

BAYFIELD COUNTY FOREST COMPREHENSIVE LAND USE PLAN

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CHAPTER 400

FOREST OWNERSHIP

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CHAPTER 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.

400 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.

405 LAND OWNERSHIP GOALS

It is the goal of Bayfield County to acquire land, whenever deemed practical and feasible, from willing landowners for fair prices established pursuant to Uniform Standards of Professional Appraisal Practices or other methods as approved by the County. See section 420 for more information on land acquisition.

410 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” (hereafter, “Blocking”) 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 for the remaining privately-owned parcels within the Blocking. 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.

The Blocking is dynamic and should be evaluated on a routine basis to evaluate adequacy relative to the current priorities. The Administrator will notify the Committee when parcels become available within the Blocking that would be suitable for enrollment in County Forest Law or strategically used for future trade.

Blocking boundaries are established by the Committee and by subsequent approval of the Board. Table 400-1 summarizes the amount of land located within the Blocking, as per October 2020 (by general ownership):

Table 400-1: Land Ownership Within the County Forest Blocking*

Ownership	Acres	% of Total
Bayfield County Forest	172,404	71.4%
Private	44,220	18.3%
State	11,052	4.6%
Private - Industrial Forest	10,041	4.2%
Federal	1,858	0.8%
Municipal	663	0.3%
Tribal	429	0.2%
County - Non-County Forest	356	0.1%
Other	308	0.1%
Total	241,331	100.0%

** The acreage only considers parcels that are located within the County Forest Blocking boundary.*

The Blocking boundary comprises nearly 245,000 total acres. Of that total, nearly 72% is County owned. Private, non-industrial landowners comprise roughly 18% of the remaining landbase within the Blocking, while the state owns roughly 5%. A significant portion of the remaining lands (roughly 10,000 acres or 4%) is owned by larger private industrial landowners. Of the total land area located within the Blocking, nearly 190,000 acres or 78% is publicly owned.

A map of the official Blocking is found in the Appendix.

415 PRIVATE INHOLDINGS

Bayfield County recognizes that extensive private landholdings lie within the Blocking boundaries. The County will respect the rights of the private landowners. The County may approach private landowners with proposals for land purchases and/or trades, but will not coerce or intimidate landowners to sell or trade. Unless otherwise determined by the Board, it is not the intent of Bayfield County to pursue properties through condemnation.

420 ACQUISITION OF LAND WITHIN THE BLOCKING BOUNDARY

The land within the Blocking includes private parcels as well as land owned by Bayfield County (non-County Forest) and other government entities. It is not the deliberate intent of Bayfield County, nor is it practical, to acquire all lands within the Blocking.

The initial determination of a parcel's value to the County and the State of Wisconsin shall be made by the Administrator and shared with the Committee. The Committee will determine whether or not the parcel has value and whether or not acquisition will be pursued.

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 and/or protect 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, increase and/or support other potential recreational uses on adjacent lands, 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 (generally, those that are already categorized as “industrial forest lands”).

425 ACQUISITION OF LAND OUTSIDE THE BLOCKING BOUNDARY

Counties may consider acquisition of lands outside the Blocking 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 or 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 Blocking.

430 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, such as:

1. Conservation easements for such purposes as:
 - a. Limiting or minimizing fragmentation or expanding residential densities.
 - b. Managing runoff that affects county owned lands.

- 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

435 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 Administrator will be the agent of the Committee in making first contact with potential sellers and in carrying out all land acquisition activities.

In the event that the 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 Administrator shall present a summary of findings and recommendations to the Committee. Upon approval of the Committee, an authorizing resolution shall be forwarded to the Board for consideration.

County Administrator review and 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 Board authorization, said legal documents must include an explicit contingency requiring Board approval.

440 FINANCING

The Administrator shall propose financing/funding options as part of any recommendation to acquire land that is addressed by the Committee. Typical funding sources include:

1. Fund balance that has resulted from previous county forest withdrawal proceedings.
2. Fund balance that has resulted from the sale of tax deed parcels.
3. Funds appropriated through the County's capital budgeting procedure.
4. Grants and Loans, including:

- A. Loans
 - a. County Forest Project Loans (s. 28.11(8)(b)(2)), Wis. Stats)
 - b. Variable Acreage Share Loans (s. 28.11(8)(b)(1)), Wis. Stats)
 - c. Board of Commissioners of Public Lands State Trust Fund Loan Program (s. 24.61(3)(a)(2)), Wis. Stats.)
- B. Grants
 - a. Warren Knowles-Gaylord Nelson Stewardship Program (s. 23.0953, Wis. Stats.)
 - b. County Forest Stewardship Subprogram (s. 23.0953, Wis. Stats.)
 - c. Acquisition and Development of Local Parks Subprogram (s. 23.09(20), Wis. Stats.)
 - d. Lake Protection (s. 281.68 Wis. Stats.)
 - e. River Protection (s. 281.70 Wis. Stats.)
 - f. County Forest Wildlife Habitat (s. 20.370(5)(as)), Wis. Stats.
 - g. County Forest Fish and Game Projects (s. 23.09(12), Wis. Stats.)
 - h. ATV/UTV Trail Aids (s. 23.33(9), Wis. Stats.)
 - i. Snowmobile Trail Aids (s. 23.09(26), Wis. Stats.)
 - j. Federal Funding (s.20.370(5)(cy), Wis. Stats).

445 ENTRY OF LANDS

Lands to be entered under the regular classification of the County Forest Law must be suitable for forestry purposes and located within the Blocking. Lands designated for classification as County Forest - Special Use need not be contained within the Blocking, 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.

445.1 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 Forestry Liaison. The Administrator will secure the signatures of the proper county officials and submit the application, and all other applicable documents, to DNR's County Forest &

Public Lands Specialist.

450 WITHDRAWAL OF LANDS FROM COUNTY FOREST LAW

Lands within the Blocking will not normally be considered for withdrawal from the County Forest Law. Applications for the purchase of these lands by the private sector will generally be discouraged by the Committee, unless a greater public benefit can be demonstrated.

If, in the opinion of the Committee and Board, the land will be put to better and higher use and will benefit the people of Bayfield County and the State to a greater extent by being withdrawn from the County Forest Law program, the County should follow the withdrawal procedure as outlined in the DNR 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 Administrator notifies the DNR Forestry Liaison Forester of the Committee meeting at which the proposed withdrawal will be considered. During that Committee meeting, DNR personnel and the County will discuss the proposed withdrawal and, if approved by the Committee, the withdrawal will be recommended by the Committee, via resolution, to the Board. If approved by the Board, by the necessary 2/3 majority, the application is prepared by the Administrator and submitted to the appropriate DNR designee. The DNR may ask for additional information from the County.

Pending the results of any investigatory hearings deemed advisable, the DNR will act on the withdrawal application. If the application for withdrawal is denied, the County may appeal, as provided in s. 28.11(11)(a)4., Wis. Stats.

450.1 WITHDRAWAL PROCEDURE

As described in Section 450, the County has the option to remove lands from County Forest designation. The detailed procedure for the withdrawal of lands from County Forest Law can be found in the DNR Public Forest Lands Handbook. A reference to the Handbook can be found in the Appendix.

455 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, establishing ownership boundaries and aiding in the proper transfer of property.

455.1 LEGAL SURVEYING

County Forest boundaries and property lines in common with other owners are of prime importance. Whenever practical and feasible, all such surveying shall be under the supervision of a registered surveyor.

When the office of the County Surveyor is not staffed, the Committee may 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 a registered land surveyor.

455.2 LOCATION OF LINES BY OTHER THAN LEGAL SURVEY

Department personnel, who are not registered surveyors, may, with all possible prudence, establish boundary lines for forest management purposes including those necessary for ordinary management activities such as timber sale establishment and road/trail locations using available equipment including, but not limited to, air photos, GPS units, GIS software, quadrangles, County Surveyor's records and known corner monumentation.

In the absence of known corners, boundary lines abutting other ownerships may be established by mutual agreement to avert trespass claims. At a minimum, the adjoining landowner(s) of the management boundary should be notified, in writing, of the actions taken by the Department to establish the boundary line(s). This documentation should be retained in the timber sale file, or similar file, to maintain a history of the action and correspondence.

455.3 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 Department 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 a reasonable search fails to uncover survey evidence in the suspected vicinity, conduct an additional search if deemed necessary.
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 the Administrator 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.

460 TERMS OF LAND SALE OR TRADE

All sale or trading of County Forest lands shall be subject to terms established between the Committee and the party which will receive land from the County. The Committee will make a recommendation to the Board on the sale or trade of all County owned lands. All County owned lands enrolled in County Forest Law would be subject to withdrawal from the Law, as outlined above, before a sale or trade could occur.

460.1 VALUES AND ACREAGE OF LAND SALE/TRADES

All proposals being considered for land sale and/or trade will be compiled by the Administrator and presented to the Committee on a case by case basis. All proposals will be considered based on the value and/or benefits each would bring to the County, as per the directives outlined throughout this Plan, under the provisions of s. 28.11 Wis. Stats. In general, a fair market value will be determined, by the Administrator or, if directed by the Committee, a certified independent land appraiser, for each parcel being considered in a potential transaction. At minimum, the County must receive equal value for any land trade or fair market value for any land sale.

The County has the flexibility to further negotiate terms and conditions of land sales, trades or transfers to other municipalities, governmental agencies, non-profits or similar entities, when such transactions are deemed to be in the best interest of the public, as determined by the County. The County may waive or significantly reduce the minimum value or compensation required as part of the transaction if, when owned and developed by another agency or non-profit, the public use of said property would be higher and/or better than as part of the County Forest, as determined by the County and DNR. If said property is enrolled in County Forest Law, the transaction would still require withdrawal from the Law, and be subject to a final determination by the DNR.

In addition, the current and/or future value of merchantable timber, located on the County owned parcels being considered, must be addressed when determining a fair market price for all County owned parcels being evaluated for sale and/or trade.

All proposals will be presented by the Administrator to the Committee for review and potential action.

460.2 ASSOCIATED COST

All costs such as appraisals, legal surveys, abstracts, title insurance, transfer fees, recording fees, notices, etc. shall be borne by the Party initiating the land transaction, unless otherwise negotiated during the process. The application for withdrawal from County Forest Law shall clearly state the person or entity responsible for such costs.

460.3 PUBLIC HUNTING AND FISHING RIGHTS

The public right of ingress and egress for the purpose of hunting, fishing or other recreational uses shall be considered whenever County owned lands are sold or traded. If considered important, as determined by the Committee and/or Board, the retention of specific public use rights shall be included on the deed to the land.

Exceptions may be made to this policy only in cases of mutual benefit, or for reasons of public health, safety, or welfare. Any proposed exceptions may be opened to public comment at the public meeting required for land sale/trade proposals and may be specifically approved by the Board as part of the resolution to sell or trade the land.

460.4 MINERAL RIGHTS

The County may consider the retention of mineral rights on all lands sold or traded and will not accept lands in trade unless accompanied by all rights of ownership, including mineral rights. Exceptions will be allowed only in unusual circumstances, upon explicit approval of the Board following a recommendation by the Committee.

460.5 DEED RESTRICTIONS

All land sales and trades may be accompanied by a deed restriction, approved by the Committee and Board, which identifies the specific uses, reservations, and other conditions attached to the lands being released from public ownership. The restriction may also include a reversionary clause whereby ownership of the land shall revert, without compensation, to the County if terms of the restriction(s) or stipulation(s) are not observed.

The County may also wish to obtain a deed restriction for first right of refusal, if the property is ever re-sold.

460.6 LAND ACQUISITION ACCOUNT

All monetary proceeds from the sale of lands previously enrolled in County Forest Law must be deposited in a non-lapsing account of the General Fund, generally known as the County Forest Land Acquisition Account.

The account shall be used only for the acquisition of other lands, generally located within the Blocking, for addition to the County Forest. All such lands will be entered into County Forest Law, and managed as part of the County Forest, under the provisions of s. 28.11 Wis. Stats.

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:

- A. 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 Administrator will consult with DNR's County Forest & Public Lands Specialist on these cases.

- B. 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 considerations. 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 can be considered and, if so, shall be negotiated for the shortest possible period of time and in no case shall they exceed ninety-nine (99) years.
- C. 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 (or access) permits are generally written for a period of ten (10) years, but also expire when the land changes ownership. 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. See Chapter 500 and the Appendix for more information on access permits.

- D. 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, long term recreational use, 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, as determined by the County, to protect the interests of the public.

- A. Location, by legal description.
- B. Permitted uses under the conveyance.
- C. Fee for the use of the land, if applicable.
- D. Expiration date.
- E. Right of the County to cancel or suspend the conveyed rights with cause.
- F. Requirement for restitution to return the land to an original condition upon expiration or cancellation of the conveyance.
- G. Requirements for liability insurance or similar insurance.

465.2 PROCEDURES FOR PROPERTY RIGHTS CONVEYANCE

Proposals to use County Forest lands for private purposes, without purchasing the land, may be considered depending on the nature of the proposal and its consistency with the purpose of the County Forest. The following steps are required to consider property rights conveyance to a second party:

1. All proposals must be submitted to the Department, via the Administrator, in writing, in a format deemed appropriate by the Committee.
2. If the proposal can be addressed through a permit or agreement as defined in Section 465, then a summary of the request shall be presented, by the Administrator and/or the Party making the request, at a regular meeting of the Committee. If necessary, the Committee shall also consult with the DNR Liaison on the matter. The Committee may then approve, deny, or modify the proposal.

3. In general, leases, as defined in Section 465, will not be considered by the Committee, unless there is a clear and distinct public advantage or benefit for the County to do so, as solely determined by the County.

470 TAX DEED LAND

Occasionally tax delinquent lands revert to the County. The lands may lie within the Blocking and may be added to the County Forest, as determined by the County. In general, the following procedures shall be observed:

1. All tax delinquent lands are initially reviewed and compiled by the Bayfield County Land Records Department.
2. The list of tax delinquent lands is shared, by Land Records, with the Administrator. The Administrator reviews all lands for potential addition to the County Forest, as well as other interests deemed relevant by the Department i.e. protection of an existing recreational trail or potential option to manage timber prior to the sale of land.
3. If the parcel has potential for addition to the County Forest or if another County interest should be addressed (i.e. an easement on a motorized recreational trail), the Administrator notifies the Land Records Department and the parcel(s) are removed from the list of land sales pending further review.
4. The Administrator advises the County Administrator, as well as the Committee, which parcels are best suited for entry into County Forest Law and/or if other County interests should be addressed.
5. If the proposal for retention is approved, the Administrator, as directed by the Committee, shall apply to the DNR to enter the land(s) under County Forest Law.