

Topic: Alternative Dispute Resolution
Resource Type: Regulations
State: Wisconsin
Jurisdiction Type: Municipal
Municipality: County of Winnebago
Year (adopted, written, etc.): 2010
Community Type – applicable to: Urban; Suburban; Rural
Title: County of Winnebago Comprehensive Plan:
Dispute Resolution
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Abstract

The Memorandum of Understanding in the Winnebago Comprehensive Plan provides a dispute resolution process in the event inconsistencies arise between a town comprehensive plan and the County comprehensive plan. Participation in the mediation is voluntary and the resolution is decided by the parties. Information is to be held confidential and sessions will be private to the extent authorized by law. The process is paid for by the County and the respective town.

Resource

CHAPTER 22

ORDINANCE TO ENACT WINNEBAGO COUNTY COMPREHENSIVE PLAN

EXHIBIT “2”

MEMORANDUM OF UNDERSTANDING REGARDING AMENDMENTS TO TOWN
COMPREHENSIVE PLANS AFTER JANUARY 1, 2010

This Memorandum of Understanding (“MOU”), as dated below, is entered into among Winnebago County (“County”) and the various Winnebago County towns that have signed this MOU, below (respectively either “Town” or “Towns”) (together the “Parties”).

Recitals

A. Pursuant to Wis. Stat. Sec. 66.1001, beginning on January 1, 2010, various planning, housing and transportation issues must be consistent with a local governmental unit’s comprehensive plan.

B. Both the County and the towns have already adopted or will be adopting comprehensive plans pursuant to the requirements of Wis. Stat. Sec. 66.1001, which is sometimes referred to as the Smart Growth Law.

C. The purpose of this MOU is to define the procedures the Parties will follow when either a Town or the County seeks approval for an amendment of its comprehensive plan.

D. The Parties acknowledge that, except as otherwise stated herein, this MOU will take effect on January 1, 2010 unless the Smart Growth Law is substantially amended or rescinded either prior to or after January 1, 2010, in which case it is null and void.

NOW, THEREFORE, in consideration of the mutual promises of the Parties, the receipt and sufficiency of which is mutually acknowledged, and pursuant to Wis. Stat. Sec. 66.0301 and 66.1001 and other applicable provisions of the Wisconsin Statutes, the Parties hereby agree as follows:

1. Interim Procedures.

Between the effective date of this Memorandum of Understanding through December 31, 2009, Winnebago County shall review Town Comprehensive Plans for approval without applying those standards contained in the Winnebago County Comprehensive Plan, specifically as set forth in the Winnebago County Land Use Policy framework. The County shall incorporate any legally adopted initial land use plan of a town into the County's initial comprehensive plan pursuant to Chapter 22, Winnebago County General Code, during this period of time.

2. Smart Growth Principles.

Commencing January 1, 2010, the Parties agree that the Smart Growth Law shall be implemented and administered consistent with the following guiding principles:

(a) That neither the County nor the Town exceed any legal authority to the other party pursuant to this Agreement.

(b) That the parties recognize the validity of any legally adopted plans of any legally incorporated municipality within the County.

(c) That the parties recognize the need for a "bottom-up" approach to planning in that such approach contributes to the ultimate success of the County's comprehensive plan.

(d) The County and the Towns will attempt to administer the Smart Growth Law under broad, mutually accepted policies. The County shall give substantial weight to the discretion of a Town in relationship to those matters affecting that specific Town.

(e) The comprehensive plans adopted by the Towns and the comprehensive plan adopted by the County should attempt to compliment and support one another. To the extent that these plans are inconsistent, a joint effort shall be made to resolve any points of dispute.

(f) Each Town must have updated land use map with a 20-year projection, in 10-year increments, together with a current zoning map.

(g) The County's comprehensive plan will provide a framework that allows the Towns to effectively implement the requirements identified in their respective local comprehensive plans, for matters not subject to County or City jurisdiction.

(h) The County's comprehensive plan will automatically apply to any town that has not adopted a comprehensive plan of its own by December 31, 2009. In the alternative, if a Town has chosen not to develop a comprehensive plan, the Town may request that the County develop a comprehensive plan for that Town, at the Town's expense.

3. Dispute Resolution.

The Towns and the County, to the extent permitted by law, may amend their respective comprehensive plan subsequent to January 1, 2010. To the extent there is an inconsistency between a Town's comprehensive plan and the County's comprehensive plan, the relevant party shall apply the Guiding Principles using the following dispute resolution protocol in order to reconcile the differences:

(a) If the dispute cannot be resolved by the personnel directly involved, the dispute may be submitted to mediation upon the formal consent of each party by written notice provided by the designated representative of each party.

(b) Within five (5) days of the last party consenting to mediation, the designated representative of each party shall select a mediator. If the parties cannot agree on a qualified mediator, a qualified mediator will be appointed by the Wisconsin Department of Administration – Division of Intergovernmental Relations/Municipal Boundary Review. If the preceding office no longer exists on that relevant date, the mediator will be appointed by the chairperson of the Alternative Dispute Resolution Committee of the State Bar of Wisconsin, or if the chairperson fails to appoint a mediator, by the American Arbitration Association.

(c) The mediation session shall take place within 30 days of the appointment of a mediator.

(d) If a mediator is used, each party will provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved at least 10 days prior to the first scheduled mediation session. The parties will also produce all information reasonably required for the mediator to understand the issues presented. The mediator may require either party to supplement such information.

(e) The mediator shall not have the authority to impose a settlement upon the parties but shall attempt to help the parties reach a satisfactory resolution of their dispute. To the extent authorized by law, the mediation sessions shall be private. The parties shall maintain the confidentiality of the mediation and shall not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding, views expressed or suggestions made by other parties with respect to a possible settlement of the dispute, or admissions made by the other party in the course of the mediation proceedings.

(f) The expenses of a mediator, if any, shall be borne equally by the County and the relevant Town.