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**WISCONSIN DEPARTMENT OF ADMINISTRATION**

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**APPROVAL OF THE COOPERATIVE PLAN  
BETWEEN CITY OF OSHKOSH AND THE TOWN OF ALGOMA,  
WINNEBAGO COUNTY, WISCONSIN**

**MAY 2004**

## Introduction

The cooperative boundary plan procedure as set forth in s. 66.0307, Wis. Stats., affords any combination of cities, villages and towns the opportunity to establish boundary lines and services between or amongst themselves pursuant to a cooperative plan approved by the Wisconsin Department of Administration (Department). Municipalities interested in learning more about this statute are encouraged to review explanatory materials available upon request from the Department. This is the fifteenth cooperative plan submitted to, and approved by, the Department.

On February 19, 2004, the Department of Administration received the *Cooperative Plan Between City of Oshkosh and Town of Algoma* (hereinafter called the “Cooperative Plan,” or the “Plan”), that was approved for submission to the Department by the City of Oshkosh on January 28, 2004, and by the Town of Algoma on January 21, 2004.

The purpose of the Cooperative Plan is described in Section 4 of the Plan. The partially urbanized Town of Algoma lies immediately west and in the growth path of the City of Oshkosh. A combination of institutional and economic factors, including a desire by residents to preserve the core of the Town through an incorporation petition (case no. 2001CV000586, for which dismissal will be sought from the Winnebago County Circuit Court subsequent to approval of this Cooperative Plan), the need for both the City and Town to plan for the future location of utilities and an arterial street system to serve the area (due to the future upgrade of State Trunk Highway 21 to freeway status), consideration for the preservation of environmental and historical amenities, the willingness by the governing bodies to establish long-term boundaries between the Town and the City, and the need for long-term land use planning for the area, led to the creation of this Cooperative Plan.<sup>1</sup>

The territory encompassed by this Cooperative Plan is shown on Exhibits A and B, and includes the entire remaining Town of Algoma.<sup>2</sup>

Subsequent paragraphs of this approval document will describe the Plan in more detail. It is important to understand that this approval document is not a complete restatement of the Plan, nor should it be construed as containing all of the nuances and conditions of the Plan. Instead, this approval document is designed to examine the ways in which the Plan complies with the requirements of s. 66.0307, Wis. Stats. This narrative touches mainly on the principal components of the Cooperative Plan, not the specific details. Specific details can be found in the text of the Plan. This approval document is prepared pursuant to s. 66.0307(5)(a), Wis. Stats., which requires that the Department review cooperative plans and agreements and issue findings based on criteria found in s. 66.0307(5)(c), Wis. Stats.

Before a cooperative plan and agreement is submitted to the Department, a joint public hearing is required in order for the participating governing bodies to receive public comment. Pursuant to s. 66.0307(4)(a), Wis. Stats., a joint public hearing was held at the Town of Algoma Town Hall by the City of Oshkosh and Town of Algoma on Thursday, December 18, 2003, commencing at 6 p.m. An affidavit of publication was submitted to the Department along with the Cooperative Plan, and a record of attendees and summary of comments is attached to the Cooperative Plan as Exhibit H.

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<sup>1</sup> *Cooperative Plan between City of Oshkosh and Town of Algoma* (January 16, 2004), pp. 4-7.

<sup>2</sup> *Ibid*, pp. 34-35.

Attachments to this Cooperative Plan contain copies of authorizing resolutions, Exhibits “F” and “G,” approved by the City and Town, along with separate affidavits of mailing/service to the governmental units entitled to notice pursuant to s. 66.0307(4), Wis. Stats. Those agencies and institutions served include the Wisconsin Department of Natural Resources (WDNR), Wisconsin Department of Transportation (WisDOT), the Wisconsin Department of Agriculture, Trade and Consumer Protection (WDATCP), East Central Wisconsin Regional Planning Commission, Winnebago County Planning and Zoning, area school districts, universities and vocational and technical colleges, municipal clerks, town sanitary districts, the county clerk of Winnebago and Fond du Lac Counties, and this Department.

Following approval of a cooperative plan by the governing bodies of the participating municipalities, and prior to submission to the Department, an advisory referendum may be conducted if requested by qualified electors. In this instance, no formal advisory referendum was requested prior to submission of this Cooperative Plan to the state.

Following receipt of a cooperative plan by the Department, a public hearing conducted by the Department may be requested, or the Department may, on its own motion, conduct a public hearing. In this instance, no such requests have been received. The Department believes that the purpose of this Cooperative Plan is clear and that the information submitted to the Department is sufficiently adequate so that no additional public hearing is necessary.

### **Description of territory covered by the Cooperative Plan**

#### **Boundary Modification Area**

As described in the Plan, the jurisdictional area of the Plan is depicted on Exhibit Maps A and B, attached to the Cooperative Plan as pages 34 and 35, and also a “1000 scale” Exhibit Map. The territory comprises all of the remaining US Public Land Survey Township of Algoma, Town 18 North, Range 16 East, including several town islands located east and west of US Highway 41, and surrounded by the City of Oshkosh (within existing City of Oshkosh territory lying west of the Fox River and Lake Winnebago, there are numerous Town islands and peninsulas included in this Plan), and the remaining contiguous town lands lying between the Town of Omro to the west, Lake Butte des Mort to the north, and Town of Nekimi to the south.

### **Approval Criteria Applicable to the Department**

A cooperative plan shall be approved by the Department if the Department determines that all of the following numbered criteria from s. 66.0307(5)(c), Wis. Stats., apply:

***(1) The content of the plan under sub. S. 66.0307(3)(c) to (e) is sufficient to enable the Department to make the determinations under subds. 2 to 5m.***

This Cooperative Plan contains sufficient information<sup>3</sup> to enable the Department to approve it. Information required by statute, and provided by the parties, includes the following:

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<sup>3</sup> In conjunction with additional explanatory information contained in existing land use and development plans adopted by the Town of Algoma (*The Town of Algoma Land Use and Development Plan* (1995), and *Land Use Plan Amendment* (2001)); and City of Oshkosh ( *Urban Growth Plan—Recommendations for Peripheral Area Land Use and development* (1990), *City of Oshkosh Comprehensive Plan* (1993),

Identification of current land use conditions of the territory designated by the proposed agreement; identification of a time period specifying the duration of the cooperative agreement, identification of boundary change areas and the conditions for the changes and when they may occur; a statement as to why the boundary area is appropriate; the availability of services and the method for provision of services to the identified territory; maps that sufficiently identify the area of the Cooperative Plan; fiscal activities necessary for the planned territory; potential environmental consequences of the plan have been considered and evaluated; housing activities within the area affected by the plan are described; all permits, ordinances and sources of jurisdiction necessary are identified for plan activities to occur within the territory – either before or after attachment to the city; the plan contains evidence that opportunities for public comments were provided during preparation of the plan;<sup>4</sup> and finally, the plan is consistent with applicable state and federal codes, and with adopted city, town, county and regional plans.

***(2) The cooperative plan is consistent with current state laws, municipal regulations and administrative rules that apply to the territory affected by the plan.***

This Cooperative Plan was reviewed by staff from the East Central Wisconsin Regional Planning Commission (ECWRPC), and found to be consistent with regional plans and regulations.<sup>5</sup> ECWRPC is the designated metropolitan clearinghouse for the ten-county East Central Region. ECWRPC advises on the development and implementation of NR-121, Wis. Admin. Code, for the Oshkosh Sewer Service Area Plan (which includes review and consideration for development limitations within designated environmental corridors, shoreland, floodplain, and wetland areas). By letter dated January 6, 2004, ECWRPC indicates that they will include the Planning Area within this agreement in their 2004 comprehensive plan update for the Oshkosh Sewer Service Area.

Pursuant to s. 66.0307 (4) (c), Wis.Stats., the Cooperative Plan was shared with Winnebago County Planning and Zoning Department. Although the County did not officially provide comments, county staff indicated to the Department that the county will cooperate with the Town and City in implementation of this Cooperative Plan. Currently platting (including land subdivision) and zoning authority resides with the County, and will remain so until such time as the Town and City are able to jointly begin implementing extraterritorial zoning over the territory following the procedure specified in s. 62.23 (7) (a), Wis.Stats., as provided for in the Cooperative Plan.<sup>6</sup>

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*Pedestrian and Bicycle Circulation Plan* (1998), *Southwest Industrial Park Expansion Area Site Master Plan* (2001), and *Southwest Area Sanitary Sewer Study* (2002)), that relate to the territory involved in this Cooperative Plan. At the request of the Department, the City of Oshkosh prepared a supplemental map that identifies road right-of-way segments enumerated in Exhibit J that are subject to immediate attachment upon approval of the Plan by the DOA.

<sup>4</sup> The Department received several letters and phone calls concerning the nature of the private negotiating process which preceded the initiation of this Cooperative Plan. Notwithstanding these private sessions (which are not atypical among local governments choosing to enter into intergovernmental agreements), the subsequent public notification, hearing requirements, and opportunities for public comment and potential plan refinement required by this statute were met.

<sup>5</sup> Cooperative Plan, Exhibit H, p. 18.

<sup>6</sup> Although the fact that zoning and subdivision control will reside with the County until such time as extraterritorial powers are initiated by the City as envisioned by the Cooperative Plan, this can only be inferred from the text. In order to inform landowners and electors how attachment of territory along with current and future planning, zoning, and subdivision activities will work in practice, and to ease the transition from one system to another, the Town and City are drafting an explanatory pamphlet for this

The preceding agency comments, along with the Department's analysis of this Cooperative Plan, suggest that the Plan as approved by the local governing bodies should not be in opposition to existing law. Existing and proposed development within the territory of the Cooperative Plan will be consistent with local, state, and federal laws.

**(3) *Adequate provision is made in the cooperative plan for delivery of necessary municipal services to the territory covered by the plan.***

The Department finds that adequate provision has been made for delivery of municipal services.

*Municipal water and sewer*

Municipal service provision varies according to the location of Town territory at issue. Exhibit A, a map, identifies the Town "protected area," existing City of Oshkosh territory, and four categories of "expansion" territory, each with their own unique locational attributes, that will transition into the City during or following the term of the agreement. Approximately 65% of the Town "protected area" is served by the existing Town Sanitary District, for which development of a public water supply system is already under way (deep wells were constructed in 2003, ultimately the system will replace existing private wells). The Sanitary District owns and operates the sanitary sewer collection system in the Town, and receives treatment through an existing agreement with the City. The City's wastewater treatment plant was upgraded in 1998 to treat a daily flow of 20 million gallons per day (MGD), and received an average of 12.8 MGD in 2001, indicating that sufficient capacity is available to serve both "protected" and "expansion" areas.

The four categories of existing Town territory designated as City "expansion areas" (as characterized on Exhibit A), will ultimately receive water and sewer service from the City according to terms specified in the Cooperative Plan (during the 10-, 15-, 20-, and 40-year expansion time frames). Under the terms of the Agreement, services may be provided prior to annexation or attachment if certain conditions are met (if services "could be made available..." and land owners "...unanimously agree to delay attachment for 5 years after service is available..."<sup>7</sup>

*Stormwater management*

Stormwater in the Town is currently handled by a system of ditches. The *Town of Algoma Land Use and Development Plan* (1995), pages 25-26, describes the challenges brought about by the relatively flat topography, and recommends use of detention/retention facilities as urban development occurs in the Town. Exhibit C, the *Comprehensive Plan Amendment* (2001), illustrates a proposed park and conservation area system designed to address this issue within the "protected area." For "expansion areas" "C" and "D" south of 20<sup>th</sup> Avenue, westward to Clairville Road, and southward to STH-44 (outside of the Cooperative Plan area), the City's *Southwest Industrial Park Expansion Area Site Master Plan* (April 2001)) outlines the

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purpose (communication from Jackson Kinney, City of Oshkosh Community Development Director, March 24, 2004). Current permitted and conditional uses (according to the City of Oshkosh and Winnebago County zoning ordinances are listed in Exhibit E, p. 38, and the process for attachment is contained in Sections 9 through 11. Exhibit J contains local roads and streets which will attach on January 1, 2005. For the most part, these road rights-of-way are associated with property lying in Zones A and B.

<sup>7</sup> Cooperative Plan, pp. 21-22.

approaches to stormwater management either currently in place or envisioned by the City and CHAMCO ( a non-profit industrial development company). Proposed treatments include a combination of 40-foot drainageway easements along lot lines, storm sewer piping, regional treatment/retention ponds, and overland conveyance using non-navigable environmentally sensitive drainageways and buffer strips (when excessive flooding occurs).

*Public protection services (police and fire)*

Currently the Winnebago County Sheriff provides police services with the Town. As territory transitions to the City, law enforcement responsibilities will shift to the City. Fire protection in the Town is provided by a 35-member volunteer department operating out of a single station at the intersection of Omro and Oakwood Roads.

The City's Police Department operates out of the Safety Building at 420 Jackson Street, which is situated adjacent to City Hall. Based on the number of police officers cited on page 22, the City currently maintains a ratio of 1.6 police officers per 1,000 people.

Areas within expansion Zones A and B include minimal levels of existing development, and the areas are situated within the general bounds of one or more of the City's seven existing patrol areas, so it would not be anticipated that additional personnel will be required in order to provide appropriate levels of police services to these areas.

It's anticipated that over the next 20 years the City will grow into the Zone C area, and this will necessitate a re-evaluation of patrol areas, and it's anticipated that based on that growth and the eventual attachment of Zone C to the City, an additional patrol area will be provided and additional police officers will be added to maintain the current ratio of police officers per 1,000 people in the City. This same situation would occur as the City grows into Zone D.

The City has no current plans for establishment of satellite police facilities in new growth areas. However, as the City continues its future growth it can be anticipated evaluations will be required concerning the need and appropriateness for creating such satellite facilities, possibly in combination with new fire station development.

The City is currently protected by a full time fire department responding from 6 fire stations with an ISO rating of 2. Total staff for the department is 103. The City operates 4 front line engine companies, 2 quints (combination engine and ladder company), 1 heavy rescue, a grass/brush fire unit, 1 command car, and 6 paramedic ambulances (2 front line, 4 cross staffed with engine companies). The Fire Department also staffs 3 airport fire apparatus at its Wittman Regional Airport station, and 2 hazardous materials units. Reserve equipment includes 2 engines, 1 ambulances, and a variety of support vehicles.

The City could provide protection to the annexation area in Zones A, B and C (within 20 years, or sooner) from it's current fire station locations and still meet response time goals of the first company arriving in 5 minutes or less 90% of the time. The station that responds first and is likely to provide protection to most of this area is Station 16 near the intersection of 9<sup>th</sup> Avenue and Washburn Street, and the other station serving this area is Station 14 at 20<sup>th</sup> and Knapp Street. As further annexation and development occurs west of Clairville and potentially in combination with development to the south an additional fire station location may be needed. The fire department evaluates response times and call volume on an annual basis and has conducted fire station location studies on 10-year basis. A formal location study may be done more or less frequently depending upon analysis of annual data trends.

#### *Ambulance services*

According to terms specified in the Cooperative Plan, the city has already contracted with the Town of Algoma to provide ambulance service and began this coverage on January 1, 2004. This service is provided from the City's current fire station locations. Two front line and four cross-trained staff ambulances are available for response, which are all staffed with Paramedics. Primary response for this area is from Station 16 at 9<sup>th</sup> and Washburn Streets. Response times from January 1, 2004 through March 31, 2004 have been under 12 minutes 94.7% of the time and under 9 minutes 63% of the time.

The current contract calls for an \$8.75 per capita subsidy, which is covered by a donation on behalf of the contracted municipalities by Aurora Medical Center and a non –resident fee of \$150.00 per ambulance transport, in addition to the standard fees charged by the city. This contract term is for 5 years ending on December 31, 2008.

#### *Parks, recreation, and historic areas*

The *Town of Algoma Land Use and Development Plan* (June 1995), Figure 14, identifies extensive park and openspace lands, principally in the “protected” area of the Town. The Town has also acted to account for and preserve identified historic places and archaeological sites (*Cooperative Plan*, p. 6). For the City expansion areas A-D, the City's Comprehensive Plan (1993) identifies open space goals and actions (section E-1 through E-7) that will apply to the lands as the annex or are attached, according to “Park and Outdoor Recreation Facility Standards” (section E-8 through E-10). The City also identified community and neighborhood park deficiencies, and proposed new community, neighborhood, playlots or mini-parks, and special purpose parks (section E-14 through E-18). Both the Town and City are addressing environmental and public access issues associated with Sawyer Creek, along with pedestrian and bicycle trails that will further link the Town and City (*Cooperative Plan*, p. 6).

***(4) Any boundary maintained or any boundary change under the cooperative plan is reasonably compatible with the characteristics of the surrounding community, taking into consideration present and potential transportation, sewer, water and storm drainage facilities and other infrastructure, fiscal capacity, previous political boundaries and shopping and social customs.***

#### Political boundaries

The “expansion” and “protected” areas directly affect the Town of Algoma and the City of Oshkosh. Upon fulfillment of the Cooperative Plan, the City and “protected” area of the Town will border the Town of Omro to the West. To the south, the City already borders, and has annexed into, the Town of Nekimi. This Cooperative Plan provides for the elimination of existing Town of Algoma islands and peninsulas that create inefficiencies and confuse service delivery (see Exhibit A). Extending the City municipal limit line further west will increase the amount of territory in the Towns of Omro, Utica, and Nekimi that is currently subject to extraterritorial jurisdiction.

As stated by the participants, this Cooperative Plan is, to a great extent, a consensual ratification of past plans, with the intent that the Cooperative Plan will provide development direction and assure the efficient provision of urban services for anticipated urban growth.

#### Present and potential transportation systems

Future road networks are described in Section 4.02 of the Cooperative Plan, where the City and Town recognize the need to cooperatively plan, in conjunction with the Wisconsin Department

of Transportation (WisDOT), the upgrade of STH 21, and the location of related arterial and local streets. Both the City's *Southwest Industrial Park Expansion Area Site Master Plan* (2001), and the *Town of Algoma Land Use and Development Plan* (1995, and amended 2001) contain recommendations for transportation-related facilities.

Sewer, water and storm drainage facilities and other infrastructure

See the prior discussion on preceding pages 4 and 5.

Fiscal capacity

Year 2002 statistics from the Wisconsin Department of Revenue indicate that for that year, the Town of Algoma had no general obligation debt, with an allowable debt capacity of \$19,087,470. The comparable statistic for the City of Oshkosh is \$137,473,475 in general obligation debt, with a remaining capacity of \$36,357,384. In 2002, both communities realized a slight surplus of municipal revenues over municipal expenditures.<sup>8</sup> For these reasons, and due to the availability of financing mechanisms other than general obligation debt, the Department concludes that the Town and City are capable of financing a full range of municipal services to those areas destined to be served according to provisions within the Cooperative Plan.

Shopping and social customs

From inspection of various City and Town land use, comprehensive, and special-area plans, retail/commercial districts related to the territory in the agreement either currently exist, or envisioned to be sited, adjacent to the USH "41," or STH "21" corridors. The Department finds that build-out of the *Cooperative Plan* will likely strengthen existing shopping patterns. A very large and comprehensive indoor community recreation center, the Oshkosh Community YMCA on 20<sup>th</sup> Street, is located in Town territory that will transfer to the City.

For all of the above-mentioned reasons, the Department finds that the standards set forth in s. 66.0307(5)(4), Wis. Stats., have been met.

***(5) The shape of any boundary maintained or any boundary change under the cooperative plan is not the result of arbitrariness and reflects due consideration for compactness of area. Considerations relevant to the criteria under this subdivision include quantity of land affected by the boundary maintenance or boundary change and compatibility of the proposed boundary maintenance or boundary change with natural terrain including general topography, major watersheds, soil conditions, and such features as rivers, lakes and major bluffs.***

The jurisdictional transfer of territory proposed by this Cooperative Plan will result in a more logical boundary than currently exists by eventually eliminating Town islands and peninsulas, concluding with a boundary that follows (for the most part) easily identifiable distinctions between land use types, parcel sizes, and straight lines. This Cooperative Plan will reinforce the City's existing westerly growth, while likely causing the Town's "protected area" to become a more cohesive political unit over time. As described previously, land use planning, as well as the actions envisioned by this Cooperative Plan, have taken environmental and

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<sup>8</sup> *County and Municipal Revenues and Expenditures 2002*, Wisconsin Department of Revenue. Available on the internet at: <http://www.dor.state.wi.us/lfa/cmreb02.pdf>; and <http://www.dor.state.wi.us/lfa/02aadebt.pdf>.



cultural issues, into account. With or without this Cooperative Plan, this area would have urbanized over time due to its central location in the greater Oshkosh-Appleton metropolitan area.

#### Environmental protection

The Town and City indicate that no new environmental effects of a significant nature will result from the proposed boundary changes<sup>9</sup>, and the Department concurs. This Plan "...will promote cooperation between the City and the Town to protect...(environmental) resources."

***(5m) The cooperative plan adequately identifies and addresses the significant adverse environmental consequences to the natural environment that may be caused by the proposed physical development of the territory covered by the plan, the municipalities submitting the plan have adequately identified and considered alternatives to minimize or avoid the significant adverse environmental consequences, the proposals in the plan for compliance with federal environmental laws or regulations and state environmental laws or rules are adequate and the need for safe and affordable housing for a diversity of social and income groups in each community has been met.***

#### Significant adverse environmental consequences

As identified earlier in this review, the City and Town indicate that no new environmental effects of a significant nature will result from the proposed boundary changes.

#### Housing

The Town has a high percentage (96%) of owner occupied housing, and of the total dwelling units within the Town, 96% of those (1,900 units) are located in the "protected area." In contrast, of the City's (2000) total occupied housing units, roughly 57% were owner-occupied. The City Expansion Areas "C" and "D" will provide additional opportunity for various existing housing programs to achieve the goals set forth in the *Comprehensive Plan* (1993), pages D1-6.

#### Historically significant resources

Historically significant resources (required by s. 66.0307 (3) (c) (6), Wis.Stats.) are briefly discussed in the Cooperative Plan on page 6. The parties have utilized the Wisconsin State Historical Society's (WSHS) Wisconsin Architecture & History Inventory (AHI) to identify historic places currently listed on the state or national register of historic places.

#### Alternatives considered

As the content of this Plan was negotiated by the Town and the City, alternatives to "urbanization" were considered but determined to be infeasible given the location of the area within the Oshkosh-Appleton metropolitan area.<sup>10</sup>

***(6) Any proposed planning period exceeding 10 years is consistent with the plan.***

The 60-year duration of the Plan is determined by the Department to be consistent with the objective of protecting existing town landowners from annexation against their will, and for the projected build-out to occur in conjunction with the provision of full urban services by the City<sup>11</sup> along with realization by the Town of proposed development within the Protected Area.

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<sup>9</sup> Cooperative Plan. Section 15, pages 23 and 24.

<sup>10</sup> Ibid., p. 23.

<sup>11</sup> Ibid. Section 6, page 8.

## **Approval**

This “Cooperative Plan Agreement” meets the statutory criteria of s. 66.0307, Wis. Stats. Pursuant to authority found in s. 66.0307(5), Wis. Stats., the Wisconsin Department of Administration hereby approves the “Cooperative Plan Between the City of Oshkosh and the Town of Algoma; Final Version Dated January 16, 2004.”

Henceforth, amendments or revisions to the “Cooperative Plan Agreement” can only occur with the approval of the Town of Algoma and the City of Oshkosh, and with the concurrence of the Wisconsin Department of Administration or any successor agency granted the authority to administer the provisions of s. 66.0307(8), Wis. Stats. This “Cooperative Plan” is effective from today’s date, and remains in effect pursuant to the language and terms contained therein.

Dated this 19<sup>th</sup> day of May, 2004.

By the Wisconsin Department of Administration:

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George Hall  
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