

Implementing the Plan

Packet Synopsis

The preparation of a community comprehensive land use plan is a time-consuming effort by dedicated citizens, elected officials and public servants and frequently involves significant public expense. To not use the plan, even a deficient one, could be considered criminal.

The ultimate purpose of the comprehensive land use plan is for it to be used by the community. In its application, any deficiencies will soon be noted – and can then be corrected. Thus Implementing the Plan is the final step of the planning process and the purpose of all else that preceded.

The contents of the packet were selected on the basis of clarity and germaneness to the topic. They are as follows:

A Primer on the Politics of Plan Implementation, Planning Commissioners Journal, #12, Fall 1993. - identifies the two cardinals of comprehensive plan implementation: “winning support for the plan” and “implementing the plan’s recommendation.” The latter recommends four specific action steps to be followed. There is the adage “that all planning is political.” Its accompanying Roundtable Discussion on Plan Adoption & Implementation is well worth noting.

Development and Implementation of a Comprehensive Plan, Dept. of Community, Trade & Economic Development, State of Washington, November 1994. – A graphic of the comprehensive planning process from beginning to end.

Comprehensive County Planning, National Association of County Engineers, April 1964. - Highlights comprehensive plan implementation in the contexts of financial plans, capital improvement programs and public regulations from the perspective of public improvements such as roads and streets, sanitation and water. It emphasizes the need for proper timing and coordination.

“The Basics”, Lockyear, Robert J., Government Training Service, Annual Planning Institute. - Presents good definitions of “the purpose of the comprehensive plan, “the purpose of zoning” and a good flow chart of a rural land use request through the zoning code enforcement process, which is equally applicable to urban/suburban situations. It presents guidelines regarding conditional use permits and variances. It also has an excellent checklist of questions for dealing with zoning amendments or changes, variances and conditional use permit requests.

Local Planning Handbook, Metropolitan Council. – Briefly outlines and describes the elements for local comprehensive plan implementation required by Minnesota Statutes and the Metropolitan Council. Although not mandated for communities outside the Twin cities metropolitan area, they can be followed to advantage.

Guidelines for Preparing Urban Plans, Chapter 8, Anderson, Larz T., *Planners Press*, American Planning Association, Chicago, 1995. - A comprehensive and detailed review of comprehensive plan implementation for the larger community. However, much of what it presents will be useful to smaller communities and to rural jurisdiction. Its Page 171 “Avoidance of Litigation” is worth reading.

OTHER LITERATURE

Under Construction: Tools and Techniques for Local Planning, Minnesota Planning, St. Paul, MN, 2002. –Prepared by Minnesota Planning as a guidebook for comprehensive land use planning for Minnesota communities and planning jurisdictions, its Chapter 6 outlines a suggested implementation process and identifies and defines the various implementation tools and programs that are available to and have been used by Minnesota communities in implementing their comprehensive plans. This is available from Minnesota Planning/Local Planning Assistance in both printed format and in a CD.

INTERLIBRARY LOANS MATERIALS

The following on **implementing the plan** can be borrowed via MnLINK.

- Preparing a Conventional Zoning Ordinance, 61 pages.
- Administration of Flexible Zoning Techniques, 62 pages.

LEGAL NOTES

Two court decisions are of particular note for comprehensive plan implementation. In 1926, the United State Supreme Court upheld comprehensive municipal zoning in Village of Euclid, Ohio vs. Amber Realty. In *Amcon v. City of Eagan*, April 20, 1984, the Minnesota Supreme Court stated that “the essence of constitutional zoning is demonstrated by the existence of a plan, which uniformly, without discrimination and without unreasonable restrictions, promotes the general welfare.”

In crafting zoning ordinances, sub-division regulations and the like, attention must be given to the U.S. Constitution’s Fifth Amendment or “takings clause.” The Fifth Amendment to the United State Constitution stipulates “that private property may not be taken for public use without just compensation.” The Minnesota Constitution, Article I, Section 13, repeats the national constitution saying that “private property shall not be taken, destroyed or damaged for public use without just compensation, therefore, first paid or secured.” The U.S. Supreme Court’s ruling in *Lucas vs. South Carolina Coastal Council* (91-453), 505 U.S. 1003 (1992) establishes the principle parameter for what defines a “taking.”

The Fourteenth Amendment or the “due process” clause must also be carefully considered in crafting zoning ordinances and subdivision regulations. It requires the states to also be accountable to the Fifth Amendment. “No State shall make or enforce

any law which shall abridge the privileges or immunities of citizens of the United States; nor shall any State deprive any person of life, liberty, or property, without due process of law; nor deny to any person within its jurisdiction the equal protection of the laws.”

The Constitution’s First Amendment must also be carefully considered when drawing up such ordinances and regulations as controlling billboards and signage, adult uses and even controlling the location of religious facilities.

Careful construction of ordinances and regulations for implementing the comprehensive plan is therefore necessary. And when legal challenge is brought against an ordinance or regulation, the courts are now also looking at the community’s intent. Therefore the comprehensive plan’s vision and goal statement has increasing legal importance as well as documented community participation and input in formulating the plan.

The **Local Planning Assistance Center at the Department of Administration** helps local governments with planning efforts, including comprehensive planning, zoning, hazard mitigation planning, GIS applications and development issues.

Upon request, this document will be made available in an alternate format, such as Braille, large print or audiotape. For TTY, contact Minnesota Relay Service at 800-627-3529 and ask for the Department of Administration.

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