

WISCONSIN ADOPTS NEW “SMART GROWTH” LEGISLATION

The Wisconsin Legislature has adopted truly landmark legislation on land use policy and planning, which the Governor has signed.

In a nutshell, the enactments will do the following:

Create state policies on land use and development patterns and urge state agency attention to such policies.

Define a comprehensive plan.

Appropriate \$3.5 million for grants for land use planning.

Direct formulation of financial reward programs for communities that prepare and implement plans that are in pursuit of state policies.

This legislation was prepared by the Wisconsin chapter of the American Planning Association and based on model legislation proposed in the American Planning Association’s Smart Growth program. For the APA’s model legislation click on the Model Laws link in the statutes section

WISCONSIN SMART GROWTH LEGISLATION

66.0295 Comprehensive planning.

(1) DEFINITIONS. In this section:

(a) "Comprehensive plan" means:

1. For a county, a development plan that is prepared or amended under s. 59.69 (2) or (3).

2. For a city or a village, or for a town that exercises village powers under s. 60.22 (3), a master plan that is adopted or amended under s. 62.23 (2) or (3).

3. For a regional planning commission, a master plan that is adopted or amended under s. 66.945 (8), (9) or (10).

(b) "Local governmental unit" means a city, village, town, county or regional planning commission that may adopt, prepare or amend a comprehensive plan.

(2) CONTENTS OF A COMPREHENSIVE PLAN.

A comprehensive plan shall contain all of the following elements:

(a) Issues and opportunities element. Background information on the local governmental unit and a statement of overall objectives, policies, goals and programs of the local governmental unit to guide the future development and redevelopment of the local governmental unit over a 20 year planning period. Background information shall include population, household and employment forecasts that the local governmental unit uses in developing its comprehensive plan, and demographic trends, age distribution, educational levels, income levels and employment characteristics that exist within the local governmental unit.

(b) Housing element. A compilation of objectives, policies, goals, maps and programs of the local governmental unit to provide an adequate housing supply that meets existing and forecasted housing demand in the local governmental unit. The element shall assess the age, structural, value and occupancy characteristics of the local governmental unit's housing stock. The element shall also identify specific policies and programs that promote the development of housing for residents of the local governmental unit and provide a range of housing choices that meet the needs of persons of all income levels and of all age groups and persons with special needs, policies and programs that promote the availability of land for the development or redevelopment of low income and moderate income housing, and policies and programs to maintain or rehabilitate the local governmental unit's existing housing stock.

(c) Transportation element. A compilation of objectives, policies, goals, maps and programs to guide the future development of the various modes of transportation, including highways, transit, transportation systems for persons with disabilities, bicycles, walking, railroads, air transportation, trucking and water transportation. The element shall compare the local governmental unit's objectives, policies, goals and programs to state and regional transportation plans. The element shall also identify highways within the local governmental unit by function and incorporate state, regional and other applicable transportation plans, including transportation corridor plans, county highway functional and jurisdictional studies, urban area and rural area transportation plans, airport master plans and rail plans that apply in the local governmental unit.

(d) Utilities and community facilities element. A compilation of objectives, policies, goals, maps and programs to guide the future development of utilities and community facilities in the local governmental unit such as sanitary sewer service, storm water management, water supply, solid waste disposal, on-site wastewater treatment technologies, recycling facilities, parks, telecommunications facilities, power-generating plants and transmission lines, cemeteries, health care facilities, child care facilities and other public facilities, such as police, fire and rescue facilities, libraries, schools and other governmental facilities. The element shall describe the location, use and capacity of existing public utilities and community facilities that serve the local governmental unit, shall include an approximate timetable that forecasts the need in the local governmental unit to expand or rehabilitate existing utilities and facilities or to create new utilities and facilities and shall assess future needs for government services in the local governmental unit that are related to such utilities and facilities.

(e) Agricultural, natural and cultural resources element. A compilation of objectives, policies, goals, maps and programs for the conservation, and promotion of the effective management, of natural resources such as groundwater, forests, productive agricultural areas, environmentally sensitive areas, threatened and endangered species, stream corridors, surface water, floodplains, wetlands, wildlife habitat, metallic and nonmetallic mineral resources, parks, open spaces, historical and cultural resources, community design, recreational resources and other natural resources.

(f) Economic development element. A compilation of objectives, policies, goals, maps and programs to promote the stabilization, retention or expansion, of the economic base and quality employment opportunities in the local governmental unit, including an analysis of the labor force and economic base of the local governmental unit. The element shall assess categories or particular types of new businesses and industries that are desired by the local governmental unit. The element shall assess the local governmental unit's strengths and weaknesses with respect to attracting and retaining businesses and industries, and shall designate an adequate number of sites for such businesses and industries. The element shall also evaluate and promote the use of environmentally contaminated sites for commercial or industrial uses. The element shall also identify county, regional and state economic development programs that apply to the local governmental unit.

(g) Intergovernmental cooperation element. A compilation of objectives, policies, goals, maps and programs for joint planning and decision making with other jurisdictions, including school districts and adjacent local governmental units, for siting and building public facilities and sharing public services. The element shall analyze the relationship of the local governmental unit to school districts and adjacent local governmental units, and to the region, the state and other governmental units. The element shall incorporate any plans or agreements to which the local

governmental unit is a party under s. 66.023, 66.30 or 66.945. The element shall identify existing or potential conflicts between the local governmental unit and other governmental units that are specified in this paragraph and describe processes to resolve such conflicts.

(h) Land-use element. A compilation of objectives, policies, goals, maps and programs to guide the future development and redevelopment of public and private property. The element shall contain a listing of the amount, type, intensity and net density of existing uses of land in the local governmental unit, such as agricultural, residential, commercial, industrial and other public and private uses. The element shall analyze trends in the supply, demand and price of land, opportunities for redevelopment and existing and potential land-use conflicts. The element shall contain projections, based on the background information specified in par. (a), for 20 years with detailed maps, in 5-year increments, of future residential, agricultural, commercial and industrial land uses including the assumptions of net densities or other spatial assumptions upon which the projections are based. The element shall also include a series of maps that shows current land uses and future land uses that indicate productive agricultural soils, natural limitations for building site development, floodplains, wetlands and other environmentally sensitive lands, the boundaries of areas to which services of public utilities and community facilities, as those terms are used in par. (d), will be provided in the future, consistent with the timetable described in par. (d), and the general location of future land uses by net density or other classifications.

(i) Implementation element. A compilation of programs and specific actions to be completed in a stated sequence, including proposed changes to any applicable zoning ordinances, official maps, sign regulations, erosion and storm water control ordinances, historic preservation ordinances, site plan regulations, design review ordinances, building codes, mechanical codes, housing codes, sanitary codes or subdivision ordinances, to implement the objectives, policies, plans and programs contained in pars. (a) to (h). The element shall describe how each of the elements of the comprehensive plan will be integrated and made consistent with the other elements of the comprehensive plan, and shall include a mechanism to measure the local governmental unit's progress toward achieving all aspects of the comprehensive plan. The element shall include a process for updating the comprehensive plan. A comprehensive plan under this subsection shall be updated no less than once every 10 years.

(3) ACTIONS, PROCEDURES THAT MUST BE CONSISTENT WITH COMPREHENSIVE PLANS.

Beginning on January 1, 2010, any program or action of a local governmental unit

that affects land use shall be consistent with that local governmental unit's comprehensive plan, including all of the following:

- (a) Municipal incorporation procedures under s. 66.012, 66.013 or 66.014.
- (b) Annexation procedures under s. 66.021, 66.024 or 66.025.
- (c) Cooperative boundary agreements entered into under s. 66.023.
- (d) Consolidation of territory under s. 66.02.
- (e) Detachment of territory under s. 66.022.
- (f) Municipal boundary agreements fixed by judgment under s. 66.027.
- (g) Official mapping established or amended under s. 62.23 (6).
- (h) Local subdivision regulation under s. 236.45 or 236.46.
- (i) Extraterritorial plat review within a city's or village's extraterritorial plat approval jurisdiction, as is defined in s. 236.02 (5).
- (j) County zoning ordinances enacted or amended under s. 59.69.
- (k) City or village zoning ordinances enacted or amended under s. 62.23 (7).
- (l) Town zoning ordinances enacted or amended under s. 60.61 or 60.62.
- (m) An improvement of a transportation facility that is undertaken under s. 4.185.

(n) Agricultural preservation plans that are prepared or revised under subch. IV of ch. 91.

(o) Impact fee ordinances that are enacted or amended under s. 66.55.

(p) Land acquisition for recreational lands and parks under s. 23.09 (20).

(q) Zoning of shorelands or wetlands in shorelands under s. 59.692, 61.351 or 62.231.

(r) Construction site erosion control and storm water management zoning under s. 59.693, 61.354 or 62.234.

(s) Any other ordinance, plan or regulation of a local governmental unit that relates to land use.

(4) PROCEDURES FOR ADOPTING COMPREHENSIVE PLANS.

A local governmental unit shall comply with all of the following before its comprehensive plan may take effect:

(a) The governing body of a local governmental unit shall adopt written procedures that are designed to foster public participation, including open discussion, communication programs, information services and public meetings for which advance notice has been provided, in every stage of the preparation of a comprehensive plan. The written procedures shall provide for wide distribution of proposed, alternative or amended elements of a comprehensive plan and shall provide an opportunity for written comments on the plan to be submitted by members of the public to the governing body and for the governing body to respond to such written comments.

(b) The planning commission or other body of a local governmental unit that is authorized to prepare or amend a comprehensive plan may recommend the adoption or amendment of a comprehensive plan only by adopting a resolution by majority vote. The vote shall be recorded in

the official minutes of the planning commission or other body. The resolution shall refer to maps and other descriptive materials that relate to one or more elements of a comprehensive plan. One copy of an adopted comprehensive plan, or of an amendment to such a plan, shall be sent to all of the following:

1. Every governmental body that is located in whole or in part within the boundaries of the local governmental unit.
2. Every local governmental unit that is adjacent to the local governmental unit which is the subject of the plan that is adopted or amended as described in par. (b) (intro.).
3. The Wisconsin land council.
4. After September 1, 2003, the department of administration.

(c) No recommended comprehensive plan that is adopted or amended under par. (b) may take effect until the plan or amendment is enacted as an ordinance by the local governmental unit. The local governmental unit may not enact an ordinance under this paragraph unless the comprehensive plan contains all of the elements specified in sub. (2). An ordinance may be enacted under this paragraph only by a majority vote of the members-elect, as defined in s. 59.001 (2m), of the governing body. An ordinance that is enacted under this paragraph shall be filed with at least all of the following:

1. The public library that serves the area in which the local governmental unit is located.
2. The clerk of all adjacent local governmental units.

(d) No local governmental unit may enact an ordinance under par. (c) unless the local governmental unit holds at least one public hearing at which the proposed ordinance is discussed. That hearing must be preceded by a class 1 notice under ch. 985 that is published at least 30 days before the hearing is held. The local governmental unit may also provide notice of the hearing by any other means it considers appropriate. The class 1 notice shall contain at least the following information:

1. The date, time and place of the hearing.
2. A summary, which may include a map, of the proposed comprehensive plan or amendment to such a plan.

3. The name of an individual employed by the local governmental unit who may provide additional information regarding the proposed ordinance.
4. Information relating to where and when the proposed comprehensive plan or amendment to such a plan may be inspected before the hearing, and how a copy of the plan or amendment may be obtained.

SECTION 1606m. 66.034 of the statutes is created to read:

66.034 Traditional neighborhood developments and conservation subdivisions.

(1) DEFINITIONS. In this section:

(a) "Conservation subdivision" means a housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

(b) "Extension" has the meaning given in s. 36.05 (7).

(c) "Traditional neighborhood development" means a compact, mixed-use neighborhood where residential, commercial and civic buildings are within close proximity to each other.

(2) MODEL ORDINANCES.

(a) Not later than January 1, 2001, the extension, in consultation with any other University of Wisconsin System institution or with a landscape architect, as that term is used in s. 443.02 (5), or with independent planners or any other consultant with expertise in traditional neighborhood planning and development, shall develop a model ordinance for a traditional neighborhood development and an ordinance for a conservation subdivision.

(b) The model ordinances developed under par. (a) shall be presented to the chief clerk of each house of the legislature, and shall be referred immediately by the speaker of the assembly and the

presiding officer of the senate to the appropriate standing committee in each house. The model ordinances shall be considered to have been approved by a standing committee if within 14 working days of the referral, the committee does not schedule a meeting for the purpose of reviewing the model ordinance. If the committee schedules a meeting for the purpose of reviewing the model ordinance, the ordinance may not be considered to have been approved unless the committee approves the model ordinance.

(3) CITY, VILLAGE AND TOWN REQUIREMENTS.

(a) Not later than January 1, 2002, every city and village, and every town with a population of at least 12,500 shall enact an ordinance under s. 62.23 (7) that is substantially similar to the model ordinance that is developed under sub. (2)(a) if the ordinance is approved under (2)(b) although the ordinance is not required to be mapped.

(b) A city or village that comes into existence, or town whose population reaches at least 12,500, after January 1, 2002, shall enact an ordinance under s. 62.23 (7) that is substantially similar to the model ordinance that is developed under sub. (2)(a) if the ordinance is approved under (2)(b) not later than the first day of the 12th month beginning after the city or village comes into existence or after the town's population reaches at least 5,000, although the ordinance is not required to be mapped and an ordinance for a conservation subdivision.

SECTION 1607. 66.04 (1m) (a) of the statutes is amended to read:

66.04 (1m) (a)

No city, village or, town, family care district under s. 46.2895 or agency or subdivision of a city, village or town may authorize funds for or pay to a physician or surgeon or a hospital, clinic or other medical facility for the performance of an abortion except those permitted under and which are performed in accordance with s. 20.927. Planning Grants

16.965 Planning grants to local governmental units.

(1) In this section:

(a) "Local governmental unit" means a county, city, village, town or regional planning commission.

(b) "Smart growth area" means an area that will enable the development and redevelopment of lands with existing infrastructure and municipal, state and utility services, where practicable, or that will encourage efficient development patterns that are both contiguous to existing development and at densities which have relatively low municipal, state governmental and utility costs.

(2) From the appropriation under s. 20.505 (1) (cm), the department may provide grants to local governmental units to be used to finance the cost of planning activities, including contracting for planning consultant services, public planning sessions and other planning outreach and educational activities, or for the purchase of computerized planning data, planning software or the hardware required to utilize that data or software. The department shall require any local governmental unit that receives a grant under this section to finance a percentage of the cost of the product or service to be funded by the grant from the resources of the local governmental unit. The department shall determine the percentage of the cost to be funded by a local governmental unit based on the number of applications for grants and the availability of funding to finance grants for the fiscal year in which grants are to be provided. A local governmental unit that desires to receive a grant under this subsection shall file an application with the department. The application shall contain a complete statement of the expenditures proposed to be made for the purposes of the grant. No local governmental unit is eligible to receive a grant under this subsection unless the local governmental unit agrees to utilize the grant to finance planning for all of the purposes specified in s. 66.0295 (2). [The appropriation is \$1.5 million for fiscal year 2000-2001, to the Wisconsin Department of Administration.]

(3) Prior to awarding a grant to a local governmental unit under sub. (2), the department shall forward a statement of the expenditures proposed to be made under the grant to the Wisconsin land council for its written approval. The council may approve or disapprove any proposed grant.

(4) In determining whether to approve a proposed grant, greater precedence shall be accorded to applications of local governmental units that contain all of the following elements:

(a) Planning efforts that address the interests of overlapping or neighboring jurisdictions.

(b) Planning efforts that contain a specific description of the means by which all of the following local, comprehensive planning goals will be achieved:

1. Promotion of the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.
2. Encouragement of neighborhood designs that support a range of transportation choices.
3. Protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.
4. Protection of economically productive areas, including farmland and forests.
5. Encouragement of land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs.
6. Preservation of cultural, historic and archaeological sites.
7. Encouragement of coordination and cooperation among nearby units of government.
8. Building of community identity by revitalizing main streets and enforcing design standards.
9. Providing an adequate supply of affordable housing for individuals of all income levels throughout each community.
10. Providing adequate infrastructure and public services and an adequate supply of developable land to meet existing and future market demand for residential, commercial and industrial uses.

11. Promoting the expansion or stabilization of the current economic base and the creation of a range of employment opportunities at the state, regional and local levels.

12. Balancing individual property rights with community interests and goals.

13. Planning and development of land uses that create or preserve varied and unique urban and rural communities.

14. Providing an integrated, efficient and economical transportation system that affords mobility, convenience and safety and that meets the needs of all citizens, including transit-dependent and disabled citizens.

(c) Planning efforts that identify smart growth areas.

(d) Planning efforts, including subsequent updates and amendments, that include development of implementing ordinances, including ordinances pertaining to zoning, subdivisions and land division.

(e) Planning efforts for which completion is contemplated within 30 months of the date on which a grant would be awarded.

(f) Planning efforts that provide opportunities for public participation throughout the planning process.

(5) The Wisconsin land council may promulgate rules specifying the methodology whereby precedence will be accorded to applications in awarding grants under sub. (2).

16.9651 Transportation planning grants to local governmental units.

(1) In this section, "local governmental unit" means a county, city, village, town or regional planning commission.

(2) From the appropriation under s. 20.505 (1) (z), the department may provide grants to local governmental units to be used to finance the cost of planning activities related to the transportation element, as described in s. 66.0295 (2) (c), of a comprehensive plan, as defined in s. 66.0295 (1) (a), including contracting for planning consultant services, public planning sessions and other planning outreach and educational activities, or for the purchase of computerized planning data, planning software or the hardware required to utilize that data or software. The department may require any local governmental unit that receives a grant under this section to finance not more than 25% of the cost of the product or service to be funded by the grant from the resources of the local governmental unit. Prior to awarding a grant under this section, the department shall forward a detailed statement of the proposed expenditures to be made under the grant to the secretary of transportation and obtain his or her written approval of the proposed expenditures.

[The appropriation is \$1 million for each of the two fiscal years beginning July 1, 1999 to the Wisconsin Department of Administration.]

Comprehensive Planning Goals and Directions to State Agencies

1.13 Land use planning activities.

(1) In this section [Cross references an all-inclusive definition in Wis. Stats. ° 19.42(7u)]:

(a) "Local governmental unit" has the meaning given in s. 1.12 (1) (a).

(b) "State agency" has the meaning given in s. 1.12 (1) (b).

(2) Each state agency, where applicable and consistent with other laws, is encouraged to design its programs, policies, infrastructure and investments of the agency to reflect a balance between the mission of the agency and the following local, comprehensive planning goals:

(a) Promotion of the redevelopment of lands with existing infrastructure and public services and the maintenance and rehabilitation of existing residential, commercial and industrial structures.

(b) Encouragement of neighborhood designs that support a range of transportation choices.

(c) Protection of natural areas, including wetlands, wildlife habitats, lakes, woodlands, open spaces and groundwater resources.

(d) Protection of economically productive areas, including farmland and forests.

(e) Encouragement of land uses, densities and regulations that promote efficient development patterns and relatively low municipal, state governmental and utility costs.

(f) Preservation of cultural, historic and archaeological sites.

(g) Encouragement of coordination and cooperation among nearby units of government.

(h) Building of community identity by revitalizing main streets and enforcing design standards.

(i) Providing an adequate supply of affordable housing for individuals of all income levels throughout each community.

(j) Providing adequate infrastructure and public services and an adequate supply of developable land to meet existing and future market demand for residential, commercial and industrial uses.

(k) Promoting the expansion or stabilization of the current economic base and the creation of a range of employment opportunities at the state and regional and local levels.

(l) Balancing individual property rights with community interests and goals.

(m) Planning and development of land uses that create or preserve varied and unique urban and rural communities.

(n) Providing an integrated, efficient and economical transportation system that affords mobility, convenience and safety and that meets the needs of all citizens, including transit-dependent and disabled citizens.

(3) Each state agency shall ensure that, consistently with other laws, whenever it administers a law under which a local governmental unit prepares a plan, the actions of the local governmental unit under the plan are designed to further the goals specified in sub. (2), to the extent practical.

SMART GROWTH DIVIDEND AID PROGRAM

[This is non-statutory law and, therefore, has no section number.]

(a) Notwithstanding section 16.42 (1) of the statutes, the secretary of administration shall propose under section 16.42 of the statutes, jointly with the secretary of revenue, a smart growth dividend aid program in his or her budget request for fiscal biennium 2001-03, with the first grants to be distributed in fiscal year 2005-06. The proposal shall prescribe a method of distributing aid to cities, villages, towns and counties that meet all of the following requirements:

1. To be eligible to receive aid, a city, village, town or county must have in effect a comprehensive plan, as defined in section 66.0295 (1) (a) of the statutes, as created by this act, that the department of administration and the land council determine meets the provisions specified in section 16.965 (4) of the statutes, as created by this act, and the city, village, town or county must have taken steps to implement the plan.

2. To be eligible to receive aid a city, village, town or county must have in effect zoning ordinances and subdivision regulations, as described in section 66.0295 (3) (h), (j), (k) and (L) of the statutes, as created by this act, that are consistent with the comprehensive plan.

(b) The proposal shall include a provision requiring the land council to approve or disapprove grant applications within 60 days of submission.

(c) The proposal shall specify that a city, village, town or county shall receive one aid credit for each new housing unit that was sold or rented, on lots that are no more than one-quarter acre, in the year before the year in which the grant application is made. The proposal shall also specify that a city, village, town or county shall receive one credit for each new housing unit that was sold at no more than 80% of the median sale price for new homes in the county in which the city, village or town is located or primarily located in the year before the year in which the grant application is made. Grants shall be awarded based on the number of credits that a city, village, town or county receives in the year to which its application relates.