

## INTERGOVERNMENTAL COOPERATION

Section 66.1001 (2)(g) of the Wisconsin Statutes requires the Intergovernmental Cooperation Element to provide a compilation of goals, objectives, policies, maps, and programs that guide joint planning and decision making with other jurisdictions.

Furthermore, Section 16.965 of the Wisconsin Statutes sets forth goals related to the Intergovernmental Cooperation Element that may be addressed as part of the planning process. The goal directly related to this element is stated as the following: “encouragement of coordination and cooperation among nearby units of government.”

The intent of this chapter is to address the issues and requirements set forth by the Wisconsin Statutes.

### INTERGOVERNMENTAL COOPERATION BETWEEN MUNICIPALITIES

There are a variety of ways in which neighboring cities, villages, and towns interact, in accordance with State Statutes. The following section provides a basic description of the various means of regulatory interaction between towns and municipalities, as well as an inventory of those issues affecting the Town of Grafton.

#### Cooperative Plans & Boundary Agreements

Under Section 66.0307 of the Wisconsin Statutes, any combination of cities, villages, and towns may determine the common boundary lines between themselves under a cooperative plan. The cooperative preparation of a plan for the affected area should be created by the concerned local units of government and prescribe in detail the contents of the cooperative plan.

The Southeastern Wisconsin Regional Planning Commission (SEWRPC) provides an explanation of cooperative plans and boundary agreements in the

Multi-Jurisdictional Comprehensive Plan for Ozaukee County. In that document, it is stated that the cooperative plan must identify any boundary change and any existing boundary that may not be changed during the planning period; identify any conditions that must be met before a boundary change may occur; include a schedule of the period during which a boundary change shall or may occur; and specify arrangements for the provision of urban services to the territory covered by the plan. A boundary agreement can also be achieved under Section 66.0225 which allows two abutting communities who are parties to a court action to enter into a written stipulation determining a common boundary. In addition, communities can agree upon common boundaries under Section 66.0301, the statute that addresses intergovernmental cooperation.

As of September 2007, the Town of Grafton has not entered into any cooperative plans or boundary agreements with any adjacent municipalities. However, the Town and Village of Grafton have a history of meeting cooperatively to discuss proposed land uses and plats.

#### Extraterritorial Zoning Authority

Per Section 62.23(7a) of the Wisconsin State Statutes, a city which has created a plan commission and has adopted a zoning ordinance may exercise extraterritorial zoning power. Such cities may have extraterritorial zoning jurisdiction (ETZ) over unincorporated areas within three miles of the corporate limits of a first, second, or third class city or within 1.5 miles of the corporate limits of a fourth class city or a village. ETZ powers may not be exercised within the corporate limits of another city or village. In accordance with Section 66.0105, in situations where ETZ jurisdictions of two or more municipalities overlap, the area must be divided on a line which is equidistant from the boundaries of each municipality. Therefore, the unincorporated area is not subject to the ETZ regulations of more than one municipality in any given area.

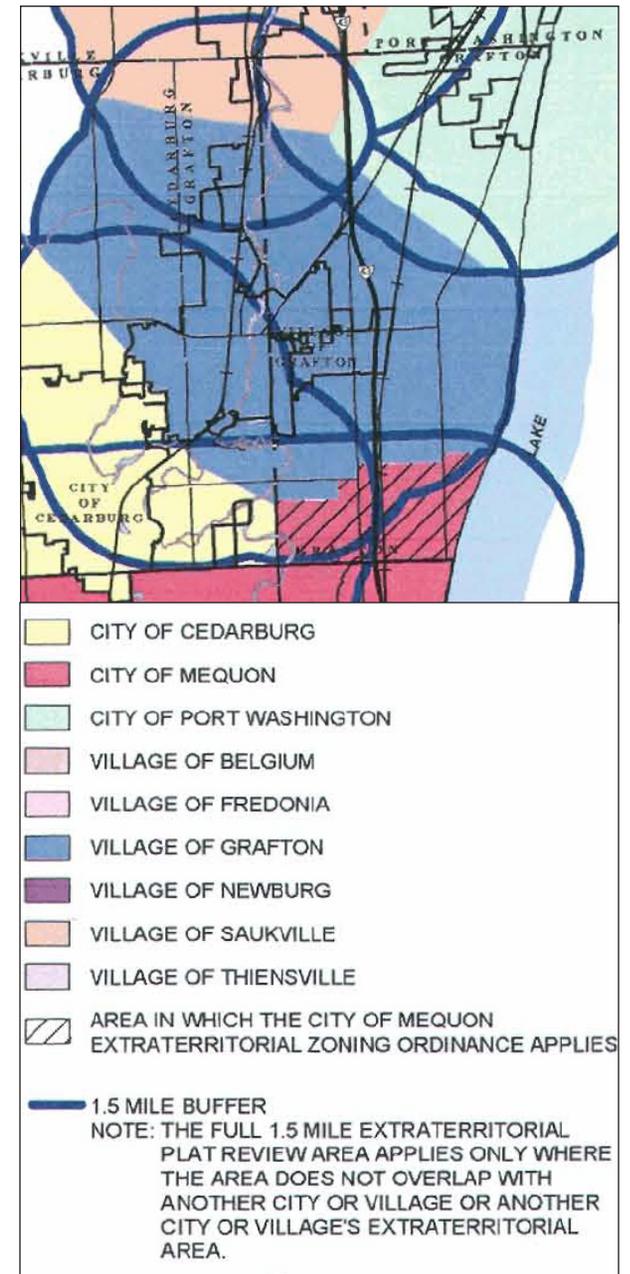


FIGURE 1: Extraterritorial Review for cities and villages  
Source: Multi-Jurisdictional Comprehensive Plan for Ozaukee County: 2035; SEWRPC

In order to create extraterritorial zoning districts and regulations, the municipality must establish a joint extraterritorial zoning committee (JETZCO). The committee is composed of three citizen members of the municipality's plan commission and three town members from each town affected by the proposed zoning districts and regulations. Once established, the committee formulates tentative zoning recommendations for the ETZ area.

The City of Mequon exercises ETZ powers over approximately 1,528 acres in the Town of Grafton (Figure 1). The Town and City continue discussions through their JETZCO to review zoning districts and regulations in the ETZ.

#### Extraterritorial Platting Authority

Section 236.10 of the Wisconsin Statutes stipulates that a city or village may review, and approve or reject, subdivision plats located within its extraterritorial area if it has adopted a subdivision ordinance or an official map. Section 236.02 defines the extraterritorial plat review jurisdiction (ETP) as the unincorporated area within three miles of the corporate limits of a city of the first, second, or third class, or within 1.5 miles of the corporate limits of a city of the fourth class or a village.

Similar to ETZ jurisdictions, Section 66.0105 stipulates where the ETP jurisdiction of two or more cities or villages would otherwise overlap, the extraterritorial jurisdiction between the municipalities is divided on a line. All points on the line are equidistant from the boundaries of each municipality concerned, so that no more than one city or village exercises extraterritorial jurisdiction over any unincorporated area. The extraterritorial area changes whenever a city or village annexes land, unless the city or village has established a permanent extraterritorial area through a resolution of the common council or village board or through an agreement with a neighboring city or village. A municipality may also waive its right to approve plats within any portion of its extraterritorial

area by adopting a resolution that describes or maps the area in which it will review plats, as provided in Section 236.10(5). The resolution must be recorded with the County Register of Deeds.

The Town of Grafton is subject to the ETP jurisdiction of several of the adjacent communities (Figure 1) including:

- City of Mequon
- City of Cedarburg
- City of Port Washington
- Village of Grafton
- Village of Saukville

State regulations do not specify in detail how ETP reviews and approvals are administered. Consequently, the administration of the reviews and approvals may vary significantly for each of the municipalities with jurisdiction over the Town.

Furthermore, while any portion of a town cannot be subject to more than one municipality's ETZ or ETP jurisdiction, the same portion would be subject to two municipal reviews when it is a mixture of ETZ and ETP. In other words, the ETZ jurisdictions of Municipality A and B cannot overlap. The same is true for the ETP boundaries of both municipalities. However, Municipality A's ETZ boundary can overlap with Municipality B's ETP boundary and vice versa. For a town, this adds to the complexity of ETZ and ETP reviews, as municipal administration may vary significantly.

#### Consolidation

The issue of consolidation between the Town and Village of Grafton has been mentioned by community members in public forums. Presently, no formal movement has been made by either community to move forward with consolidation. What follows is a general summary of the official process of consolidation between a town and a city or village, as defined by Wisconsin State Statutes:

Based on Sections 66.0229 and 66.0230, a town may be consolidated with a contiguous town, village, or city through an ordinance passed by a two-thirds vote of all members of each board and council, ratified by the electors at a referendum held in each municipality. Once the ordinance is passed, the town and city or village must meet a series of conditions to complete the consolidation process, including:

- Both communities must adopt identical resolutions that describe the level of service the residents of the proposed city or village will receive, including but not limited to:

- Public parks services
- Public health services
- Animal control services
- Library services
- Fire and emergency rescue services
- Law enforcement services

- The city or village that the town wants to consolidate into must enter into a separate boundary agreement with every city, village, or town that borders the proposed consolidated city or village.
- A comprehensive plan, effective the date of consolidation, must also be adopted by the consolidating city, village, or town.
- At least some part of the consolidated city or village receives sewage disposal services.

#### Land Division Regulations

Section 236.45 of the Wisconsin Statutes authorizes county and local governments to adopt their own land division ordinances. The Town of Grafton previously adopted such an ordinance. A land division ordinance regulates the division of land into smaller parcels. Land division ordinances help ensure the following:

- New development is appropriately located;
- Lot size minimums specified in zoning ordinances are observed;
- Arterial street rights-of-way are appropriately dedicated or reserved;

- Access to arterial streets and highways is limited in order to preserve the traffic-carrying capacity and safety of such facilities;
- Adequate land for parks, drainageways, and other open spaces is appropriately located and preserved;
- Street, block, and lot layouts are appropriate;
- Adequate public improvements are provided.

Land division ordinances can be enacted by cities, villages, towns and counties. County land division ordinances only apply to unincorporated areas. Within unincorporated areas, it is possible for both counties and towns to have concurrent jurisdiction over land divisions. Counties also have authority under Section 236.10 to review and approve all subdivisions located in unincorporated areas.

In addition to these requirements, the Ozaukee County shoreland and floodplain zoning ordinance includes land division regulations for areas located in the shoreland. Portions of the Town of Grafton are regulated under this ordinance.

Chapter 236 of the Wisconsin Statutes sets forth general requirements governing the subdivision of land, and grant authority to county and local governments to review subdivision maps (plats) with respect to local plans and ordinances. Under the Chapter, local governments are required to review and take action on plats for subdivisions. Local subdivision ordinances may be broader in scope and require review and approval of land divisions in addition to those meeting the statutory definition of a subdivision.

The Town of Grafton regulates land division in the Town Code. The Town should be aware of county and surrounding city and village land division regulations in relation to its own ordinance.

## **INTERGOVERNMENTAL COOPERATION WITHIN THE REGION**

### Ozaukee County

On a county-wide level, there are several issues that may require the various levels of government to work cooperatively in the near future. For the Town of Grafton, special attention should be paid to infrastructure-related issues and open space preservation.

Recently, water-related infrastructure has been a topic of discussion for several communities. Due to its location along Lake Michigan, the Town of Grafton may become involved in future planning efforts as communities begin to explore new water resources. During this process, the Town and surrounding municipalities should work cooperatively and establish guidelines for shared resources.

In accordance with the Comprehensive Outdoor Recreation Plan, the Town should continue to work with Ozaukee County to protect existing public conservancy land and expand its park, open space, and trail system opportunities.

### Wisconsin Department of Transportation (WisDOT)

Currently, three interchanges along the I-43 corridor are located within the Town and Village of Grafton:

- County C
- Highway 60
- Highway 32

In the future, the Town should collaborate with both the Village of Grafton and WisDOT as modifications to the existing interchanges or new interchanges are proposed.

### Department of Natural Resources (DNR)

Nearly all of the existing open space in the Town of Grafton is composed of public conservancy or wildlife preservation land. The Town should work with the DNR to maintain these existing resources and pursue

future expansion opportunities, in accordance with the Comprehensive Outdoor Recreation Plan.

## **PLANS IN THE REGION**

### Water Quality Management Plan

In 1979, SEWRPC adopted an area-wide water quality management plan for Southeastern Wisconsin as a guide to achieving clean and wholesome surface waters within the seven-county region. The plan has five elements:

- a land use element;
- a point source pollution abatement element;
- a non-point source pollution abatement element;
- a sludge management element;
- a water quality monitoring element.

The point source pollution abatement element is of particular importance to land use planning. That plan element recommends major sewage conveyance and treatment facilities and identifies planned sewer service areas for each of the sewerage systems in the region. Under Wisconsin law, major sewerage system improvements and all sewer service extensions must be in conformance with the plan.

### Water Quality Management Plan Update

SEWRPC is working with the Milwaukee Metropolitan Sewerage District (MMSD) to update the regional water quality management plan. The area involved includes all of the Kinnickinnic River, Menomonee River, Milwaukee River, Root River, and Oak Creek watersheds; the Milwaukee Harbor estuary; and the adjacent near shore areas draining to Lake Michigan. All of the Ozaukee County planning area is included in the plan update except the Sauk Creek, Sucker Creek, and Sheboygan River watersheds and two small portions of the Lake Michigan direct drainage area located in the northeast portion of the County.

The interagency effort is using the U.S. Environmental Protection Agency's recommended watershed

approach to update the Regional Water Quality Management Plan and to develop the MMSD's 2020 Facilities Plan for the study area, called the Greater Milwaukee Watersheds. When completed, the plan will recommend the control of both point and nonpoint pollution sources, and provide the basis for decisions on community, industrial, and private waste disposal systems.

#### Regional Groundwater Plan

SEWRPC has worked cooperatively with the Wisconsin Geological and Natural History Survey (WGNHS) and the Wisconsin Department of Natural Resources (WDNR) on a regional groundwater plan to develop hydrologic data that can be used to support the preparation of a regional groundwater modeling program. The document will also provide information useful for land use and related planning efforts. The groundwater-related inventories are documented in SEWRPC Technical Report No. 37, Groundwater Resources of Southeastern Wisconsin, June 2002.

#### Regional Water Supply Plan

The Commission is conducting a regional water supply study for the Southeastern Wisconsin Region. The regional water supply plan together with the above mentioned groundwater inventories and a ground water simulation model will form the SEWRPC regional water supply management program. The preparation of these three elements includes interagency partnerships with the U.S. Geological Survey, the Wisconsin Geological and Natural History Survey, the University of Wisconsin-Milwaukee, the Wisconsin Department of Natural Resources, and many of the area's water supply utilities.

The regional water supply plan will include the following major components:

- Water supply service areas and forecast demand for water use.
- Recommendations for water conservation efforts to reduce water demand.

- Evaluation of alternative sources of supply, recommended sources of supply for each service area, and recommendations for development of the basic infrastructure required to deliver that supply.
- Identification of groundwater recharge areas to be protected from incompatible development.
- Specification of new institutional structures necessary to carry out plan recommendations.
- Identification of constraints to development levels in subareas of the Region that emanate from water supply sustainability concerns.

#### Multi-Jurisdictional Plan for Ozaukee County: 2035

At the County level, a Multi-Jurisdictional Plan is being developed to meet the State requirements. The planning process includes participation from Ozaukee County, SEWRPC, and 14 local governments, including:

- City of Mequon
- City of Port Washington
- Village of Belgium
- Village of Fredonia
- Village of Grafton
- Village of Newburg
- Village of Saukville
- Village of Thiensville
- Town of Belgium
- Town of Cedarburg
- Town of Fredonia
- Town of Grafton
- Town of Port Washington
- Town of Saukville

The Plan is scheduled for adoption by the County Board in mid-2008.

#### Other Plans

Additional plans for the region are discussed in the Transportation element and the Utilities and Community Facilities element.

## PLANS IN ADJACENT MUNICIPALITIES

#### Village of Grafton

The Village of Grafton's Comprehensive (Master) Plan 2010 was created in 1995. As of 2005, this was the most recent comprehensive plan for the Village. The boundaries of this plan include a portion of the Town of Grafton.

The Village has also adopted two plans that address bicycle/pedestrian amenities and parks and open space. The Bicycle and Pedestrian Plan (1996) includes an inventory of existing facilities, describes the planning process used to determine recommendations for facilities, contains an implementation plan, and includes maps depicting current and future bicycle and pedestrian facilities. The Village of Grafton Park and Open Space Plan was adopted in 2002 and focuses on recreational development needs through 2007 and includes a recreational capital improvements program and inventory of existing facilities. The plan also includes recommendations for recreational development needs beyond 2007.

To address sewer service issues, the Village and the City of Cedarburg have adopted SEWRPC Community Assistance Planning Report No. 91 (2nd Edition) from June 1996. As of 2005, both municipalities and SEWRPC adopted the report, but adoption by the Wisconsin Department of Natural Resources (WDNR) was pending.

#### City of Mequon

As of 2005, the City of Mequon had a comprehensive plan in place that was written in 1983 and amended in 2000.

The City's Comprehensive Park, Recreation, and Open Space Plan was prepared in 2002. The plan is an update of the 1997 plan and identifies progress towards completing priorities identified by the earlier report. The City also has a Transportation Plan from

1996 that includes a section on recommendations for bikeways and bikeway implementation.

The City of Mequon also adopted SEWRPC Community Assistance Planning Report No. 188, written in 1992 and amended in 1995 by the City. As of 2005, the City, SEWRPC, and the WDNR had adopted the document.

#### City of Cedarburg

The City of Cedarburg has a plan from 1991 entitled "A Development Plan for the City of Cedarburg; 2010." The document will be replaced by a new comprehensive plan currently being compiled by the City.

The City also has a Comprehensive Park and Open Space Plan that was amended in May of 2004. The Plan will be included in the City's "Smart Growth" planning document.

Refer to the Village of Grafton's planning efforts for information regarding the adopted sewer service plan for the City of Cedarburg.

#### Village of Saukville

The Village of Saukville has a land use plan in place that was completed by SEWRPC in 1998. The plan is entitled "A Land Use Plan for the Village of Saukville: 2010."

The Village's Comprehensive Outdoor Recreation Plan was adopted in 1996. The plan focused on improving existing green spaces, enhancing trail connections, and expanding open space opportunities. The plan identified a capital improvement program (CIP) to accomplish these goals between 1996 and 2001.

#### City of Port Washington

The City of Port Washington's land use plan was updated in November 1997 and is called "Year 2020 City Plan, 1962-1997."

The City also adopted a Comprehensive Park and Open Space Plan in April 1996. The plan identified

the City's open space goals and objectives. On the implementation side, a five-year CIP budget and schedule was created.

#### Town of Cedarburg

The Town of Cedarburg's most recent plan is its "Town of Cedarburg Comprehensive Plan: 2035" which was adopted in April of 2008. This extensive planning effort replaced the 1999 plan.

In July of 2009, the Town of Cedarburg adopted its "Comprehensive Park Plan." A needs analysis was completed to examine existing amenities and recommend upgrades, as well as expansion.

#### Town of Port Washington

The Town of Port Washington is currently in the process of updating its land use plan. As of September 2007, a draft version of "Town of Port Washington Land Use Plan, 2035" was available.

#### Town of Saukville

The Town of Saukville has a land use plan in place that was completed by SEWRPC in 1998. The plan is entitled "A Land Use Plan for the Town of Saukville: 2010."

The Town of Grafton should evaluate the above mentioned plans when analyzing future development proposals, as well as the location of trails, facilities, and parks within its boundaries to determine how well they connect to adjacent areas. Refer to the Transportation and Utilities and Community Facilities chapters for information on the Town's plans for bicycle/pedestrian amenities and parks and open space.

### **INTERGOVERNMENTAL COOPERATION CONFLICTS**

An important issue when developing land use plans for towns are the potential for conflicts with the plans of surrounding incorporated areas. This is complicated by the following policies:

- Villages and cities are allowed to develop plans for the areas outside their corporate boundaries which will include land in Town of Grafton.
- Ozaukee County is obligated to include the comprehensive plans of villages and cities within the County Plan regardless of whether or not such plans conflict with town plans.
- State Statutes require land use decisions to be consistent with the comprehensive plans after January 1, 2010.
- The County could be in a position in reviewing a land use decision in the Town of Grafton that was consistent with the Town's Plan but inconsistent with the extraterritorial plans adopted by surrounding incorporated areas (i.e. Village of Grafton, City of Mequon).
- The areas that may be subject to such extraterritorial plans are illustrated in the chapter on Intergovernmental Cooperation.
- Consistency of town plans with county-wide multi-jurisdictional plans and the comprehensive plans of surrounding municipalities may also be considered as a basis for reviewing zoning decisions and plat decisions.

#### Consistency within the Context of the Plan

After 2010, it will be increasingly important to consider the consistency of the Comprehensive Plan relative to zoning, subdivision regulations, official mapping, and boundary agreements. Within the context of the Town of Grafton Comprehensive Plan: 2035, the concept of consistency means that as decisions are made, they should generally be within the intent and guidelines established by the Plan. This includes all provisions that allow for reasonable exceptions due to unique circumstances (not unlike conditional use zoning).

It is assumed that a proposed land use action is consistent with the local comprehensive plan when the regulations, amendment, or action:

- furthers, or at least is not inconsistent with, the goals, objectives, and policies contained in the local comprehensive plan.
- is generally compatible with the proposed future land uses and densities and/or intensities contained in the local comprehensive plan.
- carries out, as applicable, any specific proposals for community facilities, including transportation facilities, or other specific actions contained in the local comprehensive plan.

Land Use Conflicts and Multi-Jurisdictional Plans

Current discussions of planning conflicts tend to focus on the relationship between incorporated areas and towns. However, there are many other types of planning and land use conflicts. For example, transportation plans often conflict among federal, state, county, and local governments. Many of these conflicts are resolved through regulations and operational policies. The point, however, is that there are numerous conflicts in planning and land uses that occur throughout government operations. This is also true, for example, in planning for environmental preservation, wetlands, water use, historic preservation, and many other fields. The presence of such conflicts is routine and plans do not necessarily resolve all of these conflicts. Often, the solution is simply identifying the conflicts, defining the key issues, and suggesting procedures for minimizing or resolving conflicts. This approach could, for example, be recommended by the Town to be incorporated by the County in its comprehensive plan.

Land Use Conflicts are Legitimate and Appropriate Components of Plans

Land use and planning conflicts are not, by definition, inappropriate. Perhaps the simplest example is the concept of “mixed-use”. Most planning literature today defines mixed-use as a legitimate and desirable type of land use. However, a few decades ago mixed uses were considered rare and potentially threatening to property values. Mixed use by definition embodies the potential for multiple futures and alternatives. The

same is true for different land use alternatives. It is reasonable to assert, from a planning perspective, that some areas or districts might be most appropriately planned with multiple futures. In fact, it could be argued that plans which define categorically only one appropriate future for an area may be misleading. In addition, most plans have provisions for amendments that are exercised with some frequency. This implies that land use alternatives are dynamic and that plans are being changed constantly. It is reasonable to accept the idea that land use plans with conflicting contents may both have some legitimacy.

Resolution of Alternative Planning Futures

For the Town of Grafton, the following policies should be considered for resolving different land use proposals from neighboring municipalities and from the County:

- Identify clearly that the presence of land use options is legitimate and desirable.
- Recognize that the Town’s image of its future is legitimate regardless of whether it does not match the image of a neighboring municipality.
- Indicate that there are many ways to meet the criterion for “consistency” if and when such a criterion is actually imposed.
- Seek out municipal boundary agreements where they are possible.
- Suggest other ways of collaborative planning with adjacent communities and the County.

**INTERGOVERNMENTAL COOPERATION GOALS, OBJECTIVES, AND POLICIES**

Goal

Maintain effective working relations with adjoining municipalities and other governmental jurisdictions.

Objective

Encourage opportunities for cooperation through the formulation of compatible local policies and programs (e.g. development regulations, boundary agreements, etc.).

Policies

Continue to utilize the JETZCO process with the necessary communities to prevent and resolve land use issues.

Conduct periodic meetings with the Village of Grafton to review common issues.

Coordinate land use plans with those of adjacent municipalities to ensure the implementation of the Town of Grafton Comprehensive Plan: 2035.