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Details:

(FORM UPDATED: 08/11/2010)

**WISCONSIN STATE LEGISLATURE ...
PUBLIC HEARING - COMMITTEE RECORDS**

2009-10

(session year)

Senate

(Assembly, Senate or Joint)

**Committee on ... Rural Issues, Biofuels, and
Information Technology (SC-RIBIT)**

COMMITTEE NOTICES ...

- Committee Reports ... **CR**
- Executive Sessions ... **ES**
- Public Hearings ... **PH**

INFORMATION COLLECTED BY COMMITTEE FOR AND AGAINST PROPOSAL

- Appointments ... **Appt** (w/Record of Comm. Proceedings)
- Clearinghouse Rules ... **CRule** (w/Record of Comm. Proceedings)
- Hearing Records ... bills and resolutions (w/Record of Comm. Proceedings)
(**ab** = Assembly Bill) (**ar** = Assembly Resolution) (**ajr** = Assembly Joint Resolution)
(**sb** = Senate Bill) (**sr** = Senate Resolution) (**sjr** = Senate Joint Resolution)
- Miscellaneous ... **Misc**

Senate

Record of Committee Proceedings

Committee on Rural Issues, Biofuels, and Information Technology

Senate Bill 117

Relating to: extraterritorial plat approval on basis of land's use.

By Senators Kreitlow, Vinehout, Holperin, Harsdorf and Olsen; cosponsored by Representatives Smith, Jorgensen, Roth, Hubler, Schneider, Vruwink, Danou, Fields, Clark, Dexter, Ripp, Kerkman, Kestell, Bies, Brooks, Gunderson, A. Ott and Ballweg.

March 17, 2009 Referred to Committee on Rural Issues, Biofuels, and Information Technology.

September 23, 2009 **PUBLIC HEARING HELD**

Present: (5) Senators Kreitlow, Jauch, Holperin, Kapanke and Kanavas.
Absent: (0) None.

Appearances For

- Pat Kreitlow, Chippewa Falls — Senator
- Jeff Smith, Eau Claire — Representative
- Andy Jorgensen — Representative
- Rick Stadelman, Shawano — Wisconsin Towns Association
- Janelle Henning, Eau Claire — Town of Washington
- Dan Hanson, Eleva — Town of Pleasant Valley
- Bob Schmeichel, Neenah — Town of Neenah
- Ray Batley — Town of Vinland
- Jim Erdman, Oshkosh — Town of Oshkosh
- Jerry Frey, Oshkosh — Town of Oshkosh
- Vicky VanVonderen, DePere — Town of Rockland
- Glen Schwalbach, DePere — Town of Rockland
- Jerry Derr, Columbus — Town of Bristol
- Lawrence Bechler, Madison — Town of Windsor

Appearances Against

- Stephen Nick, Eau Claire — City of Eau Claire
- Darryn Burich, Oshkosh — City of Oshkosh
- Andrew Halverson, Stevens Point — Mayor, City of Stevens Point

Appearances for Information Only

- None.

Registrations For

- Tom Larson — Wisconsin Realtors Association

- Amy Volkmann — Wisconsin Towns Association
- Marilyn Bhend, Athens — Wisconsin Towns Association
- Norman Bhend, Athens — Town of Johnson
- Richard VanVonderen, DePere — Town of Rockland
- Jan DeKeyser — Town of Neenah
- Duane Merritt, Fairchild — Town of Fairchild
- William Goehring, Random Lake — Town of Serman
- Tobias Myers, Eau Claire — Town of Union
- Lee Engelbrecht, Two Rivers — Wisconsin Towns Association
- Dennis Salzman, Keil — Town of Schleswig
- Jolene Plautz, Madison — Wisconsin Towns Association
- Richard Nawrochi, Hartlawn — Town of Merton
- Jerry McMahan, Union Grove — Wisconsin Towns Association
- Kevin Koth, Tomahawk — Town of Bradley
- Patrick Stevens, Madison — Wisconsin Builders Association
- Ann Jablonksi, Madison — Wisconsin Towns Association
- Tim McCumber, Merrimac — Town of Merrimac

Registrations Against

- Curt Witynski — League of Wisconsin Municipalities
- Mario Mendoza, Madison — City of Madison
- Forbes McIntosh — Dane County Cities and Villages Association

Registrations for Information Only

- None.

March 3, 2010

EXECUTIVE SESSION HELD

Present: (5) Senators Kreitlow, Jauch, Holperin, Kapanke and Kanavas.
 Absent: (0) None.

Moved by Senator Holperin, seconded by Senator Jauch that **Senate Bill 117** be recommended for passage.

Ayes: (5) Senators Kreitlow, Jauch, Holperin, Kapanke and Kanavas.
 Noes: (0) None.

PASSAGE RECOMMENDED, Ayes 5, Noes 0

Jeff Buhrandt
 Committee Clerk

TESTIMONY SUPPORTING EXTRA-TERRITORIAL BILL SB117 and AB260
By Vicky Van Vonderen, Supervisor, Town of Rockland
September 22, 2009

For the past few years, the City of De Pere has not been a good neighbor. We tried many times to reach a border agreement and to date, we've not been able to agree—De Pere wants too much land—over 3,000 acres—and Rockland wants the right to develop their own land; especially since we are now a customer of the Green Bay Metropolitan Sewerage District.

Because of the breakdown between the city and us, they have used their legislative rights to enforce two ordinances over us within 3 miles of their city limits.

In August 2007, the city exercised “Extra-territorial Subdivision Review” which requires a 10-acre minimum for any land division; whether it's a CSM or a Subdivision. Some examples of its effect on our landowners are:

- One landowner has a 10-acre parcel and wanted to split the parcel in half and build a smaller home with more handicap-friendly features. He has a handicapped daughter. The city of De Pere turned him down stating it was not in their best interest since it didn't fit the 10-acre minimum.
- A very large landowner at the southern end of our town is aggressively working to annex his property to the city of De Pere which is on our northern border. We know if he's able to annex to De Pere, the city will then remove the 10-acre requirement and rezone the property to residential. The 10-acre requirement imposed on our town land incents annexation, not orderly, responsible development.
- An elderly landowner wanted to plat off 2 acres to “downsize.” When he approached the city's planning department and stated how unfair their policy was, the planner responded, “it just depends what side of the line you are on.” We have a few elderly landowners that would like to stay in town and downsize their lots to 1 or 2 acres.
- On Tuesday, September 22, 2009, just last night, the city of De Pere conducted a tour of Rockland to show their city council and all interested parties their growth plans for Rockland. The entire town was traveled in their tour.

In October 2007, the city exercised “Extra-territorial Zoning” which effectively froze our current zoning for 2 years. No meeting was ever set up or ordinances established—everything was just frozen. Extra-territorial zoning does not work if it's adversarial.

Since 2006, Rockland's been involved in some major legal disputes with the city of De Pere. Here's our history:

In February 2006, Rockland was annexed (accepted) into the GBMSD (Green Bay Metropolitan Sewerage District). The City (City of De Pere) filed suit opposing our annexation into GBMSD, however, Judge Sue E. Bischel affirmed our annexation into the GBMSD in 2006.

Prior to 1997, the City owned and operated its own wastewater treatment plant and sewage system and was not part of GBMSD. In August 2007, GBMSD and the City reached an agreement titled, “The Annexation and Consolidation Agreement.” Under the agreement, the

City maintained ownership and control of its local sewers, but all wastewater treatment was to be handled through GBMSD.

In paragraph 8.13 of this agreement, the City agreed to offer Rockland a border Agreement in **which the City would annex all or part of Rockland**. If Rockland refused this Border Agreement, GBMSD agreed that for 20-1/2 years starting August 29, 2007, sewer service to Rockland would be provided only by sewers built, owned, and operated by the City. Rockland eventually prevailed to have this paragraph stricken from the contract; however De Pere and GBMSD are considering appealing this decision.

Our annexation laws are outdated and create more harm than good. I believe more could be accomplished for the betterment of bordering communities, property owners, taxpayers, developers, and government budgets if bordering communities worked together instead of spending time and money creating adversarial relationships due to the current annexation laws.

Thank you for your consideration. Vicky Van Vonderen, Supervisor for the Town of Rockland





122 W. Washington Avenue
Suite 300
Madison, Wisconsin 53703-2715

608/267-2380
800/991-5502
Fax: 608/267-0645

E-mail: league@lwm-info.org
www.lwm-info.org

To: Senate Committee on Rural Issues, Biofuels, and Information Technology
Assembly Committee on Renewable Energy and Rural Affairs

From: Curt Witynski, Assistant Director, League of Wisconsin Municipalities

Date: September 23, 2009

Re: AB 260/SB 117, Limiting Municipal Extraterritorial Plat Approval Powers

The League of Wisconsin Municipalities strongly opposes AB 260/SB 117, because it eliminates a key tool municipalities currently have to implement their comprehensive plans and to control urban sprawl.

Municipalities need effective ways to control unsewered commercial and residential growth occurring on their fringes. A municipality's best tool for managing the pattern of development on its borders is its ability to reject a proposed land division within its extraterritorial jurisdiction based on concerns over the plat's proposed use.

SB 117 would prohibit a municipality from denying a proposed land division within its extraterritorial subdivision approval jurisdiction on the basis of concerns over the proposed use of the land. The bill overturns *Wood v. City of Madison*, in which the Wisconsin Supreme Court held that a municipality can consider land use in the extraterritorial plat review process.

In the *Wood* case the Woods sought approval from the City of Madison to divide a 52 acre parcel of land they owned in the Town of Burke into 11 lots. The Woods sought to change the zoning of nine of the proposed new lots from agriculture to commercial. The city rejected the proposed ordinance on the basis of standards within its subdivision ordinance designed to control sprawl. The City concluded that subdividing the bulk of the agricultural lands that existed on the Wood property would be a significant expansion of commercial land use in that particular area and would create additional pressures on the conversion of the remaining agricultural lands that existed on the Wood parcel, as well as adjacent agricultural lands.

The proponents of the bill claim that they only want to force cities and villages to work cooperatively with towns through the extraterritorial zoning process. This bill, however, will not result in more cities and villages exercising their extraterritorial zoning powers. In the last 50 years few communities have chosen to implement their extraterritorial zoning powers. That was the case before the *Wood* decision, that is the situation now, and that will be the case if *Wood* is reversed by legislative act.

Moreover, towns already have a mechanism in place for compelling city and village officials to the table to negotiate on boundary issues. Legislation passed last session, 2007 Wisconsin Act 43, which was developed by a Legislative Council study committee with involvement of the Towns Association and supported by the League, created a mediated boundary agreement process. The Legislature should encourage towns to use this relatively new device for bringing neighboring communities to the bargaining table rather than significantly reducing municipal extraterritorial plat approval powers.

We urge you to vote against recommending passage of AB 260/SB 117. Thanks for considering our comments.



JOINT PUBLIC HEARING
of the
Senate Committee on Rural Issues, Biofuels, and Information Technology
and the
Assembly Committee on Renewable Energy and Rural Affairs

Testimony of Stephen Nick on SB 117- September 23, 2009

THE CITY OF EAU CLAIRE IS OPPOSED TO THE CHANGE IN THE LAW AS
PROPOSED BY SB117

- Joint subdivision review within the 3-mile extraterritorial zone is an important tool cities have to stage efficient, high value growth
- Opposition is based on what we know is in the best interest of the entire Eau Claire Community and we believe the best interest of the State of Wisconsin
- Eau Claire and Wisconsin need both rural and urban growth and development
- Key issue is to reserve the urban fringe of growing urban areas for future high value, efficient, compact growth while maximizing land for agriculture & rural growth
- There is only one leading edge of growth on urban borders and while infill development is pursued vigorously in Eau Claire the maintenance of a 10-year inventory of business sites & a 30-year inventory of planned future sites is a key policy objective of our goal for continued economic development

INABILITY TO PLAN AND STAGE URBAN DEVELOPMENT MAY CAUSE

- Inefficient provision of local services
- Misplaced investment or worse inability or unwillingness to invest in utilities and other fixed urban infrastructure
- Lack of sites for economic development
- Loss of key employers for lack of future sights or planned infrastructure

THE CITY OF EAU CLAIRE HAS \$5+ MILLION INVESTMENTS IN THE EXTENSION OF UTILITIES, TRANSIT ROUTES AND FIRE STATIONS, AMONG OTHER FIXED ASSETS TO SUPPORT URBAN COMMERCIAL AND INDUSTRIAL GROWTH IN THE GATEWAY INDUSTRIAL PARK AND HWY T CORRIDOR NORTH TO HWY 29

THE INDUSTRIAL PARK HAS BEEN A HUGE SUCCESS FOR NOT ONLY THE CITY THROUGH TAX BASE BUT THE ENTIRE COMMUNITY BY PROVIDING LOCAL INFRASTRUCTURE FOR 13 COMPANIES TO OFFER OVER 3,000+ JOBS AND SUPPORT LOCAL PROPERTY TAXES ON \$42 MILLION IN ASSESSED VALUATION

EAU CLAIRE WAS ABLE TO COMPILE THE LAND NECESSARY FOR GATEWAY THROUGH SOUND PLANNING AND INVESTMENTS. I AM PROUD TO ANNOUNCE THAT THIS INVESTMENT AND PLANNING CONTINUES TO PAY COMMUNITY DIVIDENDS WITH THE ANNOUNCED EXPANSION OF THE EXISTING NESTLE GATEWAY PLANT. EXPANSION WILL BE ONE OF IF NOT THE LARGEST INDUSTRIAL DEVELOPMENT PROJECTS IN WISCONSIN WITH TOTAL INVESTMENTS OF OVER \$100 MILLION AND THE CREATION OF 167 NEW HIGH PAYING JOBS.

THE CITY IS CONCERNED THAT FUTURE EXPANSIONS OF THIS NATURE MAY NOT BE POSSIBLE IF INCOMPATIBLE USE DEVELOPS ON CITY BORDERS OR CTH T AS THESE ARE SOME OF THE FEW GROWTH CORRIDORS LEFT FOR THE COMMUNITY OF EAU CLAIRE (ONLY 30% OF THE BORDER REMAINS OPEN TO DEVELOPMENT). IF CUT OFF THE ENTIRE COMMUNITY AND STATE LOOSES OPPORTUNITY FOR HIGH VALUE EFFICIENT GROWTH.





Office of the Mayor

David J. Cieslewicz, Mayor

City-County Building, Room 403
210 Martin Luther King, Jr. Boulevard
Madison, Wisconsin 53703-3345
PH 608 266 4611
FAX 608 267 8671
TTY/Textnet 866 704 2340
mayor@cityofmadison.com
www.cityofmadison.com

September 23, 2009

Senator Pat Kreitlow
Chair, Senate Committee on Rural Issues, Biofuels and Information Technology
Room 10 South
State Capitol
P.O. Box 7882
Madison, WI 53707

Representative Andy Jorgensen
Chair, Assembly Committee on Renewable Energy and Rural Affairs
Room 320 West
State Capitol
P.O. Box 8952
Madison, WI 53708

RE: 2009 Senate Bill 117/Assembly Bill 260

Dear Senator Kreitlow and Representative Jorgensen:

I am writing to express my strong opposition to 2009 Senate Bill 117 (Assembly Bill 260). This proposed legislation would prohibit a city or village from denying approval of a plat or certified survey map within its extraterritorial plat approval jurisdiction on the basis of the proposed use of land, unless the denial is based on a plan or regulations adopted under the statutory provisions for establishment of extraterritorial zoning.

The analysis by the Legislative Reference Bureau clearly states that the intent of this amendment is to overrule *Wood v. City of Madison*, 2003 WI 24 and reinstate the holding of *Gordie Boucher Lincoln-Mercury v. Madison Plan Commission*, 178 Wis.2d 74 (Ct. App. 1993). The amendment, however, ignores the internal conflict it creates in Ch. 236, as well as the fact that, in a practical sense, this amendment nullifies extraterritorial plat approval jurisdiction.

AB 260/SB 117 injects internal conflict into Ch. 236. The proposed Bill does not amend the purpose of subdivision regulation, which, as stated in Wis. Stat. §236.01, is to "further the orderly layout and use of land". If this Bill is adopted, use of land, even in the broad sense addressed in comprehensive plans, will no longer be relevant in lands subject to extraterritorial plat approval jurisdiction. That result frustrates the stated purpose of the Chapter.

The extraterritorial provisions in the statutes recognize the importance to Wisconsin's cities and villages of being able to exercise reasonable control over land subdivision and development activities in the unincorporated areas near their borders, in order to assure orderly urban future

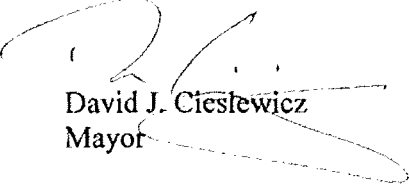
growth and effectively implement their long-range master plans – including land use plans. There are multiple tools that can be used to help implement municipal plans in extraterritorial areas, but extraterritorial subdivision approval authority is an important component of the mix; and while land use is only one among many standards of subdivision approval, it may be a deciding factor in some situations. In addition, land use characteristics may themselves determine which other subdivision standards will apply. (For example, Madison's subdivision ordinance applies different standards to agricultural and non-agricultural land divisions.) Provided that the standards in a municipal subdivision ordinance are clear and reasonable, it is very appropriate, even necessary, for them to include consideration of the proposed use of the lands under review.

While establishment of extraterritorial zoning may sometimes be an appropriate approach to address development issues at the urban edge, it is a very difficult and cumbersome process, and is virtually unworkable when there are disagreements between jurisdictions regarding land use and development policy. The amendment language implies that all a municipality need do to address use is to adopt an extraterritorial zoning ordinance. A careful look at the extraterritorial zoning ordinance process shows the impracticality of this Bill. No municipality may adopt an extraterritorial zoning ordinance unless its provisions have been approved by a majority of the six members of a joint committee of three City and three Town members. Unless a Town is a willing participant in the process, it is unlikely to produce anything. Not surprisingly, extraterritorial zoning ordinances are relatively rare in Wisconsin. In addition, the land subject to extraterritorial plat approval jurisdiction changes as lands are annexed or attached to the City. Subjecting new lands to the extraterritorial zoning ordinance would require the whole process to be repeated, necessitating appointment of a new joint committee of City and Town members every time the extraterritorial plat jurisdiction boundaries change. Once again, this result in no way furthers the stated purpose of Chapter 236.

To deny, as this Bill would, the ability of a municipality to consider land use in extraterritorial subdivision approvals except at locations where an extraterritorial zoning plan and regulations have also been established would place a new, unnecessary, and unreasonable constraint on the ability of cities and villages to implement their adopted plans within their extraterritorial jurisdiction. The applicant in *Wood* sought to plat almost 52 acres and change its use from agricultural to commercial. The inability of municipalities to address this type of broad change in use on such a large parcel of land is simply not consistent with the purpose of Ch. 236.

For the reasons stated above, the City of Madison opposes this Bill. Thank you for your consideration and the opportunity to comment on this proposed bill.

Sincerely,



David J. Ciestewicz
Mayor

DJC/cjp

Sen. Kreitlow and Rep. Jorgensen

September 23, 2009

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cc: Members of the Senate Committee on Rural Issues, Biofuels and Information Technology
Members of the Assembly Committee on Renewable Energy and Rural Affairs
Madison Legislative Delegation
Madison Common Council
City Attorney Michael May
Planning Director Brad Murphy
Curt Witynski, League of Wisconsin Municipalities



Wisconsin Towns Association

Richard J. Stadelman, Exec. Director

W7686 County Road MMM

Shawano, Wis. 54166

Tel. (715) 526-3157

Fax. (715) 524-3917

Email: wtowns@frontiernet.net

To: Senate Committee on Rural Issues, Biofuels, & Information Technology

Assembly Committee on Renewable Energy & Rural Affairs

From: Richard J. Stadelman, Executive Director

Re: SB 117 & AB 260 relating to "extraterritorial plat approval"

Date: September 23, 2009

Wisconsin Towns Association fully supports passage of SB 117/AB 260 relating to extraterritorial plat approval on the basis of the land's use. This bill would reverse the effect of the Wisconsin Supreme Court decision in Wood v. City of Madison, 2003 Wis. 24, 260 Wis. 2d 71, 659 N.W. 2d 31 (Wis. Sup. Ct. 2003). The Wood case overruled the Court of Appeals decision in Boucher Lincoln-Mercury v. Madison Plan Comm., 178 Wis. 2d 74, 503 N.W. 2d 265 (Ct. App. 1993) which had held that extraterritorial plat approval or denial based on the use of the land in the plat is unilateral land use control (i.e. zoning) and that the statutes require extraterritorial zoning to be a cooperative effort between the city and the town in which the zoning ordinance is in effect. Passage of SB 117/AB 260 would return to the legal standard before the Wood decision and reinstate the legal holding of the Boucher case which had been the law for nearly 50 years or more.

Extraterritorial plat approval is the authority cities over 10,000 in population have to review land divisions/plats within three miles of their corporate borders and cities under 10,000 and villages authority to review land divisions/plats within 1 ½ miles of their corporate borders. Extraterritorial plat approval has been in state law since 1909 in some form, initially only being available to cities within 1 ½ miles of their borders and eventually being extended to three miles for cities over 10,000 in population and 1 ½ miles for cities under 10,000 and villages.

A very detailed history of the extraterritorial plat authority is described in Justice David T. Prosser's concurring decision in the Wood case. This history notes the focus of extraterritorial plat authority of cities and villages over the years was how land was "divided and developed" in the extraterritorial areas, it was not focused on the proposed "land use." Justice Prosser quoted a 1959 law review article of Marygold Melli entitled *Extraterritorial Planning and Urban Growth*, 1959 Wis. L. Rev {see paragraph 78 at page 107-108 of 260 Wis. 2d as follows:

In Wisconsin, a municipality may adopt a master plan covering any area beyond the municipal boundaries related to the development of the municipality. In addition, the specific grants of extraterritorial power have been made by the legislature for subdivision approval and official maps to cover certain limited areas. ***Zoning remains the major field in which no extraterritorial power has been granted. (Emphasis added by Justice Prosser.)***

Justice Prosser's detailed history points out that Chapter 241, Laws of 1963 created Sec. 62.23 (7a) of Wis. Statutes which created extraterritorial zoning. This same section exists today. In the 1993 case of Boucher Lincoln-Mercury, Court of Appeals Judge Robert D. Sundby (who

had served as a former Attorney for the League of Wisconsin Municipalities) noted that Sec. 62.23 (7a) of Wis. Statutes does not give a municipality “unilateral authority to zone” land in an unincorporated towns within municipality’s extraterritorial jurisdiction. **“Rather, the statute {Sec. 62.23 (7a) of Wis. Statutes} required that extraterritorial zoning be a cooperative effort of the city plan commission and the town in which the zoning ordinance will be in effect.”** (See page 109 of 260 Wis. 2d 71)

Judge Sundby in the Boucher case went on to point out that the Legislative Council Urban Problems Committee prior to adoption of Sec. 62.23 (7a) {extraterritorial zoning} had “rejected a proposal giving populous counties authority to adopt comprehensive zoning ordinances and would apply throughout the unincorporated areas without the approval of the individual towns” Judge Sundby in the Boucher case at page 101 of 178 Wis. 2d wrote, **“while Chapter 236 and Sec. 236.45... confer broad regulatory authority upon local governing bodies, that authority relates to the quality of the subdivision or land division and not to the use to which lots in the subdivision or land division may be put.”** (emphasis added by Judge Sundby)

Justice Prosser in his concurring decision stated at paragraph 97 at page 118 of 260 Wis. 2d, that while extraterritorial subdivision authority was a broad authority:

There is a point, however, at which the legislature’s grant of authority to Madison and other municipalities to actually control land use extraterritorially comes to an end, unless these municipalities have exercised lawful authority to zone the land. The court of appeals concluded in the Gordie Boucher case that this point had been reached.

Justice Prosser in the Wood decision quoted Judge Sundby’s unanimous decision in Boucher as follows:

The legislature has not given the city’s master plan, a planning tool, pre-eminence over county zoning, a regulatory tool.... There is no authority for the commission’s contention that a county zoning ordinance is subordinate to the city’s master plan. We reject the commission’s contention; it has no support in the statutes or case law. (See paragraph 102 at page of 260 Wis. 2d, Wood case)

Justice Prosser went on to say that “this analysis is unassailable.... It is fundamental Wisconsin Law. He stated further:

There can be no dispute that the legislature has given Wisconsin municipalities expansive subdivision regulatory powers to encourage broad land use objectives and sometimes to enforce them. It has given municipalities substantial planning authority, even beyond three miles of the municipality. But it has not authorized municipalities to in effect-rezone land by means of extraterritorial subdivision regulation and/or extraterritorial planning. It has not given municipalities power to veto use of land that are consistent with lawful existing zoning, absent reasonable quality concerns or subdivision defects. That is what Gordie Boucher held, and there is no reason to overrule the case.

Justice Prosser agreed with the majority that the property owners in the Wood case were properly denied their request for a plat under the city subdivision ordinance as the ordinance applied how the plat proposed to be developed, but not based upon the majority’s holding of a proposed use, thus reversing the Boucher case. Justice Prosser wrote at paragraph 111 of page 122 of 260 Wis. 2d:

...A municipality may not seek to compel a particular land use that contradicts a validly enacted zoning ordinance by arbitrarily rejecting a plat under the extraterritorial component of its subdivision ordinance. This is the core teaching of the Gordie Boucher case. FN 11 FN11 A municipality may condition its approval of a plat on the plat's compliance with the municipality's master plan, but the municipality may not enforce a master plan that exceeds its authority. In addition a municipality may not block an otherwise valid subdivision until the subdivider donates 75 percent of the land to the public.

Attached to this memo are the last two pages of Justice Prosser's concurring decision in the Wood case in which he points out the consistency of Judge Sundby in the Boucher case, Marygold Melli in the 1959 law review article, and Professor Beuscher, a renown land use expert in the 1950's and 1960's in his report "Land Use Controls" published in 1967 by the Wisconsin Department of Resource Development that there is a distinction between "subdivision/land division control" and "zoning."

It is Wisconsin Towns Association position that Wisconsin Supreme Court majority decision wrongly decided the Wood v. City of Madison case by holding that the city may deny the subdivision/plat on the use of the land and reversing the Boucher case. The Wood case overturned nearly 50 years of legal history and a unanimous court of appeals decision. Note the Wood case was a 4-3 split decision on the reversal of the Boucher case. SB 117/AB 260 will reinstate the fifty years of limiting extraterritorial subdivision/plat approval to how the land is "divided and to be developed" not the proposed "use" of the land.

The practical result of the Wood decision since 2003 has been that cities and villages across the state have used the newly created extraterritorial power has rendered the extraterritorial zoning statute as meaningless. There is no incentive for cities and villages to even talk to their neighboring towns about cooperative efforts on their borders. Extraterritorial zoning under Sec. 62.23 (7a) of Wis. Statutes is based upon a negotiation and cooperation to reach an extraterritorial agreement. SB 117/AB 260 will restore the incentive to return to the use of Sec. 62.23 (7a) to regulate land use.

Wisconsin Towns Association believes that SB 117/AB 260 should be passed to restore the historical significance of cooperation under extraterritorial zoning pursuant to Sec. 62.23 (7a) of Wis. Statutes. To allow the Wood case holding to stand results in less cooperation and more conflict on municipal boundaries.

Thank you for your consideration.



CHIPPEWA FALLS/EAU CLAIRE
URBAN SEWER SERVICE AREA PLAN
FOR 2025

**FINAL
DRAFT**



submitted by the applicant to WisCOM for approval. Submittal to and approval by WisCOM of a WQM letter is not required for hookups within the City of Eau Claire, since the City is an agent municipality which reviews and approves those plumbing installations within its municipal limits. However, the City must still meet the requirements of COM 82.20(4) and have an appropriately filed WQM letter.

If the proposed hookup is not in conformance with the plan, or if there are questions about consistency, a letter of non-conformance will be sent to the applicant within 15 days of receipt of the plan map and all required information necessary to perform the review. The applicant should then decide if it wants to further pursue the sewer hookup. If not, no further action is necessary.

If the applicant decides to pursue the sewer hookup, the plan must be amended for the proposed hookup to be in conformance. The amendment procedures can be found in the Plan Amendment Process section of this plan. An applicant can also alter the proposal to pursue conformance and re-apply. If the plan is amended or the request altered, the applicant must notify the municipality that it wishes to have the proposed hookup re-evaluated.

It is advisable that water quality management review is performed early in the planning process, prior to detailed plans, to help avoid delays of the project and additional costs. Early submittal of the plans will ensure the local review process is completed prior to final submittal of the plans to WisCOM if required.

6.3 SEWER SERVICE AREA AMENDMENT PROCESS

With the possibility of a shift in development patterns, a mechanism for reviewing and revising the sewer service area boundary is essential. The amendment process will allow the communities and developers to alter the service area by using additional technical data, new community needs and trends, and possible facility changes. All amendment records and updated boundary maps will be maintained by the West Central Wisconsin Regional Planning Commission.

Four types of amendments may be made to the Sewer Service Plan:

- Type I** amendments requests for boundary changes without the total acreage of the service area changing.
- Type II** amendments requests to alter the boundary and the acreage of the service area.
- Type III** amendments requests to add holding tank service areas to the plan.
- Type IV** amendments requests for development of an environmentally sensitive area.

Proposals for an amendment to the Sewer Service Plan should include:

1. The exact acreage.
2. Legal description of the lands to be added or deleted.
3. A detailed map of the area and surroundings.

4. Land-use proposals.
5. A list of specific service needs to the area (i.e., water, sewer, roads).

The WCWRPC, Metropolitan Planning Organization, or WisDNR may request that the applicant or governmental entity servicing the proposed area provide additional studies or data needed to fully consider the potential impacts of the proposed amendment.

6.3.1 Type I Amendment. The Sewer Service Area Boundary is Altered Without the Total Acreage Changing

With this amendment, acreage can only be added to the service area if a corresponding number of acres is subtracted. This "swap" requirement will keep the locally approved population density figures unchanged. Requests of this type should be submitted to the WCWRPC by the governmental entity that will be servicing the proposed area.

WCWRPC staff will then review the proposed amendment based on these criteria:

1. Such sewerage service can be provided in a cost-effective manner.
2. There will be no significant adverse water quality and/or environmental impact associated with providing sewer service to the area.
3. The proposed amendment is in compliance with the policies and goals of this plan.
4. Existing or planned sewerage systems have sufficient capacity to treat projected flows.
5. The areas to be swapped are of the same acreage.

Upon WCWRPC review, the amendment must be approved by the MPO, and then WisDNR will make final approval.

6.3.2 Type II Amendment. The Sewer Service Area Boundary is Modified and the Total Acreage is Altered

With this amendment, acreage cannot be added to the sewer service area unless the following circumstances exist: (1) area is needed to accommodate unanticipated population growth; (2) a change in local population densities has been approved by the local municipality; and (3) failing on-site wastewater systems. Requests of this type should be submitted to the WCWRPC by the governmental entity that will be servicing the proposed area.

In addition to the above requirements of an amendment proposal, a Type II amendment proposal should also include:

1. Actual population increases in the municipality
2. Actual amount of vacant lands within the portion of the municipality in the sewer service area.

3. Current development density of the municipality
4. Current levels and capacities of the treatment facility to serve the proposed area.

6.3.4

WCWRPC staff will then review the proposed amendment based on these criteria:

1. There is a significant difference in the projected population and the actual population of the municipality.
2. Such sewerage service can be provided in a cost-effective manner.
3. There will be no significant adverse water quality and/or environmental impact associated with providing sewer service to the area.
4. The proposed amendment is in compliance with the policies and goals of this plan.
5. Existing or planned sewerage systems have sufficient capacity to treat projected flows.

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Upon WCWRPC review, the amendment must be approved by the MPO with final approval being made by the WisDNR.

6.3.3 Type III Amendment. The Addition of a Holding Tank Service Area to the Plan

A holding tank service area is required if there is a holding tank within the planning area and outside the sewer service area which generates 3,000 gallons or more of septage per day. Further explanation of holding tank service areas is contained in Chapter 9 of this plan. A request for this type of amendment must be made by the wastewater treatment facility that will service the tank.

Requests for a Type III amendment should be submitted to the WCWRPC and include:

1. A map of the proposed holding tank service area.
2. The exact acreage of the proposed area.
3. Proof there is a contract with the POTW to handle the septage from the tank.

WCWRPC staff will review the proposed amendment based on the information above. The proposed amendment must be in compliance with the policies and goals of this plan.

In addition, a request for a Type III amendment for new development utilizing a new holding tank that encroaches on an environmentally sensitive area will be denied. The amendment will be allowed if it is determined that the actual construction of all buildings and the holding tank are not on those portions of the holding tank service area within an environmentally sensitive area, and there are sufficient setbacks and erosion control measures taken, as defined by local zoning and land development regulations.

Upon WCWRPC review and MPO approval, final approval will be made by the WisDNR.

6.3.4 Type IV Amendment. The Development of an Area Designated as an Environmentally Sensitive Area

All requests for Type IV amendments will be reviewed on a case-by-case, site-specific manner. A Type IV Amendment is requested by the municipality wishing to extend sewer service to an area delineated as an environmental sensitive area. The plan recognizes the possible conflict between development and preservation of environmentally sensitive area and this amendment is an attempt to allow both to co-exist.

Requests of this type should be submitted to the Wisconsin Department of Natural Resources, Western Central Regional Office by the governmental entity that will be servicing the proposed area. WisDNR staff will review the proposed amendment based on:

1. There will be no significant adverse water quality and/or environmental impact associated with providing sewer service to the area.
2. The proposed amendment is in compliance with the policies and goals of this plan.
3. Such sewerage service can be provided in a cost-effective manner.
4. All appropriate local, state, and federal environmental permits (such as erosion control, wetland preservation, floodplain, etc.) have been granted for the proposed development.

When a municipality applies for a Type IV Amendment involving areas with slopes greater than 20%, it shall require from the developer an erosion control plan incorporating the best available management techniques using guidance from the Wisconsin Construction Site Best Management Handbook (WisDNR, April 1989). The developer must also satisfy the following hydraulic criteria on all sites of the proposed development: all post-development discharges from the site for a 3-year, 24-hour frequency storm shall be equal to or less than the pre-development peak discharges from the site for a 3-year, 24-hour frequency storm. However, this stormwater management requirement is not to supercede any local ordinances in place.

It is the responsibility of the municipality to review and ensure proper implementation of the proposed erosion control plan. Upon approval of the erosion control plan by the municipality, it will send a letter stating approval to WisDNR. Approval of the erosion control plan by the municipality is needed for the issuance of a Type IV Amendment by the WisDNR. Once approval of the amendment is made by the WisDNR, the environmentally sensitive areas map of the Sewer Service Plan will be updated to eliminate the proposed development from within the environmentally sensitive area, thus including it as a developable area within the sewer service area.

An approved Type IV amendment is one which allows development of an environmentally sensitive area with minimal environmental impacts. To that end, the WisDNR may approve the amendment with specific conditions, such as erosion control and/or stormwater management requirements, which must be met to ensure protection of the potentially affected resources. A proposed Type IV amendment necessitates a meeting between the developer, the municipality,

WCWRPC, and WisDNR during the formulation of a proposal to eliminate or minimize disagreements and misunderstandings early in the process.

6.4 SUMMARY

The *Chippewa Falls/Eau Claire Urban Area Sewer Service Plan* is intended to be a guide for local municipalities in water quality management. The plan map is based on the preceding data and maps, especially the population projections, growth areas, and environmental sensitive areas. Together this information has been analyzed and translated into the sewer service area for 2025. There is substantial acreage of developable land within the sewer service area which should be used before developing extensions. Inclusion of lands within the sewer service area does not imply they will be developed and sewered by 2025. And though the sewer service boundary is sometimes discussed in the context of proposed annexations, the Urban Sewer Service Area Plan and boundary should not be used to promote nor hinder annexation petitions or urban density development.

The sewer service plan is designed to accommodate changes which may occur in the years between updates. Development trends, population density changes, community needs, and failed septic systems are all possible reasons the sewer service plan may need to be altered during the interim years. All changes in the plan require an amendment which must be approved by the MPO with final approval being made by the WisDNR, with the exception of a Type IV amendment which only requires WisDNR approval. As discussed in the previous sections, changes to the plan could include altering the sewer service area boundary, adding holding tank service areas, or the addition of an environmental sensitive area into the sewer service area.



Chapter NR 121

AREAWIDE WATER QUALITY MANAGEMENT PLANS

NR 121.01	Purpose	NR 121.07	Procedures for approval of areawide water quality management plans and plan revisions for designated areas of the state
NR 121.02	Applicability	NR 121.08	Procedures for adoption and revision of areawide water quality management plans for nondesignated areas of the state
NR 121.03	Definitions	NR 121.09	Statewide water quality advisory committee
NR 121.04	Structure of the state water quality management plan		
NR 121.05	Content of areawide water quality management plans		
NR 121.06	Designation of areawide water quality planning areas and agencies		

NR 121.01 Purpose. Under the authority of ss. 144.025 (1) and (2), and 147.25, Stats., this chapter establishes regulations specifying policies, procedures, and requirements for Wisconsin's areawide water quality planning process. This process will result in the preparation throughout the state of areawide plans for managing the quality of waters of the state, ground and surface, public and private, including consideration of the relationship of water quality to land and water resources and uses. Under the above state statutory authority, the department of natural resources has the responsibility for the general supervision of this continuing water pollution control planning process. In areas of the state designated by the governor, the preparation of areawide water quality management plans is the responsibility of designated areawide water quality planning agencies. In the remaining areas of the state, the department will prepare areawide water quality management plans. The purpose of this planning process is to systematically evaluate alternative means of achieving state and federal water quality goals and related standards. This planning process integrates consideration of both the technical measures for water pollution abatement and the management arrangements necessary for implementing abatement measures. Public participation will be provided for throughout plan development.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-78; am. Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.02 Applicability. This chapter is applicable to areawide water quality management plans as prepared by both the state and designated areawide water quality planning agencies.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79.

NR 121.03 Definitions. (1) "Areawide water quality management plan" or areawide waste treatment management plan means a plan for managing, protecting and enhancing groundwater and surface water quality which considers the interrelationship of water quality and land and water resources on an areawide basis (hydrologic, political, or other).

(2) "Areawide water quality management plans for designated areas" means areawide water quality management plans prepared by agencies designated by the governor in areas of the state similarly designated.

(3) "Areawide water quality management plans for nondesignated areas" means areawide water quality man-

agement plans prepared by the department for all areas of the state not designated by the governor.

(4) "Best management practices" as defined in s. 144.25 (2) (a), Stats., means practices, techniques or measures, identified in areawide water quality management plans, which are determined to be the most effective, practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals.

(5) "Cost-effectiveness analysis" means a systematic comparison of alternative means of meeting state water quality standards, effluent limitations or other treatment standards in order to identify the alternative which will minimize the total resources costs over the planning period. These resources costs include monetary costs and environmental as well as other non-monetary costs.

(6) "Critical water quality conditions" means those ambient water conditions upon which the most stringent water quality effluent requirements are based.

(7) "Department" means the department of natural resources.

(8) "Designated management agency" means any agency designated in an areawide water quality management plan having responsibility for implementing specific plan recommendations. This may be done through direct activities of the designated management agency or through delegation to other agencies or units of government.

(9) "Effluent limitation" as defined in s. 147.015 (4), Stats., means any restriction established by the department, including schedules of compliance, on quantities, rates, and concentrations of chemical, physical, biological, and other constituents which are discharged from point sources into the waters of this state.

(10) "Point source", as defined in s. 147.015 (8), Stats., means any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation or vessel or other floating craft from which pollutants may be discharged either into the waters of this state or into a publicly owned treatment works. Point source shall not include diffused surface drainage or any ditch or channel which serves only to intermittently drain excess surface water from rain or melting snow and is not used as a means of conveying pollutants into waters of the state. Point source shall

not include uncontrolled discharges composed entirely of storm runoff when these discharges are uncontaminated by any industrial or commercial activity, unless the particular storm runoff discharge has been identified by the department as a significant contributor of pollution.

(11) "Priority watershed" means a watershed of manageable size, delineated in the areawide water quality management plan and selected according to the procedures specified in s. NR 120.07.

(12) "Public participation process" means those activities developed for involving individual members of the public, local governmental officials, and interest groups in the areawide water quality management planning process. These activities may include: the dissemination of information to the public including plan documents and summaries in lay terms, outreach activities to identify interested members of the public, the actual involvement of the public in the decision-making process which leads to the preparation and implementation of an areawide water quality management plan, and response to the public on how their input was used. This process normally includes both public meetings and public informational hearings.

(13) "Nonpoint source" as set forth in s. 144.25, Stats., means a land management or use activity contributing to runoff, seepage or percolation; and are sources which are not defined as a point source under s. 147.015 (8), Stats.

(14) "Residual wastes" means waste materials resulting from the treatment of wastes or wastewater.

(15) "Sewer service area" means that area presently served and anticipated to be served by a sewage collection system.

(16) "Total maximum daily load" means the amount of pollutants specified as a function of one or more water quality parameters, that can be discharged per day into a water quality limited segment and still insure attainment of the applicable water quality standard. There are 4 components to the total maximum daily load: point source allocation, nonpoint source allocation, reserve capacity and margin of safety.

(17) "Waste load allocation" means the assignment of a portion of the total maximum daily load to each of the discharges to a water quality limited segment, such that the summation of these individual loadings does not exceed the total maximum daily load.

(18) "Water pollution", as defined in s. 147.015 (19), Stats., means man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(19) "Water quality standards" means standards established by the department pursuant to s. 144.025 (2) (b), Stats., of the physical, chemical or biological characteristics or both of a water which must be maintained to make it suitable for specified uses.

(20) "Water quality limited segment" means any area or portion of a stream which will not meet the established water quality standard with application of only categorical effluent limitations to all point sources.

(21) "Watershed" means a hydrologically related land unit delineated for the purpose of instituting water quality

management activities. Generally, the maximum size of a watershed should not exceed 200,000 acres.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1), (19) and (20), r. and recr. (6), r. (10), renum. (11) and (12) to be (10) and (11), renum. (13) to be (12) and am., cr. (13), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.04 Structure of the state water quality management plan. (1) The state continuing process required under s. 147.25, Stats., consists of the development of, and regular review and revision of the state water quality management plan.

(2) The state water quality management plan consists of:

(a) Areawide water quality management plans for areas designated by the governor and prepared by agencies similarly designated.

(b) Areawide water quality management plans for nondesignated areas prepared by the department for the remainder of the state.

(c) A document describing the state's areawide water quality management planning process. This document shall describe the interrelationship among the various elements in the planning process. These elements include:

1. Areawide water quality management plans for designated and nondesignated areas of the state.

2. Topical studies which analyze water quality policies or issues of statewide concern.

3. Procedures for intergovernmental cooperation.

4. Procedures and mechanisms for plan implementation including:

a. Water quality standards and procedures for their revision.

b. Effluent limitations and waste load allocations required to meet water quality standards.

c. An inventory and priority ranking of wastewater treatment plant construction needs for the purpose of distributing state and federal grant funds.

d. Controls for the disposition of residual wastes from wastewater treatment processes.

e. Best management practices for nonpoint sources of water pollution.

5. Procedures for plan revision.

6. Procedures for public participation.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (2) (c) 1., Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.05 Content of areawide water quality management plans. (1) Subject to sub. (2), the following elements shall be included in each areawide water quality management plan prepared or approved by the department.

(a) *Planning area boundaries.* The delineation in map form of the area for which the plan is being prepared.

(b) *Water quality assessment.* An assessment of existing and potential water quality problems within the planning area including a general assessment of both point and

nonpoint sources of pollution contributing to the problems.

(c) *Inventories and forecasts.* 1. An inventory of municipal and industrial source of pollutants.

2. Current demographic and economic growth data.

3. Population forecasts for 20 years in 5-year increments developed in the following manner:

a. The state population forecast for the state water quality management plan shall be consistent with that generated by the Wisconsin department of administration (DOA) and with the forecast provided by the U.S. department of commerce, bureau of economic analysis (BEA).

b. Single county forecasts prepared by multi-county regional planning agencies (established in s. 66.945, Stats.) for the purpose of areawide water quality management planning shall be consistent with the range of the regional forecast generated by DOA. Single county forecasts prepared by single county planning agencies shall be expressed within the range of the county forecast generated by DOA. Single county forecasts inconsistent with the range of DOA regional forecasts and single family [county] forecasts falling outside of the range provided by DOA may be used if special approval is obtained from the natural resources board.

Revisor's Note: Due to an apparent error, "family" was substituted for "county" in Natural Resources Board Order No. WQ-55-80, which amended subd. 1. b.

c. The population forecasting methodology used by designated regional or county planning agencies to apportion county forecasts to minor civil divisions (MCD) and individual sewer service areas shall be consistent with standards developed by DOA. If these agencies do not prepare MCD forecasts, the department will request that DOA do so. If DOA chooses not to prepare MCD forecasts, the department will do so.

4. Existing and projected land use patterns including the delineation of sewer service areas as described in par. (g).

(d) *Water quality standards.* Applicable state water quality standards and any suggested revision of such water quality standards.

(e) *Total maximum daily loads.* For each water quality limited segment, the total allowable maximum daily load of pollutants during critical water quality conditions for each specific water quality criterion being violated or expected to be violated.

(f) *Waste load allocations.* For each water quality limited segment, the individual load allocation for point sources of pollutants for the 5-year period following plan preparation.

(g) *Nonindustrial wastewater treatment and collection system plan.* 1. The most cost-effective regional wastewater plans for all the urban areas shall be identified over a 20-year planning period based upon an analysis of alternative waste treatment system configurations. Wherever possible, applicable recommendations of approved facility plans shall be used to determine the urban area's treatment needs. This analysis shall be consistent with s. NR 110.09, and shall include a cost-effectiveness analysis of

regional versus individual treatment plants for the outlying areas including subsurface waste disposal systems. Water quality and other environmental impacts shall be considered.

2. Sewage collection system needs shall be identified through the delineation of a sewer service area for existing and proposed treatment systems for the 20-year planning period such that:

a. The sewer service area is determined in such a fashion as to promote cost-effective and environmentally sound waste collection and treatment.

b. The sewer service areas are delineated based on a 20-year population forecast approved by the department, and municipally approved population density standards.

c. Major areas unsuitable for the installation of waste treatment systems because of physical or environmental constraints are to be excluded from the service area. Areas to be considered for exclusion from the sewer service area because of the potential for adverse impacts on the quality of the waters of the state from both point and nonpoint sources of pollution include but are not limited to wetlands, shorelands, floodways and floodplains, steep slopes, highly erodible soils and other limiting soil types, groundwater recharge areas, and other such physical constraints.

d. Ten-year service area boundaries may also be included in addition to the 20-year sewer service boundaries.

3. The plan shall include criteria for the construction of future treatment systems within the areawide planning area. These criteria shall be consistent with, but may be more specific or restrictive than those contained in s. NR 110.08 (5), if warranted by regional and local considerations.

4. For nondesignated areas of the state, a detailed identification of the regional waste treatment system, including the delineation of sewer service areas will be carried out for selected urban areas within standard metropolitan statistical areas and for urban areas with a population of over 10,000.

a. The preparation of the plan will be carried out if possible by a local planning agency under contract with the department.

b. A local policy advisory committee made up of representatives of the various local units of government in the planning area shall be established, or an existing body used, to assist the department in the preparation of the plan and to act in an advisory role to the department in matters concerning the implementation of the plan.

(h) *Industrial waste treatment system needs.* The anticipated industrial point source waste load reductions required to attain and maintain applicable water quality standards and effluent limitations for at least a 20-year planning period.

(i) *Nonpoint source control needs.* 1. The best management practices needed to produce a basic level of control of nonpoint source of pollutants throughout the planning area shall be identified and evaluated. Watersheds will be identified in the plan and the general water quality problems for each assessed.

NR 121.05

2. Priority watershed plans shall be prepared for [on] a priority basis by the department and applicable designated agencies. The contents of priority watershed plans are described in s. NR 120.08.

Revisor's Note: Due to an apparent error "for" was substituted for "on" in Natural Resources Board Order No. WQ-55-80, which amended subd. 2.

(j) *Residual waste control needs.* An identification of the necessary controls to be established over the disposition of residual wastes.

(k) *Land disposal needs.* An identification of the necessary controls to be established for the disposal of pollutants on land or in a subsurface excavation site.

(l) *Target abatement dates.* Target abatement dates or schedules of compliance for all significant dischargers, nonpoint source control measures, residual and land disposal controls and stormwater system needs.

(m) *Recommended regulatory programs.* Recommended regulatory programs needed to implement the state water quality management plan.

(n) *Designated management agencies.* The identification of those agencies recommended for designation to carry out the provisions of the areawide plan.

(o) *Environmental, social, economic impact.* An assessment of the environmental, social and economic impacts of carrying out specific significant recommendations of the plan.

(2) The department may waive inclusion of any of these elements upon a determination by the department that special conditions exist in the planning area which preclude their inclusion or that financial resources are not adequate to allow their inclusion.

History: Cr. Register, January, 1979, No. 271, eff. 2-1-79; am. (1) (intro.) (a), (c) 3.b, and 4., (e), (f), (i) 2., (n) and (2); r. and recr. (1) (g), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.06 Designation of areawide water quality planning areas and agencies. (1) As the need arises, the department shall recommend that the governor designate areawide planning areas which as a result of urban and industrial concentrations or other factors have substantial and complex water quality control problems.

(2) Within each of these planning areas the department shall recommend to the governor for designation a single agency capable of developing effective areawide water quality management plans. Each recommended planning agency shall:

(a) Be either a regional planning commission established under s. 66.945, Stats., or be a representative organization whose membership shall include elected officials of local governments or their designees, having jurisdiction in a designated areawide water quality management planning area.

(b) Demonstrate substantial local support for designation through resolutions from local units of government deemed by the department to be critical to the successful preparation and implementation of an areawide water quality management plan.

(c) Demonstrate the technical capability to complete the plan in a timely manner.

Register, September, 1995, No. 477

(3) The department may recommend that the governor withdraw or modify the designation of a designated agency or designated area or both when a compelling need for such change has been demonstrated. Prior to making such a recommendation to the governor, the department shall, conduct a public participation process, including at a minimum a public hearing in the affected area.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (2) (intro.) and (a) and (3), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.07 Procedures for approval of areawide water quality management plans and plan revisions for designated areas of the state. (1) Review and approval of areawide water quality management plans for designated areas:

(a) The department shall review and approve or disapprove each areawide water quality management plan and shall make recommendations to the governor as to the certification of all or parts of each plan.

(b) To receive departmental approval areawide water quality management plans for designated areas must have been subject to a public participation process, approved by the department including at a minimum, a public hearing.

(2) Review and approval of 5-year updates to areawide water quality management plans for designated areas:

(a) The department shall reevaluate the approval status of each areawide water quality management plan for designated areas at least every 5 years.

1. The first such reevaluation will be completed no later than December 31, 1987.

2. Continued or renewed approval shall be granted only to plans, or portions thereof, upon a determination by the department that the plan continues to meet the requirements of this chapter.

(b) Upon reevaluation of the approval status of the plans as described in par. (a), the department shall approve the plan subject to the approval procedures described in sub. (1) (a) and (b).

(3) Review and approval of revisions to areawide water quality management plans for designated areas:

(a) The department may approve on an annual basis, or where expressed procedures are established between the department and a designated planning agency, revisions which incorporate new information or amendments to an approved areawide water quality management plan.

(b) Approval of plan revisions may be subject to a public participation process.

(4) Disapproval of previously approved areawide water quality management plans or plan elements:

(a) The department may disapprove or otherwise modify any previously approved areawide water quality management plan or plan element if such action is deemed necessary to reflect state law or rules or changes therein; or where the department finds the plan or plan element conflicts with the department's responsibility to protect, maintain, and improve the quality and management of the waters of the state, ground or surface, public and private; or where the plan or plan element is found otherwise not to be in the public interest.

(b) Any disapproval or modification of a previously approved areawide water quality management plan or plan element by the department shall include a public participation process including at minimum a public hearing.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1) and (2), cr. (3) and (4), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.08 Procedures for adoption and revision of areawide water quality management plans for nondesignated areas of the state. (1) Adoption of areawide water quality management plans for nondesignated areas:

(a) During development and prior to formal adoption, areawide water quality management plans for nondesignated areas or portions thereof shall be subject to a public participation process including, at a minimum public hearing.

(b) Each areawide water quality management plan for a nondesignated area, or portion thereof, shall be submitted to the governor for certification as the adopted areawide water quality management plan for that portion of the state.

(2) Review and approval of 5-year updates to areawide water quality management plans for nondesignated areas:

(a) Areawide water quality management plans for each nondesignated area shall be subject to a major review and update at least every 5 years. The first such review and update of areawide water quality management plans for all nondesignated areas will be completed no later than December 31, 1987.

(b) Five year plan updates shall be subject to the public participation process and adoption procedures as described in sub. (1)

(3) Revisions to areawide water quality management plans for nondesignated areas:

(a) The department may revise, as is necessary, areawide water quality management plans for nondesignated areas.

(b) Plan revisions by the department may be subject to a public participation process.

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1) and (2), cr. (3), Register, August, 1981, No. 308, eff. 9-1-81.

NR 121.09 Statewide water quality advisory committee. (1) The department shall form a statewide water quality advisory committee composed of representatives of federal, state and regional organizations, agencies and units of government, public interest groups, groups with a special economic interest and private citizens.

(2) The department shall inform the committee of ongoing and proposed water quality planning and management activities and policy issues of statewide concern.

(3) The committee shall advise the department on water quality management issues of statewide concern.

(4) The statewide water quality advisory committee shall include, at a minimum, representatives of the following:

- (a) U.S. environmental protection agency
- (b) U.S. department of agriculture
- (c) U.S. geological survey
- (d) U.S. army corps of engineers
- (e) Wisconsin assembly environmental resources committee
- (f) Wisconsin senate agriculture and natural resources committee
- (g) Wisconsin department of agriculture, trade and consumer protection
- (h) Wisconsin department of transportation
- (i) Wisconsin department of administration
- (j) Wisconsin board of soil and water conservation districts
- (k) University of Wisconsin-extension
- (l) Wisconsin department of natural resources
- (m) Wisconsin department of development
- (n) Wisconsin department of health and social services
- (o) Southeastern Wisconsin regional planning commission
- (p) Dane county regional planning commission
- (q) Fox valley water quality planning agency
- (r) Rock river task force
- (s) Upper Wisconsin river task force
- (t) Lake Michigan policy advisory committee
- (u) Southwest Wisconsin policy advisory committee
- (v) Northwest Wisconsin policy advisory committee
- (w) Public interest groups
- (x) Groups with a special economic interest
- (y) Private citizens
- (z) East central Wisconsin regional planning commission
- (za) Brown county planning commission
- (zb) Wisconsin department of industry, labor and human relations
- (zc) Agricultural producer groups

History: Cr. Register, January, 1979, No. 277, eff. 2-1-79; am. (1) and (4), Register, August, 1981, No. 308, eff. 9-1-81.





Eau Claire Comprehensive Plan

September 2005



Purpose

The Eau Claire Comprehensive Plan is the official policy document adopted by the City of Eau Claire to guide the City's decisions about long-term growth and physical development through 2025. The Plan encompasses all the geographical areas of the community envisioned to be part of the City by 2025 and identifies a fiscally responsible development pattern intended to encourage consistent public and private decisions about future development.

The Comprehensive Plan is the basis for the City's subdivision regulations, official mapping and amendments to the City Zoning Ordinance and Zoning Map.

For more information, visit the City's Web site at www.eauclairewi.gov, contact the Department of Community Development, 203 S. Farwell Street, Eau Claire, WI 54701, telephone 715-839-4914, or email cityhall@eauclairewi.gov

Growth Trends and Projections

The Comprehensive Plan projects that growth through 2025 will increase at approximately the same rate as in the past thirty to forty years. By the year 2025, the City's population is forecast to be approximately 75,000. The 2005 population was approximately 64,500.

Between 1960 and 2000, the City experienced steady and consistent growth. The population increased by almost 24,000, an average annual growth rate slightly over 1 percent for the forty-year period. The number of households increased by almost 12,000, an average

annual growth rate of 1.2 percent. Over the same period, the area of the City increased by almost 13 square miles, a total expansion in corporate boundaries of 66 percent and an average annual rate of expansion of 1.4 percent.

The average number of persons per household, which was 2.57 in 2000, is projected to continue to decline slightly to 2.5 persons per household by 2025. The total number of households is projected to increase to 29,900 by 2025.

Future Growth Strategy

The Comprehensive Plan distinguishes urbanized from rural development and plans for the City's projected future growth by providing for orderly staged development. The recommended growth concept emphasizes six overarching themes:

Fringe Growth: Expand the Urban Sewer Service Area and protect it for efficient, compact urban growth.

Neighborhood Protection and Improvement: Keep older neighborhoods attractive and vital through improved streets, parks, code enforcement, design standards and selective redevelopment.

Natural Environment: Protect and enhance the major natural features of Eau Claire, such as wooded hillsides, vistas and waterfronts.

Intergovernmental Cooperation: Improve intergovernmental cooperation on land use, utilities, roads, drainage, parks, boundaries and school sites.

Economic Development: Continue to work with county, state and private organizations to diversify and expand the local economy while raising the standard of living.

City Fiscal Health: Improve and stabilize City fiscal conditions by keeping public service cost increases in line with revenue growth.

Land Use Plan

The Land Use chapter guides public and private decisions about the future use of land and the structures built upon the land. The purpose of the chapter is to encourage the orderly development of Eau Claire, create an attractive and efficient urban environment for the benefit of the larger urban area and protect the City's capacity for the future expansion of its tax base.

Land use policies seek to influence the location, type, amount and timing of future growth through private real estate development, public investment in infrastructure and community facilities, and conservation of natural areas. Key policies include:

Compact and Contiguous Growth: Guide growth to locations either contiguous to or within presently urbanized areas. Land use should be either urban and compact, or rural and low density.

New Neighborhoods: Include in each major neighborhood a variety of types of housing (both detached and attached), street trees and sidewalks, parks and greenways within walking distance and small commercial areas.

Activity Centers: Intensify the pattern of land use in those parts of the City identified as Activity Centers.

Utilities Staging Plan: Extend sanitary sewer and water lines according to the priority sequence indicated by the Public Utilities Staging Plan.

Joint Planning: Initiate joint planning collaborations with adjacent towns and the counties to prepare detailed sub-area land use plans for major interchanges, highway corridors and other future growth areas in the City's perimeter area.

Extraterritorial Zoning: Seek to establish extraterritorial zoning in cooperation with adjacent towns.

Variety within Each Neighborhood: Encourage developers to design each neighborhood to contain a range of housing types, densities and building configurations, including single-family detached, townhouses, apartments and more specialized types such as senior housing or live-work units.

Chippewa River Land Uses: Guide development along the Chippewa River to take advantage of river views with land uses such as mid- and high-density housing,

offices, parks and trails and hospitality businesses such as restaurants or hotels; and industries that need water for manufacturing.

Eau Claire River Land Uses: Evolve the Eau Claire River frontage from industries and parking to a more compatible mixture of linear park, offices, housing and some industry.

Infrastructure Investments: Seek to enter into intergovernmental agreements to provide for the targeted construction of lift stations and trunk lines in the Urban Sewer Service Areas to attract and direct development to selected perimeter growth locations jointly identified by the City and adjacent towns.

Road Corridor Land Use Planning: Plan the edges of arterial roads for an appropriate and acceptable variety of land uses ranging from single-family housing to shopping centers as long as the roadway access guidelines presented in the Transportation chapter are followed. Through site design, seek to improve the appearance and access for pedestrian and bicycle circulation along these corridors.

Redevelopment Program: Support redevelopment primarily by planning and zoning certain sites for more intensive or different land uses than their present use.

Reducing Incompatible Land Use: Remedy past land use incompatibilities and avoid new ones through amendments to the zoning ordinance and through land use planning with citizen involvement.



Phoenix Park and the adjacent office, housing and business development represent a major step in the rebirth of Downtown Eau Claire

Photo courtesy of Ayres Associates

Economic Development

The Economic Development chapter identifies the City's priorities for fostering a vibrant and growing local economy. Key policies include:

Industrial Parks: Zone adequate land for future development and acquire and develop industrial parks through organizations such as the Gateway Industrial Park Corporation.

Key Infrastructure: Support expansion of key infrastructure improvements for telecommunications and transportation, including high-speed passenger rail and the Chippewa Valley Regional Airport.

Key Industries: Identify issues and opportunities facing industry groups key to the economic health of the area and take action to support them in retaining or creating employment and tax base.

Tax Base Density and Efficient Use of Infrastructure: Use land and related infrastructure efficiently to achieve strong commercial and industrial tax base density in business and industrial parks.

Sustainable Development: Pursue economic development strategies that support a diverse and vibrant economy while protecting the integrity of the natural air, water and land ecosystems that support life.

Redevelopment: Support redevelopment of contaminated, blighted and under-developed properties with strong potential for reuse as business and industrial development sites.

Revitalization Efforts: Support economic revitalization of Downtown by encouraging diverse economic activity, including public and private offices, services, medical, hospitality businesses, high-density housing and civic, cultural and entertainment land uses.

Coordinated Campus Planning: Help create an overall area master plan for major government and medical institutions located between Clairemont Avenue and the Chippewa River and for the Medical Center District located in Downtown.

Workforce: Support investments in quality neighborhoods, recreational opportunities and cultural amenities important to attracting and retaining a competitive workforce.

Tourism: Support regional strategies to attract visitors to the area in ways that balance the economic benefits from tourism with the economic costs of expanded traffic and use of public facilities and services.

Organization and Coordination: Work with public and private economic development partners to efficiently and effectively address economic development issues and opportunities and minimize duplication of effort.

Public Utilities

The Public Utilities chapter addresses the long-term community needs for the provision of a public water supply, sanitary sewers and surface water drainage. Key policies include:

Sewer Extension Policy: Provide sanitary sewer service only to properties within the City to ensure sustained fiscal health, redevelopment and growth management.

Intergovernmental Understanding: Seek the cooperation of adjacent towns and counties in providing for orderly and staged extension of sanitary sewer and water infrastructure to guide growth in the Urban Sewer Service Area.

Utilities Staging Plan: Extend sanitary sewer and water lines as shown on the Public Utilities Staging Plan.

Responsibilities: Continue to require land developers to pay the

full cost of improving or extending minor streets and utility lines and to participate in the cost of improving arterial roads and trunk utility lines.

Sewage Treatment Plant: Partner with the City of Altoona to upgrade the sewage treatment plant prior to 2020.

Urban Sewer Service Area Boundaries: Seek to adjust the City's Urban Sewer Service Area boundary to reflect the capacity of the City's sewage treatment plant and adjustments in the boundaries of adjacent incorporated jurisdictions.

Community Facilities

The Community Facilities chapter directs the City to seek increased intergovernmental sharing of facilities and services and to use public investments in schools, libraries, community centers, fire and police services and parks to help create neighborhoods with lasting value, to attract regional growth to Eau Claire and to enhance the quality of life. Key policies include:

Police and Fire Services: Continue to provide a high level of police and fire services.

Schools: Coordinate urban growth, particularly new parks, with public elementary, middle and high schools.

Community Recreation Facility: Continue to study the need and feasibility of creating a multi-purpose community building for recreation and meetings.

Convention and Events Center: Continue to study the need and feasibility for a convention and conference facility in Eau Claire.

Regional Airport: Seek to ensure that future improvements to the Chippewa Valley Regional Airport to maintain and improve passenger and freight services will not adversely impact adjacent residential neighborhoods.

Housing

The Housing chapter guides public spending on housing assistance programs and guides public regulation of private housing development. Key policies include:

Affordable Housing: Work with Chippewa and Eau Claire Counties, other communities and the private housing market to address the regional needs for housing priced and sized for lower-income households.

Housing Diversity: Work to diversify the housing stock by adding more attractive attached housing in all price ranges, style and tenure (ownership versus rental).

Housing Density: Promote through plans and regulations a broad range of housing types and price levels in each major district or neighborhood.

Infill and Rehabilitation: Emphasize infill development and rehabilitation of existing housing.

Design Guidelines for Attached Housing: Adopt guidelines for the site planning and general design of apartments and townhouses.

Code Enforcement: Provide increased support and resources for systematic nuisance and code enforcement regarding property maintenance.

Remodeling and Zoning: Review the zoning ordinance to ensure that it allows the reasonable remodeling and rehabilitation of homes in the older neighborhoods that may not be in conformance with current regulations while protecting the design integrity of the immediate area.

People with Special Needs: Continue to provide assistance for people with special needs such as the disabled, the mentally ill, those with HIV-AIDS and the homeless.

Historic Preservation

The Historic Preservation chapter aims to preserve and enhance the cultural and historic resources within the City of Eau Claire. The Plan recognizes the importance of Eau Claire's existing neighborhoods and the need to improve and protect these older areas. This chapter recommends the continuation of many existing policies, while supporting an expanded role for the Eau Claire Landmarks Commission. Key policies include:

Evaluation and Designation: Continue to survey and evaluate historic and potentially historic resources for designation, recognition and protection.

Role of Eau Claire Landmarks Commission: Make the Landmarks Commission a stronger participant in the implementation of the Comprehensive Plan by using its expertise in architecture, urban design and history in areas of redevelopment, neighborhood planning and infill development.

Community Support: Increase community support for heritage preservation and for the work of the Landmarks Commission.

Heritage Education: Continue to provide programs and activities that will instill an appreciation and pride in Eau Claire's past.

Natural Resources

The preservation, enhancement and restoration of important environmental resources are pivotal community issues. Key policies include:

Development: Site new development carefully to protect natural character; use low-impact means of handling runoff.

Slopes: Adopt regulations to protect steep, wooded slopes.

Storm Water: Follow the recommendations of the 1992 *Comprehensive Storm Water Management Plan* and update it in the Lowes Creek and Otter Creek watersheds.

Water Quality: Improve water quality by following the provisions of the Water Pollution Discharge Elimination System permit issued

by the Wisconsin Department of Natural Resources. Reduce soil erosion, especially near streams and wetlands.

Shoreline Protection: Preserve or restore natural conditions along rivers and streams to filter runoff, reduce erosion and provide habitat for stream species.

Groundwater Contamination: Implement the remedial action plan for containing and reducing the groundwater threat to the Eau Claire Municipal Well Field.

Wildlife Habitat: Protect the key remaining small tracts of wildlife habitat and restore or improve the quality of other locations.

Transportation

The Transportation chapter guides public policy in regard to the evolution of the overall transportation system and specifically recommends actions that are consistent with the land use and urban design components of the Comprehensive Plan. Key policies include:

Minor Residential Streets: Decrease the width of new local residential streets from current standards and fully interconnect new local residential streets.

New or Improved Roads: Base plans for road extensions and capacity improvements on the results of the 2004 regional road system computer model prepared by the Metropolitan Planning Organization.

Access Management: Manage access on major streets to improve traffic flow and road capacity, always with a concern for neighborhood livability.

Transit: Build a more attractive and functional multi-modal transit center in Downtown and seek to establish a regional transit authority.

Bicycling: Build a City-wide network of interconnected bicycle paths and lanes serving both recreational and transportation functions and require that on-street bicycle lanes be installed with most new arterial or collector roads.

Sidewalks: Install public sidewalks along both sides of each new or reconstructed local or collector street, with exceptions for protecting major natural features and short cul-de-sac streets.

Inter-City Passenger Rail Service: Support the West Central Wisconsin Rail Coalition efforts to ensure passenger rail service connecting Eau Claire to Minneapolis and Madison.



Walking and bicycling paths along the Eau Claire and Chippewa Rivers will help open the waterfronts to public recreation.

Photo courtesy of the Eau Claire Leader Telegram

Park System

The park system is a major investment for Eau Claire and a vital element of its quality of life. Key policies include:

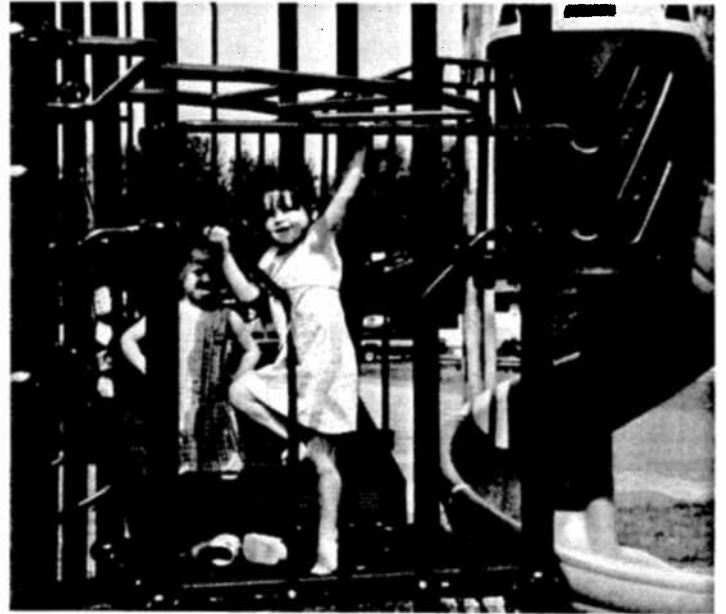
New Parks: Plan and acquire additional parks for new neighborhoods, including new playgrounds serving each square-mile or smaller area; provide new athletic fields in the northern sectors of the City for soccer and softball.

Waterfront Open Space: Acquire land for new parks and trails along the Chippewa and Eau Claire Rivers and along Sherman, Lowes and Otter Creeks.

Bicycling and Walking: Extend the off-road path system and supplement it with on-road bicycling lanes for transportation and recreation.

Parks in Urban Design: Use parks to enhance neighborhoods and commercial districts, reflect Eau Claire's cultural heritage and honor civic life.

Ecology and Environment: Design parks and greenways to protect environmentally sensitive features, reduce negative environmental effects and serve as models of land stewardship.



The park system will be enlarged and improved.

Physical Character

The Physical Character chapter is intended to guide public and private investments to create a well-designed community of distinctive neighborhoods, which are supported by green public lands and vital civic and commercial centers. Key policies include:

Overall Urban Character: Incorporate the best aspects of both a small town and a major city through land use and design.

Regional Environment: Use public improvements, public art and land development regulations to preserve the major elements and special places that evoke the regional environmental and cultural history of Eau Claire.

New Neighborhoods: Design new neighborhoods to reflect the best qualities of the traditional neighborhoods of Eau Claire.

Established Neighborhoods: Maintain the traditional urban character of these neighborhoods and promote continuous public and private reinvestment to ensure that they remain attractive places to live.

Mixed Use: Encourage a mix of compatible land uses in a variety of locations and scales in order to create more vital and walkable activity centers.

Better Site Design: Improve standards for site planning and design, including building and parking placement, pedestrian connections, signage and landscaping.

Waterfronts: Improve the visual quality and connections to the waterfronts to support appropriate development and enhance the community's quality of life.

Major Road Corridors: Improve the appearance of the major roadway corridors in Eau Claire through access management, site planning and sign controls.

Parkways: Engage in a long-term program to create a system of parkways and well-landscaped streets to help improve community appearances, property values and quality of life.

Downtown

Eau Claire seeks to re-establish the Downtown as a major mixed-use activity center integrating civic and governmental uses, professional and corporate offices, health care, meeting and entertainment facilities, arts and culture, housing and specialty retail. Downtown includes the North and South Barstow, Bellinger Street and the West Grand Avenue Areas. Key policies include:

Downtown Action Agenda: Ensure an effective and ongoing public-private partnership to continue implementation of the Downtown Action Agenda 2001.

Business Development and Marketing: Provide business development and marketing support to encourage diverse economic activity in the Downtown.

Redevelopment: Support redevelopment of blighted properties in Downtown and between Downtown and adjacent neighborhoods.

Riverfront Orientation: Encourage the use of the riverfront and adjacent open spaces as a key organizing feature for the design and orientation of both public facilities and private development

Pedestrian Orientation: Enhance the walkability of the Downtown by ensuring safe, attractive and pleasant pedestrian routes and connections.

Downtown Design: Encourage the use of consistent Downtown design standards and principles for buildings and public spaces.

Circulation: Provide a safe internal circulation system that is interconnected among districts with pedestrian, vehicular and multi-modal access from peripheral highway system.

Housing: Encourage housing rehabilitation, redevelopment and infill in the Downtown core and periphery.

Intergovernmental Cooperation

The Intergovernmental Cooperation chapter lays the groundwork for the City to build more effective intergovernmental partnerships in the Eau Claire-Chippewa Falls metropolitan area and achieve a more orderly and compact urban development pattern. Key policies include:

Shared Communication: Promote timely and effective communication among local government jurisdictions regarding planning and development in the metropolitan area.

Smart Growth Cooperation: Encourage government jurisdictions in the metropolitan area to work together in implementing policies consistent with the Comprehensive Plan recommendations for the urban sewer service area and the principles of Smart Growth.

Shared Services: Pursue expanded collaboration among government jurisdictions and agencies to share services and facilities more cost-effectively when providing public services in the metropolitan area.

Consistent Development Standards: Encourage government agencies in the metropolitan area to adopt and implement consistent land development policies, standards and review procedures.

Boundary Change: Encourage an orderly boundary change process consistent with the Comprehensive Plan recommendations for the urban sewer service area.

Plan Implementation

The Plan Implementation chapter identifies the policies necessary to ensure that the recommendations of the Comprehensive Plan are carried out effectively. Key policies include:

Annual Report: Transmit an annual status report to the City Council, Plan Commission, and adjacent jurisdictions.

Periodic Amendments: Propose periodic amendments to the Comprehensive Plan as conditions warrant.

Regular Reviews: Conduct a formal review of the entire Comprehensive Plan once every five years and a major re-assessment and update of the Plan at least once every ten years.

Work Program: Prepare and implement a coordinated work program of short- and long-term actions to guide the implementation of the Plan.

* The remainder of this publication,
"Planned Land Use" map, was
too large to scan. *