

COUNTY FOREST COMPREHENSIVE LAND USE PLAN
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1 **400 COUNTY FOREST BLOCKING**

2 OBJECTIVES

- 3 1. To provide for the most efficient administration of the forest by consolidating and blocking lands
- 4 within established County Forest boundaries through purchase, donation, or trade as provided in
- 5 s.28.11 (3) (c), Wis. Stats. and to enter lands so acquired as county forest, pursuant to s. 28.11
- 6 (4) (b), Wis. Stats.
- 7
- 8 2. To provide additional public benefits through the acquisition of unique or special areas that will
- 9 be entered under s.28.11 (4) (c) Wis. Stats. Special use classification.
- 10
- 11 3. To facilitate adequate land control on the County Forest by undertaking establishment and
- 12 perpetuation of survey corners.
- 13

14 **405 COUNTY FOREST BOUNDARY**

15 The County Forest boundaries are established by the Forest and Parks Committee and by
16 subsequent approval of the Chippewa County Board. A map of the official boundary is found in
17 Chapter 900.

18 **410 LAND ACQUISITION**

19 Lands within or adjacent to the County Forest or areas possessing special or unique values to the
20 County and State of Wisconsin may be recommended to the County Board for acquisition when
21 recommended by the County Forest and Parks Administrator with support of the Forest and Parks
22 Committee.

23 410.1 METHODS OF ACQUISITION

24 Acquisition may be by purchase or trade, based on competent appraisal of the value or values
25 involved, or by gift, bequest, or action to foreclose tax liens. The Forest and Parks
26 Administrator will be the agent of the Forest and Parks Committee in making first contact with
27 potential sellers and in pursuing acquisition activities. However, options for purchase must
28 have the approval of the Forest and Parks Committee.

29 410.2 FINANCING

30 Financing of land acquisition within the forest boundaries, or special use lands outside, will
31 come from the County Forest Land Acquisition account or through the Quality of Life Fund.
32 The Quality of Life Fund is funded through the Sales Tax Property Tax Relief fund, account
33 number 237-50-57770-300, and is under the authority of the Forest and Parks Committee to
34 acquire land that consolidates county ownership within the county forest blocking boundary
35 and for acquisition of lands that have high value for public recreation or high aesthetic value.
36 See Resolution No. 77-98 in Chapter 900 for more information. If funds are not available in
37 the land acquisition account or the Quality of Life Fund, advance budgeting will be sought.
38 State Forestry Aid Loans (Chapter 215.2.1(a)) may also be used for acquisition of lands to be
39 entered as County Forest. County Forest project loans (Chapter 215.2.1(b)) may also be
40 used for acquisition of lands to be entered as County Forest. Application for project loans will
41 comply with NR.47.60, Wis. Adm. Code.

42 410.3 PRIORITY OF ACQUISITION

43 The Forest and Parks Committee developed priority ranking guidelines for use when two or
44 more parcels are being considered for acquisition at the same time. These criteria are only a
45 guide for the Forest and Parks Committee when considering parcels for purchase.

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- 47 1. Bordering water, including the Chippewa River, its tributaries, and lakes within, or
- 48 bordering the County Forest boundary.
- 49 2. The land gives access to County Forest or County Park Land.
- 50 3. The land lies within, or borders the County Forest boundary.
- 51 4. The land has unique, exceptional, or natural features and value.
- 52 5. The land is completely surrounded by County Park and Forest Land.

- 53 6. Acquisition of the land would enhance potential recreational value.
- 54 7. Acquisition of the land would help control development in other areas.
- 55 8. The acquisition includes trade, bargain sale, donation, or tax delinquent land.
- 56 9. The land qualifies for cost sharing funds.
- 57

58 **415 ENTRY OF LANDS**

59 Lands to be entered under the regular classification of the County Forest Law must be suitable for
60 forestry purposes and be within or adjacent to the County Forest boundary. If a parcel outside the
61 boundary is acquired, the boundary should then be modified to include the parcel. Lands designated
62 for classification as County Forest-Special Use need not be contained within the county forest
63 boundary nor suitable or utilized for forestry purposes, but they must be suitable for scenic, outdoor
64 recreation, public hunting and fishing, water conservation or other multiple-use purposes.

65 **415.1 TIME OF ENTRY**

66 Application for entry of newly acquired lands under the County Forest Law will be made as
67 soon as possible. Applications for entry will be prepared with the assistance of the DNR
68 Liaison. The Forest and Parks Administrator will secure the signatures of the proper county
69 officials, and the county clerk will then verify county ownership and transmit the application to
70 the DNR, Box 7921, Madison, WI, 53707-7921, to the attention of, "County Forest Specialist."
71

72 **420 WITHDRAWAL OF LANDS FROM COUNTY FOREST LAW**

73 Lands within the County Forest boundary will not normally be considered for withdrawal from the
74 County Forest Law. Due to the County Forest Law nature and purpose as a permanent program of
75 county forests, the Forest and Parks Committee will discourage purchase of county land by private
76 parties within the County Forest boundary. If in the opinion of the Forest and Parks Committee and
77 County Board, the land will be put to a higher and better use and will benefit public to a greater extent,
78 the withdrawal procedure in section 420.2 will be employed. The Public Lands Handbook also
79 contains details on the application procedures for withdrawal. The legal means by which counties
80 apply for withdrawal of lands from County Forest status is in s.28.11, Wis. Stats. The Forest and
81 Parks Administrator notifies the DNR liaison of the Forest and Parks Committee meeting at which the
82 proposed withdrawal will be considered. At that meeting DNR personnel and the County discuss the
83 proposed withdrawal and, if approved by the Forest and Parks Committee, the withdrawal will be
84 recommended by resolution to the County Board. If the Board approves by the necessary two-thirds
85 majority vote, the application is prepared by the County and submitted to the DNR regional forester or
86 designee. The DNR may ask for additional information from the County and will issue the public
87 notice, proceeding with needed environmental studies. Pending results of the environmental studies
88 and investigatory hearings deemed necessary, the DNR will act on the withdrawal application. If the
89 application is denied, the county may appeal (s.28.11 (11) (a), Wis. Stats).

90 **420.1 COUNTY OWNED LANDS OUTSIDE THE BOUNDARY**

91 County owned lands under the management authority of the Forest and Parks Committee,
92 and outside the boundary might eventually be sold or exchanged as part of the effort to
93 consolidate the ownership within the boundary. The County may retain certain rights to these
94 lands in accord with County policy upon transfer of ownership. The proceeds of such a land
95 sale will be deposited in a non-lapsing Land Acquisition Account for the sole purpose of
96 funding future County Forest Law land purchases within the County Forest block.

97 **420.2 WITHDRAWAL PROCEDURE**

98 This procedure provides general information in formulating and processing applications for
99 withdrawal of County Forest Lands under s.28.11 Wis. Stats. and Chapter NR 48, Wis.
100 Adm.Code. The legal means by which counties may apply for withdrawal of County Forests
101 lands is in s.28.11 (11) (a) Wis. Stats. This section states: "The County Board shall first refer
102 the resolution to the Forest and Parks Committee which shall consult with an authorized
103 representative of the Department in formulating its withdrawal proposal." S. 28.11(11)(a) Wis.
104 Stats. State: "The County Board shall not take final action thereon until 90 days after such
105 referral or until the report thereon of the Forest Committee has been filed with the board."

106 If the county board takes final action on a withdrawal application without referring it to the
107 Forest and Parks Committee, the application is not valid. If the Forest and Parks Committee
108 fails to report to the County Board within 90 days after receipt of the referral, the board may
109 act upon the application without a Committee recommendation.
110

111 The regional forestry leader is the designated authorized DNR representative who shall
112 consult with the Forest and Parks Committee in formulating withdrawal proposals. The
113 regional forestry leader may appoint designees to represent them if circumstances warrant.
114 All DNR communications concerning County Forest withdrawals shall be coordinated through
115 the regional forestry leader or designee. Final decision for requests for withdrawal rests with
116 DNR's Division of Forestry.
117

118 **Forest and Parks Administrator**

119 Notifies DNR liaison forester of the date and place of the Forest and Parks Committee
120 meeting at which the proposed withdrawal will be considered. Such notice shall include
121 pertinent details of the withdrawal proposal including legal description of the lands involved
122 and purpose of the withdrawal. The liaison forester shall review Ch.NR 48 with the Forest and
123 Parks Administrator to ensure all the required information is identified for the application.
124

125 NOTE: In the event a withdrawal exchange is involved, it is important the County postpones
126 final financial negotiations with the owner of the land involved in the exchange until the
127 Department has established the minimum values of the land as required in s.28.11 (11)(a)
128 Wis. Stats. To protect the County interest, the necessary preliminary negotiations should also
129 be made conditional upon approval of the withdrawal by both the County Board and DNR as
130 provided by statutes.
131

132 **DNR Liaison Forester**

- 133 a. Advises their supervisor and regional forestry leader immediately of the proposed
134 withdrawal and Forest and Parks Committee meeting date.
135 b. Takes action necessary to be acquainted with the proposal.
136 c. Consults with the Public Lands/County Forest Specialist, Bureau of Forest Management
137 concerning the proposed withdrawal.
138 d. Attends Forest and Parks Committee meeting and consults with the Committee on
139 proposed withdrawal.
140

141 **Forest and Parks Committee**

142 A Forest and Parks Committee meeting is held to evaluate the proposal and to consult with
143 DNR regional forestry leader or designee and either:

- 144 a. Undertakes further study of the proposal; or
145 b. Rejects applicants request for withdrawal, or
146 c. Prepares resolution for County Board action recommending approval or disapproval of
147 application.
148

149 **County Board of Supervisors**

150 Upon receipt of the recommendation of the Forest and Parks Committee, or 90 days after
151 referral to the Committee, whichever is first, acts on resolution to approve, disapprove or
152 modify the withdrawal application, or refer it back to the Forest and Parks Committee.

153 If approval for withdrawal given by two-thirds vote, authorizes and directs county clerk and
154 Forest and Parks Administrator to prepare and submit the County Forest Withdrawal
155 Application (Form 2453-3) for withdrawal to appropriate Department regional forestry
156 leader.
157

158 **Regional Forestry Leader (or designee)**

159 Upon receipt of County Forest Withdrawal application (Form 2453-3), acknowledges receipt of
160

161 the application to the county clerk with copies to the Department liaison forester, Forest and
162 Parks Committee, Forest and Parks Administrator, the liaison forester's supervisor and
163 Bureau of Forest Management in Central Office. Requests additional information from the
164 County to provide adequate detail for the Department's processing of the application. This
165 request must be sent to the County within 60 days as identified in NR 48.03(2), Wis. Adm.
166 Code.

167
168 Consults with Public Lands/County Forest Specialist regarding specifics of the proposal.
169

170 Directs DNR liaison forester to contact the regional environmental impact coordinator to
171 determine if an environmental assessment (EA) or environmental impact statement (EIS) is
172 required under M.C. 1606.1 or if an Environmental Impact Report should be requested from
173 the county. If required, prepares environmental documents. If an EIS is required, notifies the
174 Bureau of Integrated Science Services to proceed in accordance with M.C. 1610.1
175

176 Coordinates public notice and certifies environmental proposal is in compliance with
177 Wisconsin Environmental Policy Act (WEPA)
178

179 Transmits one copy of County application, approved EA/EIS, if required, and the regional
180 recommendation to the Public Lands/County Forest Specialist, Bureau of Forest
181 Management, Division of Forestry.
182

183 **Division of Forestry**

184 **Public Hearings**

- 185 a. Coordinates with Bureau of Legal Services for scheduling of public hearing(s) if
186 requested in writing by the County OR determined by the Department to be necessary
187 or required by the WEPA procedure. Hearings are not a requirement for all withdrawals.
188 b. Coordinates an EIS with the Bureau of Integrated Science Services if required.
189 c. Format of the Public Hearing is dependent on which agency requests the Hearing:

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191 If the County requests the Hearing (must be a written request), the Hearing is
192 considered a "Contested Case" as defined in s. 227.01(3), Wis. Stats. The Hearing
193 procedures and format are in by subch. III, ch. 227, Wisc. Stats. and ch. NR 2, Wis.
194 Adm. Code. An Administrative Law Judge will be appointed, and upon hearing
195 completion, the Administrative Law Judge normally makes and issues a decision
196 approving or rejecting the withdrawal application.
197

198 If the Department of Natural Resources conducts an "Investigatory" Hearing, the
199 format is less formal and normally facilitated by a DNR employee. After an
200 Investigatory Hearing (or if no hearing requested), the following procedure applies.
201

202 If an investigatory hearing is held on the withdrawal application which is a contested case:
203

204 **Administrative Law Judge**

- 205 a. Upon completion of public hearing, normally makes and issues a decision approving
206 or rejecting the withdrawal application.
207

208 If an investigatory hearing is held on the withdrawal application which is not a contested case:
209 OR

210 If a hearing is not held on the withdrawal application:
211

212 **Regional Forestry Leader (or designee)**

213 Prepares a "DRAFT" decision including Findings of Fact, Conclusions of Law and Order and
214 Notification of Appeal Rights, and sends draft to the Public Lands/County Forest Specialist.
215 The draft shall, at the minimum, cover the items identified in NR 48.04, Wis. Adm. Code. (Note:
216 *This draft is NOT a public record. It may not be released to the public upon request.*)
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Division of Forestry

Reviews and modifies draft documents. Upon completion of Department investigation of the withdrawal application, prepares a final draft decision (Finds of Fact, Conclusions of Law and Order and Notification of Appeal Rights) for the Administrator, Division of Forestry.

Administrator, Division of Forestry

Section 28.11(11)2. Wis. Stats. provides the county the right to appeal withdrawal applications that are denied either by the DNR or an Administrative Law Judge. The appeal process is pursuant to s.28.11 (11) (a), Wis. Statutes.

If a withdrawal decision is appealed to the review committee by a county pursuant to s.28.11 (11) (a), Wis. Stats.

Division of Forestry

Keeps the Division Administrator's and Secretary's Office informed of all developments in the appeal process.

425 LAND SURVEYING

The importance of survey corner monumentation is recognized to avoid the problems of trespass both by and against the County, facilitating the settlement of cases, and aiding in the transfer of property.

425.1 LEGAL SURVEYING

Of prime importance are the boundaries and property lines in common with other owners. All surveying shall be under the supervision of a registered surveyor. When the county surveyor office is vacant, or on larger projects where the county surveyor may not have the resources to do the survey, the Forest and Parks Committee will recommend the hiring of a registered surveyor to survey property lines. Contracted surveys will be done in compliance with Chapter 59, Wisconsin Statutes. Section corners, one-quarter corners and forty corners (1/16 corners) will be reestablished as needed and Certified Land Corner Restoration forms filled out in duplicate, under registered land surveyor direction.

425.2 LOCATION OF LINES BY OTHER THAN LEGAL SURVEY

Forestry personnel who are not registered surveyors may establish lines for forest management purposes including timber sales & road/trail locations using equipment including, but not limited to: hand compasses, global positioning system units, measuring tapes, air photos, quadrangles, county surveyor's records, and known corners. In the absence of known corners, lines abutting other ownership may be established by mutual agreement to avert trespass claims.

425.3 MONUMENT PRESERVATION OF LANDMARKS, MONUMENTS AND CORNER POSTS

S. 59.74, WI 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 DNR.

All personnel with land management responsibilities are directed to:

1. Make a reasonable search for surveying evidence prior to implementing any soil moving or cover type manipulation that may result in covering, destruction or removal of evidence.

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2. In the event such evidence is found:
 - a. If practical, redesign the project so that the evidence will not be disturbed.
 - b. If destruction is unavoidable, notify the county surveyor at least 30 days prior, giving the legal description of the monument and the reason for destruction. If the county surveyor does not re-reference the evidence within 30 days notice, the project supervisor will determine if the evidence has future value and, if it does, will arrange for a re-reference by a registered surveyor or engineer.
 3. If reasonable search fails to uncover survey evidence in the suspected vicinity, conduct an additional search if he / she sees fit.
 4. In order to further reduce the possibility of inadvertent destruction of invaluable survey evidence:
 - a. The liaison forester should discuss with the Forest and Parks 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 during field operations will be brought to the county surveyor's attention.
 - d. The County Surveyor will place near all section corners and quarter corners in the County Forest a yellow sign stating "Up to \$1,000 Fine For Disturbing Nearby Survey Marker – For Information Consult County Surveyor at Courthouse. These signs shall be placed to prevent disturbance of corners and assist in corner identification.

294 425.4 LOCATION OF FENCE LINE BOUNDARIES

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When requests are sent to the County for the construction of or rebuilding of a legal fence between the County and an adjoining landowner along a common boundary in accordance with s. 90.035 Wis. Stat., and the common boundary has not been surveyed, the following criteria will be applied by the County concerning placement of the fence:

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1. If sufficient funds are available at the time of the request and other survey needs of higher priority do not exist, the boundary line between the County and adjacent landowner shall be surveyed with the fence erected on the correct boundary location.
 2. When funds are not available to survey the boundary line, the fence will be erected as close to the correct boundary as can be reasonably determined using old fences, aerial photographs, GPS equipment, existing lines and corners, etc. for reference. A fence agreement will be signed prior to construction of the fence by the affected landowner and Forest and Parks Administrator (acting as the County representative). Such an agreement shall provide therein that the fence, as erected and maintained, may not be on the legal property line of the parties and no claim of title to the property will be asserted by reason of the fence location by either party.