

## 12.0 IMPLEMENTATION

### 12.1 INTRODUCTION

The preceding plan chapters outline recommendations that identify various work initiatives needed to implement the plan. The implementation element of the Bayfield County Land Use Plan is designed to provide a detailed summary of those implementation tools, along with strategies for plan maintenance and revision.

It should be recognized that the **Bayfield County Zoning Ordinance** will be the primary implementation tool used to achieve the plan's goals and objectives. The ordinance map and supporting text provide clear standards on what type of development can occur, and where. The County should review the existing zoning map with the adopted goals and objectives included in this Plan to identify and reconcile areas of discrepancy. County ordinances should be updated to be consistent with the land use plan.

### 12.2 COUNTY PLAN MAINTENANCE

Following final plan adoption, the Bayfield County Land Use Plan Steering Committee will no longer be responsible for plan development and oversight. A permanent standing committee such as the Bayfield County Zoning Committee should be responsible for continued plan maintenance and periodic update, as outlined in the plan timeline.

### 12.3 LOCAL LAND USE PLANS

The individual community land use plans are a fundamental part of the county planning program. These local plans will define actions needed to achieve the goals, objectives, and recommendations of this plan at a more local level. Implementation of the county land use plan should be coordinated with the development of local land use plans and embrace the concepts, goals, objectives, and policies of local plans upon their adoption. To accomplish this, periodic review and revision of the county plan will be necessary to incorporate local desires. This process should include:

- ▶ Review and incorporation of proposed local land use maps (map update)
- ▶ Review and incorporation of local goals and objectives
- ▶ Plan text revision (as needed)

Land within the boundaries of the Red Cliff Reservation is subject to the rules and laws of the Red Cliff Band of Lake Superior Chippewa Indians. The Tribal Land Use Ordinance is the principal tool for implementation.

## 12.4 INTERGOVERNMENTAL COORDINATION

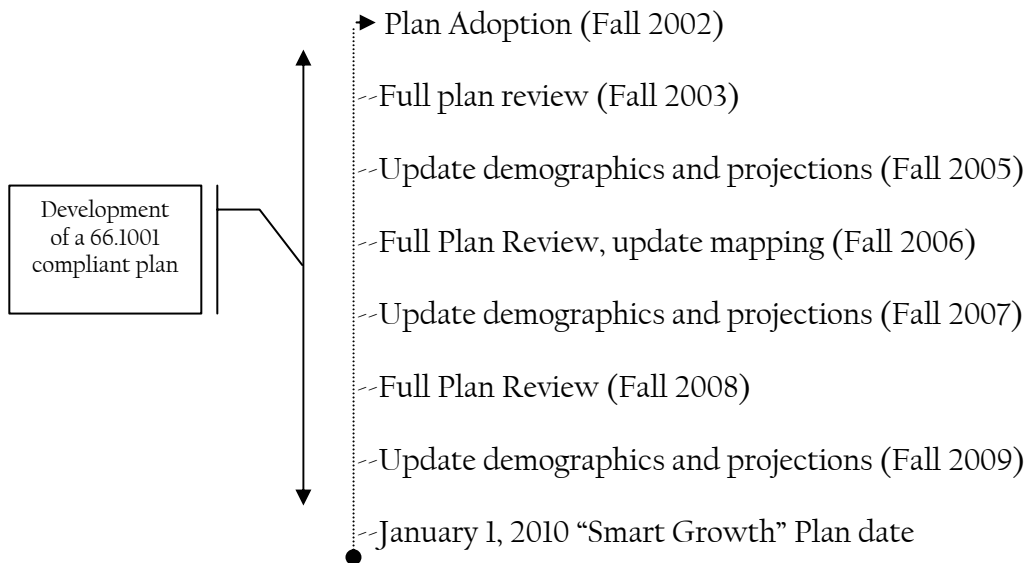
Cooperation and coordination between Bayfield County and the local units of government is essential in order to ensure that development within one community does not have negative ramifications for a neighboring community.

The land use decision-making process will include coordination with all effected jurisdictions. Bayfield County's proposed future land uses have been defined by existing plans of local governmental units, and any future revision and update of plan mapping and text will involve consultation and coordination of both the county and local government.

In the future, the county may wish to devise a formalized intergovernmental coordination program which maximizes efficiency in providing services and facilities, reduces duplication of effort, solves common problems, and coordinates development activities.

## 12.5 PLAN TIMELINE

The Bayfield County Land Use Plan is a dynamic, evolving document. It is important the document remains current, and the ideas and concepts are consistent with contemporary values and knowledge. It should be noted that facts and figures contained within the plan might change rapidly due to unforeseen social, economic, or environmental conditions. In order to base community decisions on the contents of this document, it is of the utmost importance that the data within it be current and applicable. In order to accomplish this, the following plan updates and revisions are recommended:



As of January 1, 2010, Bayfield County will be required to base land use decisions on the contents of a comprehensive plan which meets the "Smart Growth" requirements outlined in 66.1001 of the Wisconsin State Statutes. Under this legislation, the required content of a comprehensive plan includes the development of nine planning elements along with various information and data within each element.

## 66.1001 Comprehensive Planning Elements

- ▶ Issues and opportunities element
- ▶ Housing element
- ▶ Transportation element
- ▶ Utilities and community facilities element
- ▶ Agricultural, cultural and natural resources element
- ▶ Economic development element
- ▶ Intergovernmental cooperation element
- ▶ Land use element
- ▶ Implementation element.

The framework of the Bayfield County Land Use Plan is such that conversion to a 66.1001 compliant document is feasible without substantial revision of existing data, although the statutes require a more detailed examination of the information contained in the existing plan. It is recommended that the existing land use plan be utilized and maintained while development of a 66.1001 compliant document is underway.

## 12.6 IMPLEMENTATION PROGRAMS

The recommendations found in the Bayfield County Land Use Plan represent the suggested actions for the county to achieve the goals established by the Bayfield County Land Use Planning Steering Committee. Additionally, it must be stressed that the techniques found in this final implementation element are advisory only.

This land use plan **does not** have the force of law. The key functions of the plan are to serve as an inventory of the county's resources; to chart the changes that have taken place in the county in terms of land use, residential, and commercial development over the past 20 years; and to provide projections and trend indicators on the coming 20 years. Finally, the plan serves as an advisory document on which the county government can base its land use decisions in the future

### 12.6(a) Purchase of Development Rights Program (PDR)

This technique is currently in use in some southern counties of Wisconsin and elsewhere in the United States and has proven to be effective for preserving farmland in areas adjacent to cities. The purchase of development rights is a *voluntary* protection technique that compensates the landowner for limiting future development on their land. The programs are primarily used for retention of agricultural lands but the concept can be applied to all types of land use scenarios. Under a PDR program, an entity such as a town, county, or private conservation organization purchases the development rights to a designated piece of property. The land remains in private ownership and the landowner retains all the other rights and responsibilities associated with the property.

## 12.6(b) Transfer of Development Rights (TDR) Program

The TDR program is a non-regulatory (voluntary) approach that allows the right to develop property to be transferred from one parcel (or zoning district) to another. Under a TDR program, development rights to parcel of land are transferred from a “sending area” to another parcel referred to as the “receiving area”. Sending areas are typically those areas where development is discouraged or limited, and receiving areas are areas where growth and development are encouraged. Under some TDR programs, local government awards development rights to each parcel of developable land in the community or in selected districts on the basis of the land's acreage or value. Landowners can then sell the development rights on the open market. The TDR or PDR tools could be considered as possible programs to preserve some of the remaining Bayfield County lakeshore from development. The TDR program has been widely implemented at the local level due to the fact that it requires no major financial contribution by local government.

Benefits of the TDR program include:

- ▶ The public benefits from the conservation easements, which protect and preserve sensitive natural features and wildlife habitat.
- ▶ Owners of sending area properties receive economic compensation for their properties where development would normally be precluded due to sensitive natural features or zoning restrictions.
- ▶ Owners of receiving area properties can increase their development density, accommodating a greater number of uses or tenants.
- ▶ Little financial contribution on behalf of local government.

## 12.6(c) Acquisition

This type of land preservation tool involves the direct purchase of land for the purposes of preservation and protection. This tool should be used in cases where other protective mechanisms fail to meet objectives, and/or in cases of high-priority acquisition lands. Acquisition efforts should be coordinated with other local, state, and national acquisition initiatives (lake associations, environmental groups, USFS, WDNR, etc.)

## 12.6(d) Conservation Easements

When a landowner sells their development rights, a legal document known as a conservation easement is drafted. The easement restricts the use of the land to agricultural use, open space, or other desired use in perpetuity. A conservation easement permanently limits residential, commercial, or industrial development to protect its natural attributes or agricultural value. The conservation easement becomes a part of the landowner's deed and remains on the deed even if the land is sold or passed through inheritance thereby ensuring the development will not occur on the property.

The conservation easement does not automatically allow public access to the land; the land remains in the hands of the owner, as only the right to develop it has been purchased. All remaining rights of property ownership remain with the landowner including the right to

transfer ownership, swap, deed, or sell the land. A purchase of development rights program works to ensure that incompatible development will not take place; the PDR becomes a part of the deed and keeps the land in its agricultural or natural state in perpetuity. An effective purchase of development rights program requires initial financial support and on-going administration. Additionally, the program requires a county review board to assess the lands of landowners requesting entry of their parcel into the PDR program.

Land Protection Tool	Pro	Con
<p><b>Donated Conservation Easements</b></p>	<p>Permanently protects land from development pressures.</p> <p>Landowners may receive income, estate, and property tax benefits.</p> <p>No or low cost to local unit of government.</p> <p>Land remains in private ownership and on the tax rolls.</p>	<p>Tax incentives may not provide enough compensation for many landowners</p> <p>Little local government control over which areas are protected.</p>
<p><b>Purchase of Development Rights</b></p>	<p>Permanently protects land from development pressures.</p> <p>Landowner is paid to protect their land.</p> <p>Landowners may receive estate and property tax benefits.</p> <p>Local government can target locations effectively.</p> <p>Land remains in private ownership and on the tax roles.</p>	<p>Can be costly for local unit of government.</p>
<p><b>Transfer of Development Rights</b></p>	<p>Permanently protects land from development pressures.</p> <p>Landowner is paid to protect their land.</p> <p>Landowners may receive estate and property tax benefits.</p> <p>Local government can target locations effectively.</p> <p>Low cost to local unit of government.</p> <p>Utilizes free market mechanisms.</p> <p>Land remains in private ownership and on tax roll</p>	<p>Can be complex to manage</p> <p>Receiving area must be willing to accept higher densities.</p>

## 12.6(e) Land Trusts

Land trusts are non-profit voluntary organizations that work with landowners to use a variety of tools to help them protect their land. Such organizations are formed with the purpose of protecting open space, scenic views, wildlife, etc. and they use a variety of techniques to raise money for operating expenses and the acquisition of easements. Land trusts also provide adequate monitoring and stewardship. In the United States, land trusts can hold conservation easements, which means that the organization has the right to enforce the restrictions placed on the land.

## 12.6(f) LESA Farmland Preservation Tool

LESA is an acronym for land evaluation and site assessment tool, a program that assists in the evaluation of land based on its suitability for agricultural use and value for non-farm uses. This system, developed by the Soil Conservation Service in 1981, has been routinely adopted and implemented for use by local government throughout the nation. The system involves a two-part process, the land evaluation component (LE) and site assessment component (SA). The LE portion involves assessment of soil conditions as they relate to the production of food and fiber products. Site assessment typically involves an analysis of the non-soil variables which effect the property's use such as municipal services available, adjacent land uses, development suitability, compatibility with land use plans, and distance from populated areas (expansion areas). A point system is often used in order to quantify the variables of the LE and SA components. Points are assessed based on whether or not the property meets the guidelines of the community and then totaled to achieve a composite score. A threshold score then determines whether or not the property would be an appropriate residential development area or whether the land should remain in agricultural use.

## 12.7 CONSERVATION DESIGN AND OPEN SPACE PROTECTION TECHNIQUES

### 12.7(a) Conservation Design Subdivisions

The conservation design subdivision concept is an alternative development design to the conventional residential subdivision. Conventionally designed subdivisions are typically characterized by land divided into house lots and streets, with minimal (if any) open space. Usually, the remaining open space lands consist of the undevelopable portion of the subdivision (steep slopes, wetlands, floodplain, etc.). The conventional subdivision lacks communal open space, community woodlands, or other open areas where people can meet and interact.

The purpose of a conservation design subdivision is to provide opportunity for development while maintaining open space characteristics, encouraging interaction among residents through site design, and protection of habitat and environmental features. A typical conservation design subdivision contains the same number of lots that would be permitted under a conventional design. The lots are typically smaller than conventional lots and are designed for single-family homes reminiscent of traditional neighborhoods found in small towns throughout America.

The compact design of a conservation subdivision allows for the creation of permanent open space (typically 50 percent or more of the buildable area). This undeveloped land typically serves as community open space land and provides recreational, aesthetic, and social benefits to subdivision residents.

The conservation design subdivision has proven economic, environmental, and social advantages over conventionally designed subdivisions<sup>1</sup> including:

#### *Economic Advantages*

- ▶ Lower infrastructure and design (engineering) costs
- ▶ Attractiveness of lots for home development
- ▶ Reduction in demand for public parklands

#### *Environmental Advantages*

- ▶ Protection of conservation areas and upland buffers (which would normally be developed)
- ▶ Reduced runoff due to less impervious surface cover
- ▶ Improved water filtration due to presence of vegetation and buffers
- ▶ Opportunities for non-conventional septic system design

#### *Social Advantages*

- ▶ Opportunities for interaction among residents (common open space)
- ▶ Pedestrian friendly
- ▶ Greater opportunity for community activities

## **12.7(b) Open Space Zoning**

### *Cluster Design Approach*

Under conventional zoning, a development designation is assigned to every acre of land within a jurisdiction. Typically, there is no land left over for open space/undeveloped land. Compulsory open space zoning could require that the “clustering” technique (outlined under Conservation Design Subdivisions) be used in order to group new homes onto a portion of the development, while preserving the remainder as unbuilt open space. Under this form of development, the same number of homes would be permitted on the site as a conventional design. Decisions on whether or not open space zoning should be obligatory should be based on local desires and requirements. Alternative approaches to mandatory open space zoning include requiring this form of development only in certain designations, or only in situations where specified resources exist (as defined by the local jurisdiction), or to mandate open space zoning in situations where a conventional development plan would remove or degrade more than a specified percentage of the site’s resources.

### *Limited Use Approach*

This designation is designed to preserve and enhance the use of open-space lands as a limited and valuable resource. It is further intended to permit limited but reasonable use of open-space land while protecting the public health, safety and welfare.

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<sup>1</sup> Randall Arendt, *Conservation Design for Subdivisions*, (Island Press, Washington D.C., 1996), pp 3-16.

Using this approach, a new zoning district is created (Open Space Zoning District). Typically, this designation would apply to lands identified by a comprehensive plan as “Open Space Areas” or “Resource Conservation Areas”. Examples of permitted uses may be those activities that enhance or protect environmental resources or recreational activities.



Site A – Undeveloped

Site A -Conventional Subdivision Design

Site A -Conservation Design Subdivision







## 12.8 BEST MANAGEMENT PRACTICES (BMP)

Best management practices describe voluntary procedures and activities aimed at protection of natural resources. The recommendations portion of the plan narrative describes the use of three types of BMP's: shoreland, construction, and forestry.

### 12.8(a) Shoreland BMP's

Shoreland BMP's are a set of specific actions that landowners can take to help protect and preserve water quality. In many cases, this means preserving the natural characteristics of shoreland property.

The shoreland BMP's produced by the University of Minnesota-Extension (UM-EX) provide specific instructions for a large range of property types (e.g. steep slopes, low vegetation, etc.) and issues pertaining to human use of shoreland (e.g. septic systems, gardens, landscaping, etc.). The information for these BMP's has been gathered from many different sources and is very thorough. Wisconsin does not have a specific set of shoreland BMP's, as it relies on forestry and construction BMP's to cover the shoreland area. As more information is gathered on the impact of human activity on shoreland, the BMP's may change accordingly. The shoreland BMP's outlined by UM-EX are meant to apply to all landowners on and near surface waters. It has been discovered that heavy land use by humans on, as well as around, shorelines can promote pollution of the water for human use and disrupt the natural habitation of the area.

The UM-EX Shoreland BMP's contain 20 "Fact Sheets" which provide detailed instruction and diagrams on the topics mentioned above. Some of the Sheets are titled:

- ▶ Maintaining Your Shoreland Septic System
- ▶ Ensuring A Safe Water Supply
- ▶ Limiting Impact of Recreation on Water Quality
- ▶ Stabilizing Your Shoreline To Prevent Erosion
- ▶ Caring For Shoreline Lawns and Gardens
- ▶ Managing Your Shoreline Woodlot
- ▶ Managing Crops and Animals Near Shoreland
- ▶ Conserving Water

For more information regarding shoreland BMP's consult the University of Minnesota Extension, or the Bayfield County Land Conservation Department.

### 12.8(b) Construction BMP's

The soil erosion rate in Wisconsin during construction is 10 to 100 times greater than the rate of erosion from agriculture. This erosion and the resulting sedimentation significantly degrades the quality of Wisconsin's surface waters.

Construction BMP's are a set of measures and practices gathered and organized by the Department of Natural Resources from numerous agencies throughout the country which are used to eliminate or drastically reduce this erosion and sedimentation brought on by construction and development.

In the Wisconsin Construction Site Best Management Practice Handbook, the principals of erosion and sediment control are described, and then the details of seven subjects related to the prevention of erosion are explained. The seven subjects included in the Handbook are:

- ▶ Diverting Flow
- ▶ Managing Overland Flow
- ▶ Trapping Sediment in Channelized Flow
- ▶ Establishing Permanent Drainage Ways
- ▶ Protecting Inlets
- ▶ Trapping Sediment During Site Dewatering
- ▶ Preventing Tracking

Within each of these subjects, there are subsections providing more information on specific types of problems. For example, in the “Diverting Flow” section temporary and permanent diversion are discussed. In the “Managing Overland Flow” section, numerous blockades are discussed including Silt Fences, Straw Bale Fences, Mulching, and Seeding. In “Trapping Sediment in Channelized Flow”, different barriers such as Straw Bale Barrier and Sediment Basin are diagramed and explained. The means to effectively implement each strategy are covered in depth in the handbook and often include diagrams and site-specific directions.

Also included in the handbook are:

- ▶ Sample Erosion Control Plans
- ▶ How to Calculate Runoff
- ▶ Implementation and Enforcement Aids

These three sections are meant to serve as guides that are helpful in the use of all BMP’s outlined in the handbook. For more information regarding forestry BMP’s consult the Wisconsin Department of Natural Resources or the Bayfield County Land Conservation Department.

### 12.8(c) Forestry BMP’s

The goal of forestry BMP’s in Wisconsin is to help loggers, landowners, and land managers be good stewards by protecting water quality during forest management activities. The Wisconsin Department of Natural Resources guide titled “Wisconsin’s Forestry Best Management Practices for Water Quality” outlines in detail the procedures and practices recommended to attain this goal. These practices are voluntary in the sense that they are not legally binding but are strongly recommended by the DNR to ensure clean and safe water in Wisconsin.

There are eight subject headings in the Forestry BMP. Each of them describes in detail actions and practices that pertain to the specific topic, including:

- ▶ Fuels, Lubricants, and Spills
- ▶ Riparian Management Zones
- ▶ Forest Roads
- ▶ Mechanical Site Preparation and Tree Planting
- ▶ Timber Harvesting
- ▶ Prescribed Burning and Wildfire
- ▶ Chemicals
- ▶ Wetlands



Within each of these subjects there are more specific topics covered. For example, the Forest Roads BMP gives instructions for Stream Crossing, Road Drainage, Drainage Structures, Soil Stabilization, and Road Maintenance. The Timber Harvesting BMP includes Planning, Harvesting, Landings, and Skid Trails.

For more details, refer to the “Wisconsin’s Forestry Best Management Practices for Water Quality” Field Manual. It is available online or in print form from the WDNR. Additional information regarding forestry best management practices can be obtained from the Bayfield County Forestry Department.

## 12.9 ADDITIONAL PLAN IMPLEMENTATION TOOLS

The following is a partial list and description of additional plan implementation tools available to local government to assist in achieving the goals and objectives of a land use plan.

### **Special Plans**

Special plans may arise through the planning process to address other specific issues. These plans often supplement the master plan and are important implementation tools. Some examples might include a downtown design plan, neighborhood plans or waterfront development plans.

### **Eminent Domain**

Eminent domain allows government to take private land for public purposes, even if the owner does not consent, as long as the government compensates the landowner for their loss. The legislature has delegated the power of eminent domain to local government for specific purposes.

### **Annexation / Incorporation**

Cities and villages have the power to annex lands within their extraterritorial boundaries. The power to extend municipal boundaries into adjacent unincorporated land allows a community to control development on its periphery, therefore, minimizing land use conflicts.

As an alternative to annexation, an unincorporated area may incorporate as a city or village, provided the unincorporated area meets certain statutory criteria.

### **Building Codes**

Municipalities may choose to enact building codes as part of their ordinances. Building codes are sets of regulations that set standards for the construction and maintenance of buildings in a community, which ensures that these buildings are safe. The codes are usually concerned with maintaining buildings in order to keep them from becoming dilapidated and/or rundown.

## Moratoria

Then enactment of a moratorium temporarily stops all development in a specified area in order to plan for growth. This includes identifying and protecting sensitive lands and other community resources. Local units of government can enact this tool.

## General Zoning

Zoning is a tool that gives governmental bodies the power to intervene in the lives of private citizens for the protection of public health, safety, and welfare. Zoning separates conflicting land uses and ensures that development is directed in certain areas that can accommodate that particular land use. Several different types of specialized zoning exist.

- **Floodplain Zoning-** Floodplain zoning ordinances are required by Wisconsin law and pertain to cities, villages, and towns. The Wisconsin DNR specifies minimum standards for development in floodplains, but local ordinances may be more restrictive than these rules.
- **Shoreland Zoning-** Wisconsin law requires that counties adopt zoning regulations in shoreline areas that are within 1,000 feet of a navigable lake, pond, or flowage, or 300 feet of a navigable stream or the landward side of the floodplain, whichever distance is greater. Minimum standards for shoreland zoning ordinances are specified in rules developed by the Wisconsin DNR, while local standards may be more restrictive than these rules.
- **Exclusive Agricultural Zoning-** Municipalities may adopt exclusive agricultural zoning for farmland under the Farmland Preservation Program. For farmers to be eligible for income tax credits, they must meet standards that require a minimum parcel size of 35 acres limit the use of the land to those that are agriculturally related. The ordinance must comply with the county farmland preservation plan.
- **Extraterritorial Zoning-** Any city or village that has a plan commission may exercise extraterritorial zoning power in the unincorporated areas surrounding the city or village. The extraterritorial zoning power may be exercised in the unincorporated areas located within 3 miles of the corporate limits of a first, second, or third class city, or within 1 ½ miles of a fourth class city or village.
- **Performance Zoning-** Performance zoning uses performance standards to regulate development. Performance standards are zoning controls that regulate the effects or impacts of a proposed development, instead of separating uses into various zones. The standards often relate to a sites development capability. For example, in agricultural areas, performance zoning could be used to limit development on prime agricultural soils and allow development on lower quality soils.
- **Bonus and Incentive Zoning-** Bonus or incentive zoning allows local governments to grant a bonus, usually in the form of density or the size of the development, in exchange for amenities such as parks or walking paths for example.

- **Overlay Zoning-** Overlay zones are designed to protect important resources and sensitive areas. The underlying zoning regulates the type of uses permitted, while the overlay zone imposes specific requirements to provide additional protection.
- **Mixed Use Zoning-** Mixed use zoning is an effective way to enhance existing urban and suburban areas and encourage infill development. Mixed use zoning recognizes the existing mixture and encourages its continuance and may offer an alternative to struggling with nonconforming use complexities.
- **Inclusionary Zoning-** Inclusionary zoning provides incentives to developers to provide affordable housing as part of a proposed development project. For example, in exchange for higher density, a developer would have to build a specified number of low and moderate income dwelling units.

### **Planned Unit Developments (PUD's)**

Planned Unit Developments (PUD's) are planned and built developments that create a variety of compatible land uses. These developments vary in densities and are subject to more flexible setbacks, design, and open space requirements than are afforded by traditional or general zoning.

### **Reserved Life Estates**

This is a tool in which a landowner has the opportunity to sell or donate his or her land to a conservation organization, but is able to continue living and managing the property until they perish from this earth!!!!

### **Fiscal Tools**

#### **Capital Improvement Program (CIP)**

Capital Improvement Programs are a fiscal tool that can help communities plan for the timing and location of community facilities and utilities (such as municipal sewer and water service, parks or schools). CIP's ensure that proper budgets are allocated for future developments or improvements to community infrastructure.

#### **Impact Fees**

Impact fees are financial contributions imposed on new developments to help pay for capital improvements needed to serve the development. Local governments can impose impact fees to finance highways, other transportation facilities, storm water facilities, solid waste and recycling facilities, fire and police facilities etc...

#### **Tax Increment Financing (TIF)**

Cities and villages may designate tax increment financing districts to finance public improvements through the property taxes generated on future increases in the value of taxable

properties in the district. Under TIF, the overlying taxing jurisdictions do not receive any tax revenues based on the increase in property valuation in a district until all improvement costs are paid. In this way, the TIF district assures that all taxing jurisdictions benefiting from development pay a share of the costs.

## 12.10 Conclusion

By making the commitment to prepare, complete, and adopt a Land Use Plan, Bayfield County has demonstrated its desire to be progressive and thoughtful about its future growth. In recognizing its wealth of resources, both natural and cultural and by devising ways to balance future growth and development the county is prepared to preserve its heritage and enhance the well being of its resources and inhabitants.

The Bayfield County Land Use Plan should be revisited and updated as data that is more current becomes available. The plan should also be fully revisited and revised as necessary before January 1, 2010 to be brought up to a Chapter 66 compliant Comprehensive Plan.

The land use plan is not a static or unchanging document; rather, it serves as a “snapshot” of the county at its time of completion and will require periodic review as conditions change in coming years. It is the sincere hope of Bayfield County that this plan be seen as a useful tool which contributes to the continued well-being, health and safety of the county’s residents, visitors, property owners, and businesses.