purposes, including worker’s compensation, and not an employee or agent of the County. The County agrees that the undersigned Purchaser shall have the sole control of the method, hours worked, time and manner of any timber cutting to be performed hereunder and takes no responsibility for supervision or direction of the performance of any of the harvesting to be performed by the undersigned Purchaser or of its employees. The County further agrees that it will exercise no control over the selection and dismissal of the Purchaser’s employees.
9. Assignment (sub-contracting) – The Purchaser is precluded from assigning payment and contract oversight, duties or other performance requirements of this contract to another. The Purchaser’s direction to or contracting with another to complete performance required under this contract does not relieve the Purchaser from the responsibility for performance required under this contract or for liability for breach. (Purchaser shall not subcontract any portion of this contract without prior written approval from the County, said approval will not be unreasonably withheld.)
10. Right of inspection by seller – The County retains for itself the right of ingress and egress to and on the sale area and may inspect the sale area and trucks hauling forest products from or traveling on the sale area at any time. If the inspection reveals any violations of this contract, the Purchaser shall promptly take measures to remedy the violation. The County may terminate the Purchaser’s operations upon oral notice to the Purchaser. Upon receipt of the notice, the Purchaser shall cease operations until the County approves resumption of them.
11. Federal/state, and local regulations compliance – Purchaser agrees to comply with all applicable OSHA or other federal, state, and local laws or regulations in connection with the performance of this contract.
OSHA Compliance, Danger trees. The Purchaser is responsible to comply with, and assure compliance by all employees or subcontractors with, all Occupational Safety and Health Act (OSHA) requirements for the health and safety of

Purchaser's employees, including provisions relating to danger trees. In addition, the Purchaser agrees to notify, and obtain agreement from, the County if the Purchaser intends to modify performance required under this contract for the purpose of compliance with OSHA requirements.

12. Diggers Hotline – The Purchaser is responsible to contact the Diggers Hotline, or other informational sources performing similar services, prior to digging or conducting other activities on the property which may result in contact with utility or service lines or facilities.
13. Uncut trees and wasted timber – Should marked or designated trees be left uncut or unremoved, the Purchaser shall be liable to the County for damages in the amount said wood would have been valued for payment at the mill site as of the date all work to be performed pursuant to this contract was to have been completed. Young growth trees bent or held down by felled trees must be properly released or Purchaser shall be liable for damages in the amount of replacement costs. The Purchaser shall be liable for damages at double the stumpage rate specified for timber wasted in tops and stumps.
14. Other approvals – Logging roads that intersect town, county or state roads or highways must have the intersections approved by the proper authorities prior to construction and cleared of all unsightly debris at the time of construction. The Purchaser agrees to apply for and obtain all approvals. The Purchaser also agrees to fully comply with all terms and conditions of intersection approvals.
15. Other conditions: A copy of the contract can be found in the appendix.

505.8.15 Attachments to Contract

Operating specifications and a map outlining the boundaries of the sale area are attachments and made part of timber sale contracts.

505.9 TIMBER SALE RESTRICTIONS

1. To minimize resource damage, the types of logging equipment, methods, and times of operation used on sale areas may be restricted by the County.
2. Special restrictions may be required in accordance with County aesthetic policy, if applicable.
3. Seasonal restrictions may be applied to protect roads, minimize recreation use

conflicts, benefit wildlife management, avoid endangered resources concerns, minimize insect and disease problems, or to assist in fire protection.

505.10 TIMBER SALE ROADS

1. The Purchaser will be responsible for securing legal access to sale areas.
2. The Purchaser will construct permanent or temporary roads only at locations approved by the Forestry Division.
3. No skidding, decking, or other logging activity is allowed on County Forest roads or ditches unless approved by the Forest Administrator. Roads and trails will be kept free from logging debris. County Forest Access roads and trails will be maintained by the Purchaser and be left in as good as original condition at the close of the sale. Roads will be inspected by County personnel to insure minimal resource damage. If intersections are modified or created between logging tracts and County or Town roads, the Purchaser must notify and obtain any necessary permits from the County or township prior to construction.
4. A timber sale purchaser may request permission to gate a timber sale access road. The Forest Administrator may approve a gate permit to prohibit motorized traffic only.

505.11 SUPERVISING SALES

Sale inspections will be performed periodically by State and/or County personnel with notation in the sales record explaining the results of the inspection.

505.12 FOREST PRODUCTS ACCOUNTABILITY

505.12.1 Scaling Merchantability

1. Logs will be scaled by the Scribner Decimal C. log rule. Minimum log specifications are defined as 9-inch top diameter inside bark (DIB) and 8-feet in length for softwood and 10-inch top (DIB), and 8-feet in length for hardwood, 50% sound grade #3 logs or better.
2. The standard unit of measure for cordwood is measuring 4' x 4' x 100' of unpeeled wood. Hand or stroke delimeter/processor peeled wood will be converted to the standard cord by adding 12.5 percent and ring debarked wood by adding 16 percent to the peeled volume measured. A pulpwood tree contains at

least one (1) 100-inch stick, to a minimum top diameter as defined in the contract.

3. DNR Timber Sale Handbook will be used as a guide in determining the conversion rates for posts, poles, bolts, chips, weight scaled wood, or other types of forest products.

505.12.2 Utilization Standards

Utilization standards will be specified on individual contracts to provide maximum utilization of all merchantable timber and will be based on the scaling standards noted in 505.12.1.

505.12.3 Methods of Accountability

Wood harvested from the sale area must be accounted for and payment made in accordance with existing policy and procedure. One or more of the following may be used on an individual sale:

1. Lump Sum - Wood sold based on estimated volumes with one “lump” payment or payments on individual cutting units. The lump sum method will be used whenever practical. Payment for a cutting unit must be received in full before the wood is hauled.
2. Wood Scaled - Wood may also be scaled on the landing. This method is generally used for saw logs. Payment for scaled wood must be received in full before the wood is hauled.
3. Ticket System - The ticket system utilizes serialized three-part tickets. The white copy will be placed in the ticket box prior to truck departure. The yellow copy is to be returned to the County with accompanying mill statement. Hard copy retained by logger. Mill scale will be accepted for volume determination. Payment for tickets must be received in full before tickets are distributed to Purchaser. Note: Purchasers in good standing with Marathon County will be allowed up to five business days to submit payment under #2 and #3 above.

505.13 SPECIAL FOREST PRODUCT PERMITS

1. A written permit for taking fuelwood for personal use must be purchased for a specific area designated on the permit.
2. A written permit for cutting boughs for personal use may be issued for a specific

area designated in the permit. Bough payment rate will be set by the Forestry/Recreation Committee.

3. Written permits may be issued for special forest products for community or personal use, with fees established by the Forestry/Recreation Committee.

Stumpage of fuelwood, Christmas trees, boughs, posts and poles and other special forest products for resale will be handled as a regular timber sale.

510 TIMBER THEFT

All cases of alleged timber theft on the county forest shall be investigated and resolved promptly. An allegation of theft by cutting and /or removing timber from the county forest does not alleviate the county from payment under s. 28.11 (9) Wis. Stats. The county will collect damages pursuant to s. 26.05 Wis. Stats. and may also pursue criminal charges under s. 943.20 Wis. Stats. and /or seek civil damages.

510.1 TIMBER THEFT INVESTIGATION

The following procedure should be used in all cases of alleged timber theft:

Determination of Theft

Gathering facts - The County, through the Parks, Recreation, and Forestry Staff or Sheriff's Department and along with assistance of the DNR liaison, rangers, and wardens, will ascertain the facts pertinent to the alleged theft, including determination of the damages to the County. Legal counsel representing the County should be involved in all aspects of investigation. Property involved in the alleged theft may be seized with the assistance of the Parks, Recreation, and Forestry staff or Sheriff's Department pursuant to s. 26.04, Wis. Stats., for use as evidence.

1. Boundary determination - If property boundaries are involved, the County shall conduct a legal survey of the boundary in question.
1. During the investigation, the County legal counsel should be consulted for further direction or for assistance in resolving the matter. If deemed necessary by the Committee, the District Attorney shall be requested to prosecute for violation of s. 26.05, Wis. Stats., the timber theft law, and a legal action for damages commenced. Otherwise, with advice of legal counsel for the County, the County may seek to reach a mutually agreed upon damage payment with the party alleged to have cut or cut and removed the timber without consent of the County.

515 ENCROACHMENTS (Adverse Possession)

The County will actively investigate all suspected cases of encroachments on the County Forest. To insure the integrity and continuity of the County Forest Land, all cases will be dealt with promptly and in a consistent manner. The following procedures will be used in all cases of suspected encroachments:

1. The County will establish property boundaries; if necessary, a legal survey will be conducted.
2. The County will gather all facts, including notification to all landowners or occupants involved.
3. The Committee, in consultation with the Director, Forest Administrator, County legal counsel, and the DNR, will make a decision as to the disposition of the case.
 - a. All above-ground encroachments that are movable will be removed from County property.
 - b. Permanent type facilities, such as homes, garages, and septic systems shall be addressed individually and may commonly be removed but may be handled by a land use agreement in rare situations. For example, when the encroachment will be removed within a short and defined period (e.g. septic system needs replacing, dilapidated structure needs to be rebuilt and relocated). Sale or transfer of the encroachment should remain an option depending on the circumstances involved and the viability of an adverse possession claim (s. 893.29, Wis. Stats.).
 - c. Provisions in the land use agreement, if that option is pursued, may include granting the encroacher permission to encroach on the County Forest Lands with the following stipulations: no other encroachments will be allowed; the permit is non-transferable; the County must be notified once encroachment is terminated; County continues full ownership and control of property; permittee agrees to waive any rights to any future declaration of ownership or interest in the encroached County property; County reserves the right to cancel the permit and the permit is to be filed in the office of the Marathon County Register of Deeds and all fees related to the land use permit shall be paid by the permittee.

520 SPECIAL USES

1. Recognizing the vast potential for a variety of special uses of the County Forest by governmental units, businesses, organizations or individuals, the committee may designate specified areas for special uses. Specific management methods are to be considered on these areas. Uses must be consistent with the intent and purposes of the County Forest Law.
2. All requests for specialized uses of any County Forest lands will require a permit authorized by the Committee.
3. A list of existing special use areas can be found the Appendix.

520.1 SAND AND GRAVEL

Sand and gravel pits located on the County Forest may be used only by units of government or contractors performing public works. Use of existing pits and the opening of new pits by other than the County Parks, Recreation and Forestry Department will require Committee approval and be authorized by permit only. The condition of such permits may include, but are not be limited to:

1. Requiring the pit and its access road to be screened from view from any public highway.
2. Severing trees from the stump.
3. Disposition of brush and dirt spoil by leveling or hauling away.
4. Sloping to prevent steep banks.
5. Filing with the parks and forest office an annual written report of gravel and sand removed.

Other conditions may be set at the discretion of the Committee or County Forest Administrator. The Committee will set fees for materials removed. Other non-metalliferous materials will be dealt with on an individual basis.

All active, nonmetallic sites greater than one acre in size, including those on the County Forest, are also subject to the provisions of the Nonmetallic Mining Reclamation Program, Chapter NR 135, Wis. Adm. Code. The County Parks, Recreation and Forestry Department shall work with the local permit coordinator (often county or local zoning office) in obtaining the necessary permits for nonmetallic mining operations.

Sand and gravel may, under some circumstances, be leased to private contractors for private use. In these situations, the land must be withdrawn from the County Forest Law until sand/gravel removal and reclamation of the site is completed. Upon completion of reclamation to the satisfaction of the county and the state, the lands shall be reapplied for entry under the County Forest Law.

520.2 EXPLORATION, PROSPECTING, AND MINING

1. The Committee may investigate all mineral exploration, prospecting and mining requests as they are received.
2. The DNR shall be notified of all requests, as they become known, in accord with Manual Code 2712.1 (Mineral exploration on County Forests per s. 28.11(3)(i), and (j) Wis. Stats., or other codes which may be subsequently adopted.)
3. Public Forest Lands Handbook should be referenced for more detailed procedure.
4. Exploration and prospecting usually don't require County Forest withdrawal.
5. Mining would require the withdrawal and sale of County Forest Land affected. The County Board may consider requiring the replacement of withdrawn lands and other conditions in mining resolution.

520.3 SANITARY LANDFILLS

The use of County Forest lands for sanitary landfills will not be allowed unless the lands involved are withdrawn from the County Forest Law.

520.4 MILITARY MANEUVERS

Military maneuvers on County Forest lands will be considered under a lease or written land use agreement. Upon receipt of a written request from the military the Committee, other necessary County staff, Military, and DNR representatives will discuss the issue at a public Committee meeting. After the needs have been outlined, the site shall be field checked, DNR input and consistency with the County Forest Law sought, and town officials advised. Depending on the scope of the project, a public hearing may be appropriate. If all aspects and concerns are addressed and agreed to, a legal instrument will be drafted. The matter will then be brought back to a Committee meeting for final input and approval. The Public Forest Lands Handbook will be used for further direction in this matter.

520.5 PUBLIC UTILITIES.

Applications for public utility easements will be considered by the Committee. Underground installations will be encouraged. In 2005 the State legislature passed a law that “requires a County, City, Village, Town, Public Board or Commission to convey lands to an electrical utility for the purpose of constructing electrical utility lines.” (Sec. 194.491(3e), Wis. Stats.) The following main provisions shall be included in any County Board resolution granting permission for construction of a utility transmission line:

1. Utility will be billed for merchantable forest products and existing timber reproduction.
2. Utility will be billed for land removed from production due to right-of-way clearing for losses of future income and multiple use benefits.
3. Land removed for utility operations that is no longer suited “primarily for timber production or, that is no longer suitable for scenic, outdoor recreation, public hunting and fishing, water conservation or multiple use purposes” (s. 28.11(4)(c) Wis. Stats) may need to be withdrawn from County Forest Law designation. The utility shall replace any lands requiring withdrawal from County Forest with other lands suitable for County Forest entry that are in the forest blocking of the County Forest or money that will be deposited into the segregated land purchase account.
4. Utility companies will be encouraged to use existing corridors and underground lines to minimize disturbance to the County Forest and native plants and animals.
5. Merchantable timber will be removed in a manner specified by the Forest Administrator and approved by the Committee. Timber cut must be reported to the DNR on form 2460-1.
6. Utility must provide notice of proposed route, including a map of not less than 1 inch /mile scale, 90 days in advance of the proposed construction.
7. Special maintenance, controlled access and signage concerns shall be addressed in any proposal.
8. An appropriate fee shall be charged for easements.

520.6 ACCESS TO PRIVATE LAND

The Department has determined that granting a private easement across County forest lands is not consistent with the County Forest Law program. This determination is based on an Attorney General opinion (*OAG-08-10*). Easement grants to individuals are generally determined to be an

exclusive right on a publicly owned asset. Counties are generally restricted from granting easements on County forest lands unless the easement helps to achieve the purposes of the County Forest Law program.

520.6.1 Temporary Access

Requests for temporary access across County Forest Lands will be reviewed for any potential conflicts with management activities or public access. If impacts are minimal, access for short term needs will be permitted through the use of access agreements or letters of authorization. Temporary access is generally for activities such as access to maintain utilities (rail, powerline, etc.) or for logging access on private lands. The recipient of temporary access is required to restore the roadway to at least its prior condition and to expand coverage of any performance deposits or liability insurance to cover the use of the County road.

520.6.2 Access Agreements

Requests for access to private lands may be made by private parties to build or improve access roads through the County Forest. Access agreements will be considered on a case-by-case basis and with the understanding that the County is not legally obligated to provide access to private lands. The following stipulations will be adhered to before an "Access Permit" is granted:

1. Access across County Forest Lands must be demonstrated by the applicant as the route of last resort. Proposed uses must be documented by the applicant.
2. No legal easement will be granted; only permission to cross County lands.
3. The permit is non-transferable. New landowners must apply to continue the land use agreement.
4. Road improvements and upgrading must be approved and will be supervised by the Parks and Forestry staff. Prior notification of three (3) days is required before work starts.
5. All wood cut is the property of Marathon County.
6. Roadway may not be gated by the Permittee unless authorized by the Committee.
7. The County continues full ownership of the improved roadway, however, it shall not be liable for maintenance or upkeep of the road.
8. Permittee waives any rights to any declaration of ownership or interest in the road on County land for administrative costs as a result of this "Access Permit". The access permit is granted upon the signature and any fees being received by the Marathon County Parks, Recreation and Forestry Department.

9. As of October 2020, there are six existing access road permits issued by Marathon County. The fee for these permits is set at \$150.00 for five years.
10. If new permits are granted by the Committee, they will follow the same stipulations as the existing permits. The fee for any new access road permits is set at \$250.00 for five years.
11. A copy of the access agreement can be found in the appendix.

520.6.3 Prescriptive Easements

Historical access points and driveways may meet the legal requirements of prescriptive use. A prescriptive use easement does not generally trigger a need to withdraw lands from the County Forest program unless the public is excluded from motorized travel on the subject road. Any potential claims of prescriptive easement across County Forest lands must be reviewed by legal counsel in order to determine legal validity and possible legal defense or standing.

520.6.4 Other Types of Access

Complex issues of private access needs may arise in the future. Any proposals to grant an easement across County Forest must help achieve the purposes of the County Forest Law and meet a standard of better and higher public use. Easements to private parties will require withdrawal from County Forest Law and are to be discussed with the Department prior to initiating any proposals.

520.7 PRIVATE UTILITY SERVICE LINES

If a landowner cannot gain utility access across other lands, the committee may consider a land use agreement for access across County Forest. Requests will be considered on a case by case basis. These agreements should consider the inclusions mentioned below:

1. The permit is non-transferrable
2. The County retains full ownership of the utility corridor, however it shall not be liable for maintenance, upkeep, or other damages associated with the utility service.
3. The permittee waives any rights to any declaration of ownership or interest in the utility corridor on County land for administrative costs as a result of this Land Use Agreement – Utility permit. This agreement is granted upon the signature and any fees being received by Marathon County.

4. The fee for such a land use agreement is set at \$5.00 per lineal foot for each utility with a minimum fee of \$5,000.

520.8 CELLULAR COMMUNICATION AND WIRELESS BROADBAND TOWERS

The siting of cellular communication or wireless broadband towers on the Marathon County Forest will be considered by the Committee on a limited basis. Requests will be considered on a case-by-case basis subject to the following conditions:

1. It must be demonstrated that the site is the most practical location for such a tower.
2. Land selected for such a tower is no longer suitable for continued entry in the County Forest program. In addition, any accompanying lands needed for tower support wires that inhibit the practice of forestry and are no longer suitable for scenic, outdoor recreation, public hunting and fishing, water conservation or multiple use purposes (s. 28.11(4)(c) Wis. Stats may also need to be withdrawn from County Forest Law. Withdrawal is subject to approval by both County Board and DNR. The cellular communication company shall replace any lands requiring withdrawal from County Forest with other lands suitable for County Forest entry that are in the forest blocking.
3. If the Committee approves siting a cell or broadband tower on County Forest Lands, the cellular or broadband company will pay for all administrative and staff time related to establishing the tower.
4. Marathon County shall be provided use of the tower for free and be provided free internet and/or phone service.
5. An appropriate fee will be charged for any communication tower the Committee approves on County Forest Lands.
6. Any agreement should also consider the inclusions listed under 520.5 (Items 1-8)

520.9 OTHER

Other types of special uses of the county forest may be considered by the committee. Regulations governing these uses will be developed on an individual basis. These may include, but are not limited to: research, independent study and scientific areas.

525 TREATY RIGHTS: GATHERING MISCELLANEOUS FOREST PRODUCTS

Ordinance No. 0-34-91, adopted by the County Board of Supervisors of the County of Marathon on October 15 , 1991, authorizes Marathon County to require permits for gathering

miscellaneous forest products on County land by Native American treaty rights participants. The ordinance, Section 12.06 of the General Code of Marathon County, adopts language of, and complies with, the Federal District Court decision and states as follows:

1. Any treaty rights participant interested in gathering firewood, tree bark, maple sap, lodge poles, boughs, marsh hay or other miscellaneous forest products (except fruits, seeds, or berries not enumerated in County ordinances) from County land shall obtain a County gathering permit from the County Parks and Forestry office. The County shall respond to the gathering permit request no later than 14 days after receipt of the request. The gathering permit shall indicate the location of the material to be gathered, the volume of material to be gathered, and conditions of the gathering of the material necessary for conservation of the timber and miscellaneous forest products on the County land, or for public health or safety.
2. The County may not deny a request to gather miscellaneous forest products on county property under this section unless: (a) the gathering is inconsistent with the management plan for the property, (b) the gathering will conflict with the pre-existing rights of a permittee or other person possessing an approval to conduct an activity on the property, including a contractor of the county or, (c) is otherwise inconsistent with conservation or public health or safety. Subchapter IV, Ch. NR13, Wis. Adm. Code details the regulations.