

# **COOPERATIVE PLAN**

Between

**CITY OF OSHKOSH**

And

**TOWN OF ALGOMA**

Those Involved in the Preparation of the Cooperative Plan:

City of Oshkosh Community Development Department, Jackson Kinney  
City of Oshkosh Attorney, Warren Kraft  
Town of Algoma Administrator, Jeanette Diakoff  
Town of Algoma Attorney, Robert Wertsch  
Stafford Rosenbaum LLP Law Firm, Richard K. Nordeng & Richard Yde  
Martenson & Eisele, Inc., Warren Utecht  
Boardman, Suhr, Curry and Field, Richard Lehmann

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**OUTLINE OF CITY OF OSHKOSH AND TOWN OF ALGOMA  
COOPERATIVE PLAN  
UNDER WIS. STAT. § 66.0307**

The **CITY OF OSHKOSH**, a Wisconsin municipal corporation with offices at 215 Church Avenue, Oshkosh, Wisconsin 54903-1130 and the **TOWN OF ALGOMA**, a Wisconsin municipality with offices at 15 North Oakwood Road, Algoma, Wisconsin 54904 enter into this Cooperative Plan, ("**Cooperative Plan**" or "**Plan**"), subject to approval of the State Department of Administration, under authority of Wis. Stat. § 66.0307.

**RECITALS**

**A.** Wis. Stat. § 66.0307, authorizes municipalities to determine the boundary lines between themselves upon approval of a cooperative plan by the State Department of Administration.

**B.** The purpose of a cooperative plan is set forth in Wis. Stat. § 66.0307(3)(b), as follows: The cooperative plan shall be made with the general purpose of guiding and accomplishing a coordinated, adjusted and harmonious development of the territory covered by the plan which will, in accordance with existing and future needs, best promote public health, safety, morals, order, convenience, prosperity or the general welfare, as well as efficiency and economy in the process of development.

**C.** Wis. Stat. § 66.0307(2) permits cooperative plans to provide for future boundary changes.

**D.** On March 11, 2003, the City and Town entered into an Intergovernmental Agreement under the authority of Wis. Stat. § 66.0301 to provide the basic foundation for this Cooperative Plan. The Intergovernmental Agreement is attached hereto as Exhibit I.

**E.** The City and Town entered into the Intergovernmental Agreement for the purposes of establishing a long-term boundary, limiting the City's extraterritorial authority within the Protected Area assuring orderly growth and development outside the Protected Area, protecting Town owners from annexations against their will, and facilitating attachment of lands in the Expansion Area at the will of the owners without threat of lawsuits.

**F.** This Cooperative Plan is intended to implement the Intergovernmental Agreement and to guide and accomplish a coordinated, well-planned and harmonious development of the territory covered by the Plan.

**G.** This Cooperative Plan was developed following a review of regional, county and local plans and after a public hearing on the Plan noticed under Wis. Stat. § 66.0307(4)(b) on December 18, 2003, from which comments were received and said comments are addressed in Exhibit H.

**H.** It is the intention of the City and Town that this Cooperative Plan be a binding and enforceable contract.

## **PLAN**

**THEREFORE**, the City of Oshkosh and Town of Algoma enter into this Cooperative Plan under authority of Wis. Stat. § 66.0307, and petition the State of Wisconsin Department of Administration for approval, in accordance with statutory procedures and time frames.

### **SECTION 1 PARTICIPATING MUNICIPALITIES**

This Cooperative Plan applies to the City of Oshkosh and Town of Algoma, located in Winnebago County, Wisconsin. The boundary between the City and the Town is shown on Exhibit\_A.

### **SECTION 2** [This section left intentionally blank.]

### **SECTION 3 TERRITORY SUBJECT TO THE COOPERATIVE PLAN**

The territory subject to this Cooperative Plan is all territory in the Town as of the date of this Plan.

### **SECTION 4 ISSUES, PROBLEMS, OPPORTUNITIES**

This Cooperative Plan will address issues and problems and create opportunities as noted in the subsections below:

**4.01 Existing Character of the Territory (Town of Algoma)** The Town of Algoma has a substantial amount of land within its sanitary district where development can happen. Exhibit C is a Land Use Plan amendment, adopted by the Town of Algoma in 2001, which illustrates a potential lot concept. This kind of detail is not normally done

for a land use plan. It was done to better understand how each parcel of land could relate to adjoining parcels from the standpoint of vehicular circulation as well as pedestrian trails, parks and a potential grade school site. The planned area identified in Map C is in the protected area, and is also an area where a public water system will be developed. The remainder of the protected area is primarily undeveloped farm land and other open space.

The portions of the Town of Algoma in Zone A are mostly town islands or town peninsulas created by annexations to the City of Oshkosh over the years. Other areas are being included in Zone A to create a more uniform boundary between the Town and the City. Land within Zone A contains a variety of land uses, wetland areas, or highway right-of-way. In general, parcels in Zone A are similar in use to the surrounding land uses within Oshkosh.

That portion of the Town of Algoma in Zone B is located in and around the Winnebago County Airport, located in the City. These parcels have been created from years of boundary changes, and all of them are town islands. The eventual attachment of these town islands will eliminate corporate limit line confusion and will be consistent with similar adjacent land uses.

The land in Zone C is mostly vacant farmland which, within 20 years, will be a logical next tier of growth for the City of Oshkosh. This area, being all east of Clairville Road, will most likely develop as residential north of 20<sup>th</sup> Avenue, and possibly industrial south of 20<sup>th</sup> Avenue. This pattern of land use is consistent with what has occurred contiguous to, and directly east of the land in Zone C.

That portion of the Town of Algoma in Zone D is presently rural farmland, but in 40 years, will be needed as a long term tier of growth for the City of Oshkosh. The most likely form of land development will be residential in nature, with some neighborhood commercial uses primarily at the major road intersections.

**4.02 Future Road Networks** The Town of Algoma and City of Oshkosh have held preliminary discussions with the State Department of Transportation regarding the upgrade of State Trunk Highway 21 to a "backbone" roadway. This means that in the future, Highway 21 may become a freeway that will dissect both the Town of Algoma and City of Oshkosh, and connect to the U.S. Highway 41 freeway. This reclassification will require both the Town and City to plan for alternative arterial street systems to move local traffic around the Town of Algoma and west side of Oshkosh.

Another major roadway being considered is the creation of a north south arterial located near Clairville Road. This limited access roadway would be able to handle future land development and connect Town and City lands on what is now the far western portion of the Oshkosh metropolitan area. Planning for the roadway now will prevent development over the next 20 years from encroaching on the future highway

corridor. This major roadway may also be one of the few connecting points (full interchange) with the potential Highway 21 freeway system.

**4.03 Preservation of Natural, Physical and Socio-Economic Attributes** The Town has major wetland areas. The Town has already planned for these sensitive environmental areas to be preserved, and has shown trails to provide pedestrian access through such areas for health, wellness, and enjoyment of Town and City residents.

The Town of Algoma contains 60 registered historic structures (according to the Wisconsin Historical Society historic places inventory) and about the same number of archeological sites (according to the State Archeologist office), including a Native American village. Action has been taken to preserve areas of significance, and future planning efforts will take into account these historic and archeological sites.

The City of Oshkosh has made efforts to preserve and enhance accessibility to and across Sawyer Creek, which angles southwest through the west side of the City as well parts of the Town of Algoma (within Zones C and D). The City will make efforts to leave this drainage corridor in its natural state, with connecting trails and selected crossings to allow the public to access and enjoy this natural amenity.

Other pedestrian trail systems not previously mentioned are also being planned to produce a series of walkways that will provide an alternative means of transportation between neighborhoods and places of employment or retail stores.

This Plan will promote and enable cooperation between the City and the Town to coordinate their plans for pedestrian trails.

**4.04 Joint Planning** The City of Oshkosh is in the process of updating its comprehensive plan. The Town of Algoma has retained a consultant to begin its comprehensive planning process. With the Plan in place, greater emphasis can be applied to working jointly to resolve any potential land use conflicts or issues, and to promote efficient delivery of services to both the City and Town.

The City and Town share the same Sewer Service Area, and the Town of Algoma Sanitary District #1 collects and transports its waste water to the Oshkosh treatment plant. The relationship of the Sanitary District and City of Oshkosh is expected to continue into the foreseeable future.

Those portions of the Town in the Expansion Area will be served (as attachment occurs) with sanitary sewer, water and underground storm sewer system. The Protected Area will be served by the Algoma Sanitary District #1 for sewer, and the new Algoma water utility will serve most of the developed and future growth areas of the Town, using deep wells as their water source (constructed at the end of 2003).

**4.05 Establish Long-Term Boundaries Between City and Town, Eliminate Annexation Disputes.** In previous years, a number of annexation disputes occurred between the City of Oshkosh and the Town of Algoma. These disputes have absorbed City and Town fiscal resources.

Current Wisconsin annexation statutes and many decades of annexations have resulted in the Town being fragmented into several discontinuous geographic areas and irregular peninsulas. The boundaries of the Town and the City are not well defined by built or natural features, which has resulted in service inefficiencies and challenges. The irregular boundary issues are addressed by this Plan.

The term and implementation phases within the Plan recognize an attempt to balance the competing desires of the City, the Town, and existing Town property owners and residents.

The final boundary between the City and the Town and the interim planning provisions within the Plan will enable both municipalities to engage in more orderly land use planning and development, without wasting public resources on divisive boundary disputes.

**4.06 Assure Orderly Development of City and Town Within the Planning Area.** The Plan provides a mechanism for joint land use decision making while parcels in the Expansion Area remain in the Town. The Plan establishes extraterritorial zoning to manage land use and development in the Expansion Area. Within the Protected Area, the Town of Algoma will be able to undertake appropriate long range planning with assurance that the Protected Area will remain in the Town.

## **SECTION 5 DEFINITIONS**

For the purposes of this Cooperative Plan, the following words and phrases are defined as follows

- 1. Algoma or Town:** The Town of Algoma, Wisconsin, a municipal corporation with offices at 15 North Oakwood Road, Oshkosh, Wisconsin 54904.
- 2. Attachment:** The method by which land is attached to the City as set forth in section 10 of this Plan.
- 3. Boundary Line:** The boundary between the Protected Area and the City or Expansion Area as shown on Exhibits A and B.
- 4. Buffer Area:** Land within the buffer area is shown on Exhibit B and referenced in section 10.04.

**5. District or Sanitary District:** Town of Algoma Sanitary District #1.

**6. Exhibits:** Maps, lists, resolutions and other supporting documents that are attached to this Plan and incorporated as part of the Plan.

**7. Expansion Area:** Geographic areas of the Town shown on Exhibit B, divided into four zones (A, B, C and D as shown on Exhibit A) which, over time, will be attached to the City of Oshkosh.

**8. Final Attachment:** Attachment of remaining Town territory in the Expansion Area (Zone D as shown on Exhibit A) after the Intermediate Attachments.

**9. Intermediate Attachment:** Attachment of designated geographic zones (A, B and C as shown on Exhibit A) within the Expansion Area prior to the Final Attachment.

**10. Oshkosh or City:** The City of Oshkosh, Wisconsin, a municipal corporation with offices at 215 Church Avenue, Oshkosh, Wisconsin 54903-1130.

**11. Plan Territory:** All parcels of land within the Town of Algoma as of the date of this Plan.

**12. Protected Area:** A geographic area shown on Exhibits A and B is protected from annexation or attachment by the City during the term of this Plan.

**13. Town Island:** A Town Island means territory in the Town completely surrounded by the City of Oshkosh.

**14. Voluntary Attachment:** An attachment of land within the Expansion Area pursuant to unanimous request of all owners prior to Final or Intermediate Attachment.

**SECTION 6**

**TERM**

The term of this Cooperative Plan shall commence upon the date of its approval by the Wisconsin Department of Administration and shall terminate at 11:59 p.m. on February 28, 2063. The basis for the 60 year term is that such time period is deemed by the City and Town to be necessary to protect existing Town land owners from annexation against their will and for the City to fully assimilate the territory in the Expansion Area in an orderly and cost effective manner.

## **SECTION 7**

### **EXPANSION AREA AND PROTECTED AREA**

The area of the Town subject to boundary adjustments over the term of this Cooperative Plan and reserved for City growth ("Expansion Area") and the area of the Town protected from boundary adjustments ("Protected Area") are shown on Exhibits A and B.

## **SECTION 8**

### **LONG-TERM BOUNDARY BETWEEN CITY AND TOWN**

The limits of the City bordering the Town as expanded through the final attachment of the Expansion Area shall constitute the long-term boundary between the City and Town. The Town boundaries will result in a compact community, bounded on the east and south by the City.. The boundary agreement will allow for the elimination of Town peninsulas and islands and other irregularities with the municipal border that may create service delivery confusion or inefficiencies. The vast majority of the plan area is and will remain in the Oshkosh Area School District. Terrain and other physical features are virtually uniform throughout the planning area. The staged expansion of the City into the Town will allow for the orderly development of the City that should lessen urban sprawl and create compactness over time. The staged expansion will also allow for appropriate planning of infrastructure and other service needs to these areas.

The City may attach areas within the Expansion Area as provided in this Plan, but will not attach or annex during the term of this Plan, and hereby waives its right to attach or annex, any part of the Protected Area of the Town, except with the approval of four-fifths of the entire Town Board.

The City and Town have independently determined that the long-term boundary established by this Cooperative Plan best promotes the mutual public health, safety, order, convenience, prosperity and general welfare, as well as efficiency and economy of development within both the City and the Town.

## **SECTION 9**

### **ATTACHMENT OF TERRITORY IN EXPANSION AREA OF TOWN TO CITY**

**9.01 Voluntary Attachment.** Following approval of this Plan by the State of Wisconsin Department of Administration, property owner(s) within the Expansion Area will have the right to unanimously request attachment of their land(s) to the City at any time. Procedures to attach land on a voluntary basis are found in Section 10.01 of this Plan.

**9.02 Intermediate and Final Attachments.** Intermediate and Final Attachments of Town territory in the Expansion Area shall occur as provided in sections 10.02 and 10.03 below.

## **SECTION 10**

### **PROCEDURE - ATTACHMENT OF TOWN LAND TO CITY IN EXPANSION AREA**

**10.01 Procedure for Voluntary Attachment** The procedure for Voluntary Attachment of territory in the Expansion Area to the City shall be as follows:

- (a) Upon written petition for attachment of land filed with the City Clerk on City forms signed by all of the owners of all the land, exclusive of Town roads abutting such land, the City may, with ten (10) days advance, written notice to Town Clerk, without further review and approval of the Town, and without mandatory review and recommendation by the City Plan Commission or any other sub-unit of the City, adopt an attachment ordinance by a majority of the elected members of its Common Council attaching the land. The attachment ordinance may designate a temporary or permanent zoning classification for each parcel as prescribed in Wis. Stat. § 66.0217 (8).
- (b) Following adoption of the attachment ordinance, the City Clerk shall immediately file, record and send copies of the same, in accordance with Wis. Stat. §§ 66.0217(9)(a) and 66.0307(10). Failure to file, record or send shall not invalidate the attachment and the duty to file, record or send shall be a continuing one. The information filed with the Secretary of State shall be utilized in making adjustments to entitlements under the federal revenue sharing program and to distribution of funds under Wis. Stat. chapter 79, and to any successor or other federal or state entitlement or revenue-sharing program.
- (c) No land shall be attached to the City as a Voluntary Attachment without the consent of all of the owners. Petition signatures or other indices of consent shall not be required of residents, occupants or users of property who are not owners of the property.
- (d) Territory may be attached to the City, under this Cooperative Plan, irrespective of the size, or shape of the territory. Such attachments may create Town islands. The City, however, may reject any petition to attach territory that is not contiguous, configured or located in such a manner as will enable the City to provide adequate and timely service. The City is authorized to confer with landowners interested in attachment to recommend the size, shape and contiguity of territory to be covered by a petition.

- (e) The Town shall not oppose any attachments permitted by this Agreement or provide support, financial or otherwise, to those who do.
- (f) Any territory within the Expansion Area not attached to the City as a Voluntary Attachment shall be attached to the City as an Intermediate or Final Attachment in accordance with the time frames and procedures governing such Attachments set forth below.

**10.02 Procedure for Intermediate Attachment.** Geographic zones within the Expansion Area may be attached by an Intermediate Attachment Ordinance adopted by a majority vote of the City of Oshkosh Common Council as follows:

- (a) **Zone A.** At any time between January 1, 2012 and October 31, 2012, the City may adopt an Intermediate Attachment Ordinance attaching the territory in Zone A. The attachment shall be effective as of 12:01 a.m. on March 1, 2013.
- (b) **Zone B.** At any time between January 1, 2017 and October 31, 2017, the City may adopt an Intermediate Attachment Ordinance attaching the territory in Zone B and, if not previously attached, the territory in Zone A. The attachment shall be effective as of 12:01 a.m. on March 1, 2018.
- (c) **Zone C.** At any time between January 1, 2022 and October 31, 2022, the City may adopt an Intermediate Attachment Ordinance attaching the territory in Zone C and, if not previously attached, the territory in Zones A and B. The attachment shall be effective as of 12:01 a.m. on March 1, 2023.
- (d) Intermediate Attachment Ordinances may designate temporary or permanent zoning classifications for each parcel of land as prescribed in Wis. Stat. § 62.23(7)(d). The City Clerk shall file, record, or send Intermediate Attachment Ordinances in the same manner as described under paragraph 10.01(b) above.
- (e) Intermediate Attachment Ordinances shall include all territory within each geographic zone as identified in Exhibit A and as scheduled to be attached per paragraphs (a), (b) and (c) of this section.
- (f) Intermediate attachment Ordinances shall not require the consent of owners, residents or electors.

**10.03 Procedure for Final Attachment.** All, but not part, of the territory within the expansion area of the Town on March 1, 2043 may be attached to the City by a Final Attachment Ordinance adopted by a majority vote of the City of Oshkosh Common Council as follows:

(a) At any time between January 1, 2042 and October 31, 2042, the City may adopt the Final Attachment Ordinance. The attachment shall be effective as of 12:01 a.m. on March 1, 2043.

(b) If the Town gives written notice to the City Clerk between January 1, 2042 and June 30, 2042, reminding the City of the City's right to attach the remaining Town territory under paragraph (a), then the City shall lose that right if not exercised by October 31, 2042.

(c) If the Town fails to give such notice and the City fails to act as provided in paragraph (a), then the City may, by June 30 of any year after 2042, adopt a Final Attachment Ordinance effective at 12:01 a.m. on the March 1 of the following year.

(d) The Final Attachment Ordinance may designate temporary or permanent zoning classifications for each parcel of land as prescribed in Sec. 62.23(7)(d), Wis. Stats. The City Clerk shall file, record, or send the Final Attachment Ordinance in the same manner as described under paragraph 10.01(b) above.

(e) The Final Attachment Ordinance shall not require the consent of owners, residents or electors.

**10.04 Attachments Shall Include Public Right-of-Way.**

All attachments shall include the full width of abutting Town roads, except those roads the centerline of which is part of the Boundary Line. The City may also include in such attachments any Town road rights-of-way that abut lands previously annexed to the City before the effective date of this Cooperative Plan, even though such inclusions will create Town islands.

**10.05 Effective Date of Attachment.** Town territory in the Expansion Area included in an attachment will be attached to the City effective at 12:01 a.m., on the next Sunday after adoption of the Attachment Ordinance except as provided in sections 10.02, 10.03 and 11.02(c).

**10.06 Immediate Attachment.** Effective January 1 following approval of this Plan by the State of Wisconsin Department of Administration, the boundary between the City and the Town is adjusted by this Plan to attach to the City the road rights of way identified on Exhibit J. At that time, the City Clerk shall provide notice of the attachment as provided in section 10.01(b) above.

## **SECTION 11**

### **LOCAL ORDINANCES**

**11.01 Attached Territory.** Town territory attached to the City from time to time under this Cooperative Plan shall become City territory subject to all City zoning and general ordinances on the effective date of attachment.

**11.02 Town Territory in Expansion Area Not Yet Attached.** Town territory located within the Expansion Area and subject to attachment, but not attached, shall be subject to the following rules:

(a) The Town consents to the construction of City utilities in Town rights of way and easements as necessary to serve City territory subject to the City's obligations (i) to maintain access to Town territory, (ii) not to interfere with Town utilities, and (iii) to restore the right of way or easement in accordance with commonly accepted practices.

(b) The Town will not interfere with or object to City applications to extend its sewer service area consistent with this Agreement.

(c) The City shall provide sanitary sewer, storm sewer and water services to lands prior to attachment on the same extension, cost and payment terms as those generally applicable to similarly situated lands within the City, provided: (1) such services could be made available to such lands if they were within the City; and (2) the owners of such lands unanimously petition for a delayed Voluntary Attachment to the City effective 5 years after the service is available. Any land provided service under this paragraph shall be subject to City zoning and land use regulation pending attachment. The City may at any time adopt an ordinance under sec. 10.01 attaching such land as of a date not earlier than five years after services are made available under this paragraph.

**11.03 Protected Area.** The rules applicable to the Protected Area are as follows:

(a) The City shall exercise no extraterritorial jurisdiction in the Protected Area for zoning, land division, official mapping or otherwise.

(b) The City shall not annex or attach any lands unless such annexation or attachment is approved by a four-fifths majority of the entire Town Board.

(c) The City and the Town shall consult with each other concerning a new north-south arterial on or near Clairville Road.

(d) The City shall not object to nor interfere with applications by the Algoma Sanitary District ("District") to expand its boundaries or extend its sewer service area.

#### **11.04 Buffer Area.**

- (a) A Buffer Area is established as shown on Exhibit B. As a means of protecting adjoining land uses in the Town and City, the Buffer Area is established to maintain low density land uses (allowed in residential zoning classifications). Allowable uses within the Buffer Area shall be limited to those set forth in Exhibit E.
- (b) Additional uses within the Buffer Area shall be permitted only if approved by the extraterritorial zoning committee established under sec. 11.05.

#### **11.05 Extraterritorial Zoning Committee.**

- (a) Consistent with Sec. 62.23(7a), Wis. Stats. (1999-2000), the City and the Town shall establish a joint extraterritorial zoning committee ("EZC") which shall exercise such power and authority as contained therein within the Expansion Area.
- (b) The EZC shall also have jurisdiction within the Buffer Area for purposes of sec. 11.04(b).

### **SECTION 12**

**CURRENT LAND USE AND PHYSICAL DEVELOPMENT OF THE TERRITORY** The Town is generally located on the west side of Oshkosh south of Lake Butte des Morts. This section of the Plan describes existing land uses within the Town, the socio-economic characteristics of the population, and other aspects of the physical development of the area.

**12.01 Existing Land Use and Physical Development Summary.** Of the 6,230.24 acres in the Town of Algoma, approximately 35.8%, or 2,228.56 acres is developed (see Table 1). Approximately 54.9% of the town's total land area, or 3,417.57 acres, is in agricultural use, while the remaining 9.4% of the town's total land area, or 583.9 acres, is vacant and undevelopable (open water areas, woodlands, and land within 75 feet of navigable streams)

The Protected Area covers approximately 3,791.77 acres. Of that total, 46.4% is developed. The Expansion Areas covers approximately 2,438.47 acres, of which 19.2% is developed.

The dominant land use in the developed portion of the town is single-family residential, with 21.3%, or 1,324.97 acres, in that use category.

Table 1 also provides a breakdown of land uses in the Protected Area and Expansion Areas of the Town of Algoma, and what uses would remain in the Protected Area compared to the Expansion Area. Based on the statistics in Table 1, nearly half

(46.4%) of the land in the Protected Area has been developed, as compared to less than a fifth (19.2%) of the Expansion Area. The Expansion Area remains mostly rural in nature.

**Table 1**  
**Existing Land Use** (AS OF JUNE, 2003)

	PROTECTED AREA			EXPANSION AREA			WHOLE TOWN		
	# PARCELS	# ACRES	% AREA	# PARCELS	# ACRES	% AREA	# PARCELS	# ACRES	% AREA
Total	2915	3791.77	100.0%	378	2438.47	100.0%	3293	6230.24	100.0%
Churches	5	28.79	0.8%	0	0.00	0.0%	5	28.79	0.5%
Residential	2036	1139.82	30.1%	157	185.15	7.6%	2193	1324.97	21.3%
Commercial	36	66.18	1.7%	14	66.09	2.7%	50	132.27	2.1%
Industrial	6	34.40	0.9%	1	9.56	0.4%	7	43.96	0.7%
Non-Metallic Mining	5	68.29	1.8%	0	0.00	0.0%	5	68.29	1.1%
Utility / Public Facility	6	9.67	0.3%	12	35.22	1.4%	18	44.89	0.7%
Undeveloped As Area Wetlands	36	257.46	6.8%	9	43.70	1.8%	45	301.16	4.8%
Open Water / Pool Lakes	16	100.91	2.7%	0	0.00	0.0%	16	100.91	1.6%
Recreation / Conservation	5	21.45	0.6%	1	8.61	0.4%	6	30.06	0.5%
Undeveloped/Agricultural	112	1360.94	35.9%	114	1805.68	74.0%	226	3166.62	50.8%
Vacant Single Family Parcels	501	250.95	6.6%	0	0.00	0.0%	501	250.95	4.0%
Transportation (Incl Row)	164	391.25	10.3%	65	164.08	6.7%	229	555.33	8.9%
Undev. Within 75' Of Nav. Stream	0	61.45	1.6%	0	120.38	4.9%	0	181.83	2.9%
<b>DEVELOPED</b>	2263	1759.85	46.4%	250	468.71	19.2%	2513	2228.56	35.8%
(Includes Churches, Developed Residential, Commercial, Industrial, Mining, Utility/Public Facilities, Recreation, Transportation)									
<b>UNDEVELOPED DEVELOPABLE</b>	613	1611.89	42.5%	114	1805.68	74.0%	727	3417.57	54.9%
(Includes Agricultural & Vacant Single Family)									
<b>UNDEVELOPED UNDEVELOPABLE</b>	52	419.82	11.1%	9	164.08	6.7%	61	583.90	9.4%
(Includes Open Water, Wetlands & 75' Buffer from Navigable Streams)									

**12.02 Socio-Economic Characteristics of the Town.** Table 2 provides a review of the demographic characteristics of the Town of Algoma and City of Oshkosh based on the 2000 Decennial Census. 5,702 people reside in the Town of Algoma. The minority population within the Town is 119 people, which is 2.1% of the total population. The minority population in the City of Oshkosh includes 4,577 residents, which accounts for 7.3% of the total population.

**Table 2**  
**Socio-Economic Characteristics**

Category	City of Oshkosh	Town of Algoma
Population	62,916	5,702
Race		
White	58,339 (92.7%)	5,583 (97.9%)
Other	4,577 (7.3%)	119 (2.1%)
Median Household Income (1999)	\$37,636	\$71,792

Total Occupied Housing Units	24,082	1,940
Owner-Occupied	13,851	1,865
Renter-Occupied	10,231	75
Total Housing Units	25,420	1,983

Source: U.S. Census 2000

The Town's median household income in 1999 (provided by the 2000 Census) was \$71,792, compared to the median household income in the City of Oshkosh of \$37,636.

According to the 2000 Census, rental housing in Town of Algoma accounted for 75 units (4%) of the 1,940 occupied dwelling units in the Town. In contrast, rental housing in Oshkosh constitutes 10,231 units (42.5%) of the total 24,082 housing units in the City.

The Town's higher median income and much lower number of rental housing reflects its predominantly single family residential character.

Table 3 provides a further breakdown of population statistics for the City of Oshkosh and Town of Algoma. The Town of Algoma was growing steadily from 1970 to 1990, until it took a leap between 1990 to 2000, increasing by over 63% from its 1990 population count. Meanwhile, the City of Oshkosh experienced a 6.5% decrease in its population between 1970 and 1980, but rebounded after 1980 to show double-digit growth in the past twenty years.

**Table 3**  
**Population Change, 1970-2000**

Year	Town of Algoma	% Change	City of Oshkosh	% Change
1970	3,158		53,082	
1980	3,249	2.88%	49,620	-6.52%
1990	3,492	6.96%	55,006	10.85%
2000	5,702	63.29%	62,916	14.38%
2010	6,945	21.80%	67,757	7.69%
2020	7,963	14.66%	69,991	3.30%

Source: U.S. Census: 1970-2000 & 2010 & 2020 projections from ECWRPC

**12.03 Land Values.** There are 3,293 individual parcels of land in the Town of Algoma. The Protected Area encompasses 2,915 parcels of which 613 are undeveloped, while the Expansion Area includes 378 parcels of which 114 are undeveloped.

The assessed value of land in the Protected Area of the Town is \$280,501,800, while the assessed value of land in the Expansion Area is \$18,874,000.

**12.04 Existing Development Plans.** Oshkosh and the Town have each prepared plans that provide guidance on the use and development of properties covered by the Plan. The City is also in the process of updating its comprehensive plan under the State of Wisconsin's comprehensive planning (Smart Growth) legislation. As part of the City's update, the City will be seeking the Town's input and work cooperatively with the Town. In the interim, the existing plans adopted by Oshkosh and the Town and other governing entities (e.g. County and East Central Wisconsin Regional Planning Commission) will remain in place. Existing adopted plans and future comprehensive plans of the Town and City shall govern development in the plan area. The following section provides a summary of the plans currently in place for the area covered by this Plan.

**12.05 Town Plans.**

(a) The land use plans, prepared by the Town in the last eight years, which guide land use decision-making and physical improvement projects within the Town, are as follows:

1. The Town of Algoma Land Use and Development Plan dated June, 1995, was prepared for the Town by the East Central Wisconsin Regional Planning Commission. The Plan includes a variety of recommendations and policies for residential development, commercial development, parks, open space and transportation.

2. In 2001, the Town adopted a Land Use Plan Amendment (Exhibit C) for areas that may experience long term residential development. This area generally coincides with the Protected Area as set forth in this Cooperative Plan. The plan included land use recommendations for the location of one and two family neighborhoods, future parks and school site, proposed pedestrian trails, future cluster housing, potential commercial development, future office parks, as well as identifying wetland and conservation areas, streams, and ditch locations. The two major Town facilities shown on Exhibit C are the Town Hall, located at 15 North Oakwood Road, and the Volunteer Fire Department's fire station, located near the intersection of Omro Road and Oakwood Circle.

(b) The Town of Algoma contains 60 registered historic structures (according to the Wisconsin Historical Society historic places inventory) and about the same number of archeological sites (according to the State Archeologist office), including a Native American village. Action has been taken to preserve areas of significance, and future planning efforts will take into account these historic and archeological sites.

**12.06 City of Oshkosh Plans.** The City has prepared a number of plans that cover the Plan territory. These plans include the following:

(a) Urban Growth Plan – Recommendations for Peripheral Area Land Use and Development, adopted by the City in 1990. The Plan includes growth projections and it included an identification of priority growth areas and recommended land uses.

(b) City of Oshkosh Comprehensive Plan, adopted by the City in 1993. The Plan provides a comprehensive growth and development strategy for the community. It provides land use and transportation recommendations that covered anticipated growth areas within the Town of Algoma.

(c) Pedestrian and Bicycle Circulation Plan, adopted by the City in 1998. The Plan includes a variety of recommendations aimed at improving and implementing pedestrian circulation and trail development within the community as well as in peripheral growth areas, including areas within the Town of Algoma.

(d) Southwest Industrial Park Expansion Area Site Master Plan prepared for the City in 2001 by Foth & Van Dyke. The Plan provides a general strategy and guide for the City to follow in its expansion of the Southwest Industrial Park, including into areas within the Town of Algoma.

(e) Southwest Area Sanitary Sewer Study prepared for the City by Earth Tech, Inc. in 2002. The plan provides technical data and planning recommendations to allow for the orderly expansion of sanitary sewer facilities to areas south and west of the City that includes lands within the expansion and buffer areas.

**12.07 Coordination of Future Planning.** This Plan will facilitate efforts to achieve a coordinated, adjusted, and harmonious development of the territory covered by the plan, and promote consistency of future land use as the two communities develop their own comprehensive plans. The Extraterritorial Zoning Committee will work towards implementing any future Comprehensive Plan updates made by the City and Town over the time period represented by this Cooperative Plan. Any future land use plans or amendments to existing plans made by either community will need to be consistent with this Cooperative Plan.

## **SECTION 13**

### **RELATIONSHIP OF THE COOPERATIVE PLAN TO NONPARTICIPATING ENTITIES**

Exhibit D shows the political entities within Winnebago County and their relationship to the territory included in the Plan. There are six municipalities shown on the map. The territory included in the Plan is adjacent to the City of Oshkosh and the Towns of Omro, Utica, Nekimi, and Black Wolf. The area includes the Town of Algoma Sanitary District, and it is covered primarily by the Oshkosh Area School District and to a lesser extent on its western boundary by the Omro School District.

Wisconsin Statute Section 66.0307 requires that any boundary maintained or changed under the Plan must be reasonably compatible with the characteristics of the surrounding community. In preparing the Plan, Oshkosh and the Town have taken into consideration the location of services that must be provided to areas subject to the Plan, including the transportation infrastructure, the fiscal capacity of the communities to provide the services needed, the existing and ultimate political boundaries, the current boundaries of the school district, and shopping and social customs. For the purposes of this section, the "surrounding community" includes a 5-mile radius outside of the boundaries of the area included in the agreement.

The City of Oshkosh's direction of primary growth has been to the west, and the proposed Plan will provide a structured approach that will enable the City to absorb areas within the Town on a continuing east to westerly basis, with the City eventually incorporating the southern part of the Town of Algoma.

The provision of services by the City and Town are made more difficult by confusing boundaries in many areas. Implementation of the Plan should improve the ability of the City and Town to serve residents in the area covered by the Plan.

It is anticipated that over the plan period residential development will occur to a substantial extent in both the Protected Area and the Expansion Area. It should also be recognized that without a plan, residential development would still occur in the subject areas. However, with the plan in place it will be possible to provide for a more organized and coordinated pattern of development, where basic urban services will be provided in a more efficient and cost effective manner. Given the presumption that significant residential development would occur in the subject areas with or without a plan in place, it would not appear implementation of the plan would result in significant changes in the provision of school services from that which would otherwise occur.

## **SECTION 14 SERVICES**

**14.01 Water.** Up until 2003, the Town of Algoma has had no central water supply system, with residences, businesses, and other uses receiving their water from individual wells. The District is now moving ahead to develop a new water utility, which will serve existing and future areas in the Protected Area, using deep wells as their water source (constructed at the end of 2003).

The City of Oshkosh has a central water supply system. The City's Water Utility, which receives staff support from the Department of Public Works, includes the community's new state-of-the-art water filtration plant between Merritt Avenue and Washington Avenue on the shore of Lake Winnebago. The Utility maintains a distribution system with over 300 miles of water main, which includes approximately 7,000 valves,

approximately 2,410 fire hydrants, approximately 20,000 water services, and over 22,500 water meters of various sizes.

As annexations or attachments occur and as areas within the Town come into the City under the various attachment expansion time frames, the City will plan for and undertake the extension of water service to the Expansion Areas.

In addition, under the Cooperative Plan, the City agrees to provide water services to lands within the identified Expansion Areas prior to annexation or attachment on the same extension, cost and payment terms as those generally applicable to similarly situated lands within the City, provided: a) such services could be made available to such lands if they were within the City; and b) the owners of such lands unanimously agree to annexation or attachment to the City effective 5 years after the service is available. Lands under such agreements shall be attached to the City pursuant the Boundary Agreement and Cooperative Plan and shall be subject to City zoning and land use regulation pending the attachment.

**14.02 Sanitary Sewer.** The Town of Algoma Sanitary Sewer District provides sanitary sewer service within the Protected Area of the Town of Algoma, per an agreement between the Algoma Sanitary District and the City of Oshkosh. Approximately 65% of the Protected Area is currently covered by the Town's Sanitary District.

The District will continue to own and operate the portions of the sanitary sewer system within the Town for the term of this Plan regardless of what portion of the patrons of the system is in the City. To the extent supplemental agreements are necessary to implement the terms of this paragraph, the City and District will cooperate to enter into such agreements on terms that are fair to both.

Those portions of the Town in the Expansion Area will be served (as annexation occurs) with City of Oshkosh sanitary sewer, water and storm sewer system.

The City's Sewer Utility, which receives staff support from the Department of Public Works, includes the Wastewater Treatment Plant on Campbell Road and over 260 miles of sanitary sewer line. The Wastewater Treatment Plant, which completed a \$20 million upgrade in 1998, is designed to treat a daily flow of 20 million gallons per day (MGD). In 2001 the plant received an average of 12.8 MGD, while servicing a population of approximately 73,000. About 8% of the flow to the plant comes from industrial sources.

The City's Sewer Utility has 33 full time equivalent employees.

As annexations or attachments occur and as areas within the Town come into the City under the 10, 15, 20 and 40 year expansion time frames, the City will plan for and undertake the extension of sanitary sewer service to these expansion areas.

In addition, under the Cooperative Plan, the City agrees to provide sanitary sewer services to lands within the Expansion Area prior to annexation or attachment on the same extension, cost and payment terms as those generally applicable to similarly situated lands within the City, provided: a) such services could be made available to such lands if they were within the City; and b) the owners of such lands unanimously agree to delayed attachment to the City effective 5 years after the service is available. Lands under such agreements shall be attached to the City pursuant to the Plan and shall be subject to City zoning and land use regulation pending the attachment.

**14.03 Stormwater.** The Town of Algoma primarily utilizes ditches for the conveyance of storm water. New development within the Town is subject to provisions of the Winnebago County and Town Storm Drainage Regulations.

The City of Oshkosh recently created a Storm Water Utility for the purpose of managing and maintaining its storm water facilities. The City has 210 miles of storm sewer and various other streams, creeks, ditches and drainageways.

The City has had a Storm Water Management and Retention Ordinance in place for a number of years, and through its enforcement the City has been able to minimize problems associated with storm water runoff and control.

**14.04 Streets.** By eliminating uncertainty about future jurisdiction over, and responsibility for, roads in the Town, this Plan is expected to promote better maintenance of roads and cooperation between the City and the Town over road improvements.

In addition, the City and Town agree to consult with each other concerning a new north-south arterial on or near of Clairville Road.

**14.05 Police, Fire, and Emergency Services.** Police services within the Town are provided by the Winnebago County Sheriff's Department.

The City of Oshkosh maintains a full time professional police department with 157 employees. Personnel include 100 officers, 26 civilian employees, 9 community service officers, 22 crossing guards, and 1 police canine. In addition, there are currently 11 active volunteers who support Department activities, as well as 35 auxiliary police officers.

The Town of Algoma is currently protected by a volunteer fire department responding from one fire station located near the intersection of Omro Road and Oakwood Road, in the Protected Area. The Volunteer Fire Department has a maximum of 40 members on their roster and currently have approximately 35 members. They operate 3 engines or

pumping apparatus, one of which is a newer style Pierce engine. They also have a water tanker which carries 3,500 gallons of water, and a small grass/brush fire unit.

The City is currently protected by a full time fire department responding from 6 fire stations. Total staff for the department is 104. The City operates 4 front line engine companies, 2 quints (combination engine and ladder company), 1 heavy rescue, a grass/brush fire unit, 1 command car, and 4 paramedic ambulances (2 front line, 2 cross staffed with engine companies). The Fire Department also staffs 3 airport fire apparatus at its Wittman Regional Airport station, and 2 hazardous materials units. Reserve equipment includes 2 engines, 2 ambulances, and a variety of support vehicles.

Ambulance Services. Commencing on the first day of the next month starting at least thirty (30) days after a written request from the Town to the City Manager, the City shall provide emergency ambulance services throughout the Town on the same terms under which the City currently provides such services to a portion of the Town.

**14.06 Fiscal Capacity.** Town property valuation generates the second highest per capita tax base of all municipalities in Winnebago County and the fourth lowest overall tax rate. The City has a diversified tax base and the attachment of lands in the expansion area will strengthen that base.

## **SECTION 15**

### **ENVIRONMENTAL EVALUATION OF THE COOPERATIVE PLAN**

The City and Town have evaluated the potential environmental consequences of the Cooperative Plan, including air and water pollution impacts, energy use and the protection of environmentally sensitive lands. The Cooperative Plan identifies areas which will become part of the City and be developed within the City consistent with the City's growth and development ordinances. The Plan also identifies an area which will remain within the Town and which will eventually be developed by the Town, consistent with Town and County ordinances and development standards. The parties have found no significant adverse environmental consequences of the Plan to the natural environment including air and water pollution, energy use, environmentally sensitive lands, and development outside compact urban areas that contribute to urban sprawl.

In the negotiation and preparation of this Plan, the parties considered alternatives. No practical alternatives were discovered that would avoid or reduce adverse environmental consequences. In particular, policies to discourage development are not feasible as this area is committed to urbanization due to the attraction of Lake Butte des Morts, links to the major highways, the City's easterly growth constraint at Lake Winnebago, and its place within the rapidly growing Appleton-Oshkosh metropolitan area.

**15.01 Air Quality Impacts.** The existing adopted plans covering the area do not recommend a significant change in the type of development which currently exists within the Town.

**15.02 Water Quality Impacts.** The plans and regulations of the City and Town recognize and are consistent with the areawide water quality plans adopted by the East Central Wisconsin Regional Planning Commission. Few water quality impacts are anticipated related to the Plan. As noted in Sections 14.02 and 14.03, areas within the City are served by the City's sanitary sewer system, while the majority of development within the Town is served by the Town of Algoma Sanitary District and both parties are governed by storm water regulations.

**15.03 Energy Use.** The City and Town believe the Plan will serve to reinforce implementation of smart growth planning principles, which should serve to create more compact and contiguous development patterns overall. As a result, energy use impacts associated with implementation of the Plan will be comparatively lower than energy use impacts associated with development that could occur on a more fragmented basis without the Plan.

**15.04 Environmentally Sensitive Lands.** The City, Winnebago County, and the East Central Wisconsin Regional Planning Commission have identified environmentally sensitive lands in the area covered by the Plan as shown on Exhibit J, and the Plan will promote cooperation between the City and the Town to protect these resources. Environmentally sensitive lands are identified and protected as part of the development review and approval process that occurs in the City and Town. The environmentally sensitive lands that are identified include parks and open spaces, wetlands, stormwater drainage corridors, floodplain lands, navigable streams, natural areas, significant woodlands, and steep slopes.

**15.05 Compliance with Environmental Regulations.** Lands covered by this Plan are and will remain under the jurisdiction of state and federal environmental laws and regulations as applicable. There are relatively few lands where state shoreland zoning jurisdiction applies and legal requirements arising from shoreland designations will be met by the Town and City as applicable.

## **SECTION 16 HOUSING NEEDS**

**16.01 Town Housing.** According to the 2000 census, the Town of Algoma contained 1,983 dwelling units, of which 1,865 were owner-occupied; 75 were rental; and 43 were vacant. Of the 1,983 dwelling units in the Town, approximately 96 %, or 1,900 units, are located in the Protected Area, with 4% or approximately 83 units located in the proposed Expansion Areas. In general, residential units in the expansion areas contain some of the older single family housing stock in the Town of Algoma. Due to higher

median income levels and high home ownership rates in the Town's protected area as compared to the City of Oshkosh, the Town expects to have relatively few residents of low income seeking housing opportunities.

**16.02 Oshkosh Housing.** The City contains a broad spectrum of housing types to meet the various needs of its citizens. Oshkosh's adopted Comprehensive Plan includes strategies aimed at preserving and maintaining the community's housing stock, as well as promoting housing affordability, diverse housing opportunities, and neighborhood viability.

## **SECTION 17 COMPREHENSIVE/MASTER PLANNING**

The territory subject to this Plan is covered by adopted plans of the City and Town, as described in Section 12 above. The existing adopted plans and future updated Comprehensive Plans will govern new development, infill development, and redevelopment within the City and Town.

The Plan will allow the City and Town to move forward with confidence over the plan period in planning for the delivery of municipal services to the affected territory. The Plan identifies prospective cooperation in the area of extraterritorial zoning, and it provides a foundation for further cooperation between the City and Town in other areas of mutual public interest.

This Plan is consistent and compatible with existing local, County, State and Federal plans, ordinances, codes and statutes. The Plan was developed in recognition of the multiple jurisdictions with an interest in the planning area.

## **SECTION 18 AUTHORIZING RESOLUTIONS, RECORD OF PUBLIC PARTICIPATION AND COOPERATIVE PLAN ADOPTION RESOLUTIONS**

**18.01 Initial Authorizing Resolutions.** Both the City of Oshkosh and Town of Algoma adopted resolutions authorizing the initial support of a boundary agreement, with copies located in Appendix F & G.

### **18.02 Record of Public Participation and Comment.**

Public participation for this effort has included numerous public discussions and a hearing held at the Algoma Town Hall on December 18, 2003. The record of this hearing is included in Exhibit H.

**18.03 Resolution Indicating Adoption and Authorizing Transmittal of the Cooperative Plan to the State.** On \_\_\_\_\_, 2004, the City of Oshkosh adopted a resolution to adopt the Cooperative Plan (Exhibit K), and on \_\_\_\_\_, 2004, the Town of Algoma adopted a resolution to adopt the same Cooperative Boundary Plan (Exhibit L).

## **SECTION 19**

### **BINDING EFFECT OF COOPERATIVE PLAN**

This Cooperative Plan shall bind, and accrue to the benefit of, all successors of the City and Town, whether one or more. For example, if a part of the Town should be incorporated, both the incorporated and unincorporated entities would be considered to be bound by the terms of the Plan. Except as to the rights of the District and owners of land currently in the Town as expressly set forth herein, this Cooperative Plan is for the exclusive benefit of the Town and the City and their successors and assigns and shall not be deemed to give any legal or equitable right, remedy or claim to any other person or entity.

## **SECTION 20**

### **ADMINISTRATION OF THIS COOPERATIVE PLAN**

This Cooperative Plan shall be administered on behalf of the Town by Ken Neubauer, Town Board Chairperson, a successor to this position, or a designee approved by the Town Board, and on behalf of the City by Oshkosh, by Jackson Kinney, Director of Community Development, a successor to this position, or a designee approved by the Common Council. Notification of the appointment of a designee must be given in writing to the other party to this Cooperative Plan.

## **SECTION 21**

### **DISPUTE RESOLUTION**

In the event of a breach of this Plan or a dispute between the Parties involving the application, interpretation or enforcement of this Plan,

- a. The Parties shall meet to seek a resolution within 10 days following written notice by one Party to the other Party of the breach or dispute.
- b. If the issue is not resolved at such meeting or at an extension thereof mutually agreed to by the Parties, either Party may demand mediation. The Parties shall submit to mediation if demanded by either Party.

(1) If the Parties cannot agree on a mediator within five (5) days after the demand for mediation, either Party may request appointment of a qualified mediator by the Chairperson of the Alternative Dispute Resolution Committee of the State Bar of

Wisconsin, or if the Chairperson fails to appoint a mediator, by the American Arbitration Association.

(2) The mediation session must take place within thirty (30) days of the appointment of the mediator.

(3) Each Party must designate a representative with appropriate authority to be its representative in the mediation of the dispute.

(4) Each Party must provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved at least 10 days prior to the scheduled mediation session. The Parties must also produce all information reasonably required for the mediator to understand the issues presented. The mediator may require any Party to supplement such information.

(5) The mediator does not have authority to impose a settlement upon the Parties, but will attempt to help the Parties resolve their dispute. The mediation sessions shall be private. The Parties and their representatives may attend the mediation sessions.

(6) The cost of the mediator shall be borne equally by the Parties.

(7) The Parties shall maintain the confidentiality of the mediation and may not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding (i) views expressed or suggestions made by the other Party with respect to a possible settlement of the dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that the other Party had or had not indicated willingness to accept a proposal for settlement made by the mediator.

c. In the event the issue is not resolved as a result of the meeting or mediation as provided in paragraphs a and b, the matter shall be submitted to binding arbitration upon written demand by either Party to the other with notice to the Municipal Boundary Review Director of the Office of Land Information Services of the State of Wisconsin Department of Administration of such demand. The arbitration shall be performed by a person designated by the Director in accordance with such rules and procedures such person may specify, subject to the terms of this Plan. In the event the Director does not appoint an arbitrator within 30 days of the Director's receipt of a written request to do so, then:

(1) The arbitration must be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in effect at the time of the arbitration ("Rules"), except as such Rules may be modified by this Plan.

(2) A Party desiring to submit a dispute to arbitration hereunder must file a Demand for Arbitration ("Demand") with the AAA at its office in Chicago, Illinois. A copy of such Demand must be sent to the other Party at the same time. The arbitration proceeding must be conducted by a panel of three (3) arbitrators selected from a list of qualified arbitrators supplied by the AAA. The arbitrators must be selected as follows: Within 10 days after filing, each Party shall appoint one (1) arbitrator. Within 10 days after they are chosen, the two arbitrators shall choose a third arbitrator who acts as chairperson of the arbitration proceedings. If the two arbitrators are unable to agree upon a third arbitrator within 10 days, then the third arbitrator shall be appointed by the AAA. The arbitrators in the arbitration proceeding must be individuals with the necessary expertise and competency to pass on the matters presented for arbitration, but said arbitrators may have no interest in or prior connection with any Party.

(3) Following the appointment of the arbitrators, each Party has the right to mail to any other Party (with a copy to the arbitrators) a written request for the production of certain identified documents or of all documents in possession of the other Party relevant to any claims or counterclaims in the arbitration. Within 10 days of receipt of any such request, the receiving Party must respond to such request but may object to all or part of said request (with a copy to the arbitrators), on the ground that it is unduly burdensome, that the documents requested are irrelevant or privileged, or that such documents are equally available to the requesting Party. The arbitrators will rule on the validity of any such objection and the Parties must produce documents in accordance with the ruling.

(4) The site of the arbitration shall be in Winnebago County, Wisconsin, unless otherwise agreed to by the Parties. The Parties must diligently and expeditiously proceed with arbitration. Upon the conclusion of any hearing, the Parties shall have 30 days to submit written briefs in support of their respective positions. The arbitrators must make an award within 45 days after the filing of such briefs, subject to any reasonable delay due to unforeseen circumstances.

(5) Except to the extent the Parties' remedies may be limited by the terms of this Plan, the arbitrators are empowered to award any remedy available under the laws of the State of Wisconsin including, but not limited to, monetary damages and specific performance. The arbitrators have no authority to award punitive or other damages not measured by the prevailing Party's actual damages and may not, in any event, make any ruling, finding, or award that does not conform to the terms and conditions of this Plan. The award of the arbitrators must be in writing with a statement of reasons for such award and signed by the arbitrators. A written decision of a majority of the arbitrators is binding upon the Parties. An award rendered by the arbitrators in an individual or consolidated arbitration may be entered in any court having jurisdiction thereof.

(6) The arbitrators' authority is limited solely to resolving disputes under this Plan.

(7) The pendency of any arbitration hereunder does not relieve either Party of any of its obligations under this Plan.

(8) The Parties shall share equally the fees and expenses of the arbitrators as well as all fees imposed by the AAA including, but not limited to, transcripts, hearing room rentals and administrative costs. Each Party to the arbitration proceeding is responsible for its own costs and legal fees, if any, except that the arbitrators are empowered to award such costs and fees against a Party who prosecutes or defends an arbitration hereunder in bad faith or as otherwise provided in section 11.b.

d. Paragraphs a, b, and c of this section shall be the exclusive method of resolving the issues specified in the introduction to this section and both Parties waive their rights under sec. 893.80, Stats. and their rights to seek remedies in court as to such issues except that the prohibition on court actions shall not apply to

(1) Actions to enforce an arbitration award under c;

(2) Actions for injunctive relief necessary to protect the public health, safety or welfare during the dispute resolution process;

(3) Disputes involving a necessary third party who refuses to consent to arbitration as provided above; or

(4) Disputes involving a necessary third party when the Municipal Boundary Review Director fails to appoint an arbitrator.

e. In the event any of the entities designated to perform mediation or arbitration services under this section ceases to exist or for some other reason cannot or does not perform said services, the Parties shall use their best efforts to agree on a substitute to perform the services.

## **SECTION 22**

### **NO CHALLENGES TO THIS COOPERATIVE PLAN**

a. The Parties waive all rights to challenge the validity or enforceability of this Plan or any of its provisions or to challenge any actions taken pursuant to or in accordance with this Plan.

b. In the event of a court action by a third party challenging the validity or enforceability of the Plan or any of its provisions, the Parties shall fully cooperate to vigorously defend the Plan.

(1) If only one Party is named as a party to the action the other Party shall seek to intervene and the named Party shall support such intervention.

(2) No settlement of such an action shall be permitted without the approval of the governing bodies of the Parties.

(3) The workload to defend the Plan shall be shared equally.

c. A challenge to the Plan by one of the Parties or a failure to vigorously defend the Plan constitutes a breach of the Plan.

## **SECTION 23**

### **REMEDIES**

In the event of a breach of this Plan;

(a) Except as limited by section 21 above, either Party may seek declaratory judgment or specific performance of this Plan by court action in addition to any other remedies available at law or in equity. No Party shall challenge the standing of the other in such an action.

(b) The breaching Party shall pay the other Party's attorney fees reasonably incurred in seeking remedies for the breach provided that the breaching party has been given notice and a reasonable opportunity to cure the breach prior to commencement of any proceedings for a remedy. Following the dispute resolution procedure outlined in section 21 a and b constitutes sufficient notice and reasonable opportunity to cure under this paragraph

## **SECTION 24**

### **AMENDMENT**

**24.01** The procedure for amendment of this Cooperative Plan is found in Sec. 66.0307(8), Wis. Stats.

**24.02** In the event a change in state or federal law substantially affects this Plan, either party may request that modifications be made to the Plan to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Cooperative Plan. In the event they are not able to reach agreement in such situation, either the City or Town may require submission of such dispute to arbitration under Section 21.

**SECTION 25  
GOOD FAITH AND FAIR DEALING**

The City and the Town hereby acknowledge that this Cooperative Plan imposes upon each of them a duty of good faith and fair dealing in its implementation.

**SECTION 26  
INVALID OR INEFFECTIVE ORDINANCE**

In the event that any Ordinance, including but not limited to Attachment and Zoning Ordinances, which parties are required or entitled to enact and/or enforce by this Cooperative Plan is adjudged by any court of competent jurisdiction to be invalid or ineffective, in whole or in part, the City and Town shall promptly meet to discuss how they might satisfy the intent of this Cooperative Plan by alternative means, including, without limitation, enacting another ordinance designed to satisfy the court's objections. The Town and City shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Cooperative Plan. If necessary, they shall negotiate appropriate amendments of this Cooperative Plan to maintain, as closely as possible, the original terms, intent and balance of benefits and burdens of this Cooperative Plan. In the event they are not able to reach agreement in such situation, either the City or Town may require submission of such dispute to arbitration under Section 21.

**SECTION 27  
IMPLEMENTATION**

The Town and the City shall each take such actions as may be necessary or desirable to implement and effectuate the provisions and intent of this Cooperative Plan.

**SECTION 28  
MISCELLANEOUS INTERPRETATION**

**28.01 References.** Any references in this Cooperative Plan to any particular agency, organization or officials shall be interpreted as applying to any successor agency, organization or official or to any other agency, organization or official to which contemplated functions are transferred by statute or ordinance. Any references in this Cooperative Plan to any particular statute or ordinance shall be interpreted as applying to such statute or ordinance as recreated or amended from time to time.

**28.02 Section Titles.** Section and subsection titles in this Cooperative Plan are provided for convenience only and shall not be used in interpreting this Cooperative Plan.

**28.03 Governing Law.** This Cooperative Plan shall be governed by, construed, interpreted and enforced in accordance with the laws of the State of Wisconsin.

**28.04 Interpretation.** If any term, section or other portion of this Cooperative Plan is reviewed by an administrative agency, court, mediator, arbitrator or other judicial or *quasi*-judicial entity, such entity shall treat this Plan as having been jointly drafted by both the City and the Town. By the terms of this Plan, neither Party shall benefit from not having drafted this document.

**28.05 Entire Agreement.** The entire agreement of the City and the Town is contained in this Cooperative Plan and it supercedes any and all oral representations and negotiations between the municipalities, and supercedes and replaces that certain Intergovernmental Agreement of February 28, 2003. However, in the event of any ambiguity in this Plan, the Intergovernmental Agreement may serve as a guide to interpretation of this Plan.

## **SECTION 29 NOTICES**

All notices required by or relating to this Cooperative Plan shall be in writing. Each notice shall specifically refer to this Cooperative Plan by name and shall refer specifically to the number of the section(s), subsection(s), paragraph(s) or subparagraph(s) to which the notice relates. Any such notice shall be delivered in person to the Clerk of the municipality receiving the notice or to the person apparently in charge of the Clerk's office during normal business hours, or shall be mailed to such Clerk by certified mail, return receipt requested at the Clerk's office. Each notice shall be effective upon delivery in person, or mailing, or upon actual receipt without regard to the method of transmission, whichever occurs first.

**IN WITNESS WHEREOF**, the City and Town certify that this Cooperative Plan has been duly approved by their respective governing bodies in accordance with State and local laws, rules and regulations, and each has caused their duly authorized officers to execute this Cooperative Plan on the dates written before their respective signatures.

**THE CITY OF OSHKOSH, a Wisconsin Municipal Corporation**

Date: 28 January, 2004

By: [Signature], City Manager

**APPROVED**  
[Signature] 01/28/04  
CITY ATTORNEY  
OSHKOSH, WISCONSIN

Date: 1-28, 2004

By: [Signature], City Clerk

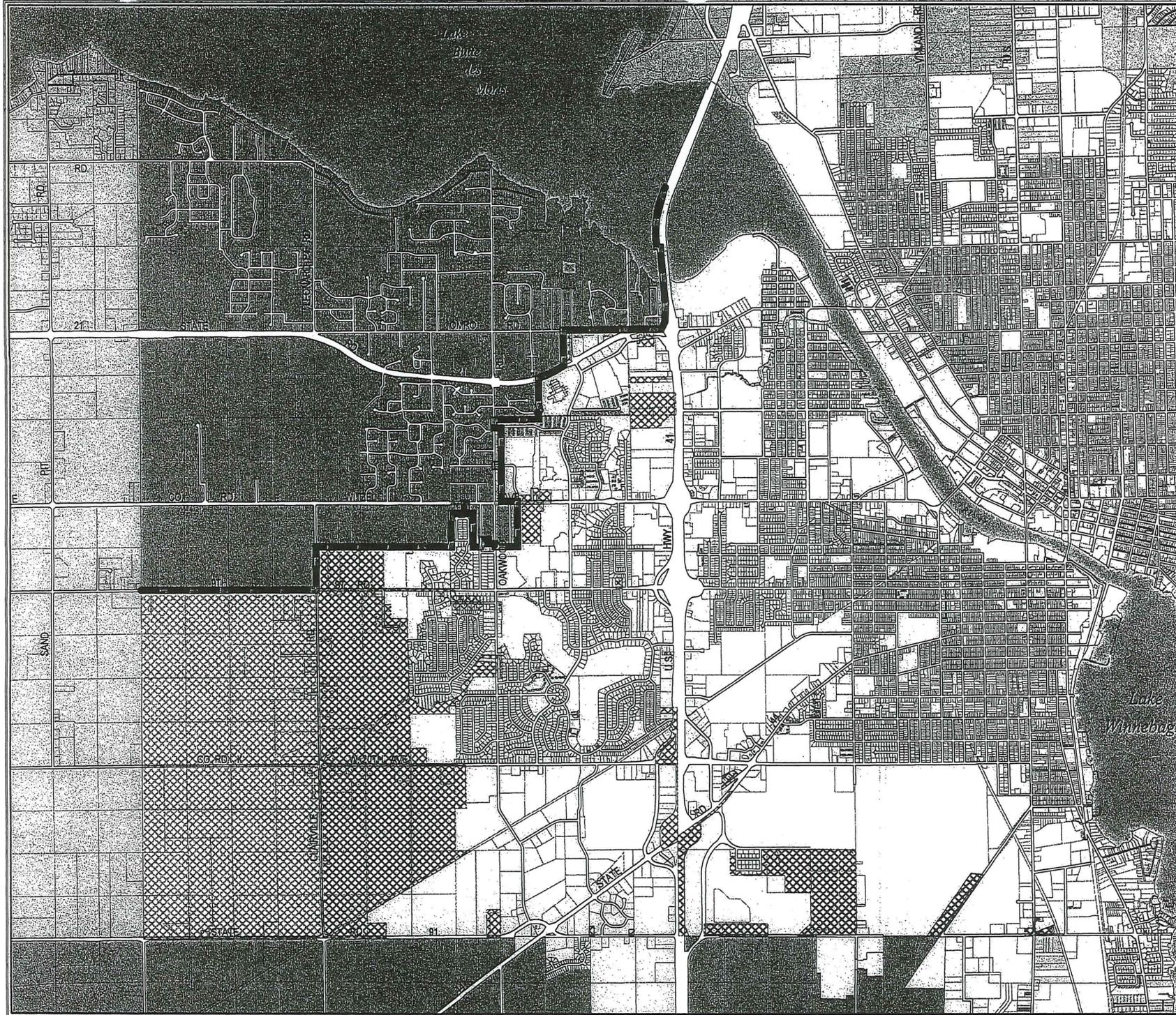
**TOWN OF ALGOMA, a Wisconsin Municipality**

Date: Jan 21, 2004

By: Kenneth W. Neubauer, Town Chairperson

Date: Jan 21, 2004

By: Betsy A. Kunde, Town Clerk



**OSHKOSH**  
ON THE WATER

City of Oshkosh, Wisconsin  
Community Development

## EXHIBIT A

-  Protected Area
-  City of Oshkosh
-  Boundary Agreement Line
-  Zone A
-  Zone B
-  Zone C
-  Zone D
-  Town of Omro
-  Town of Utica
-  Town of Nekimi
-  Town of Black Wolf
-  Town of Oshkosh

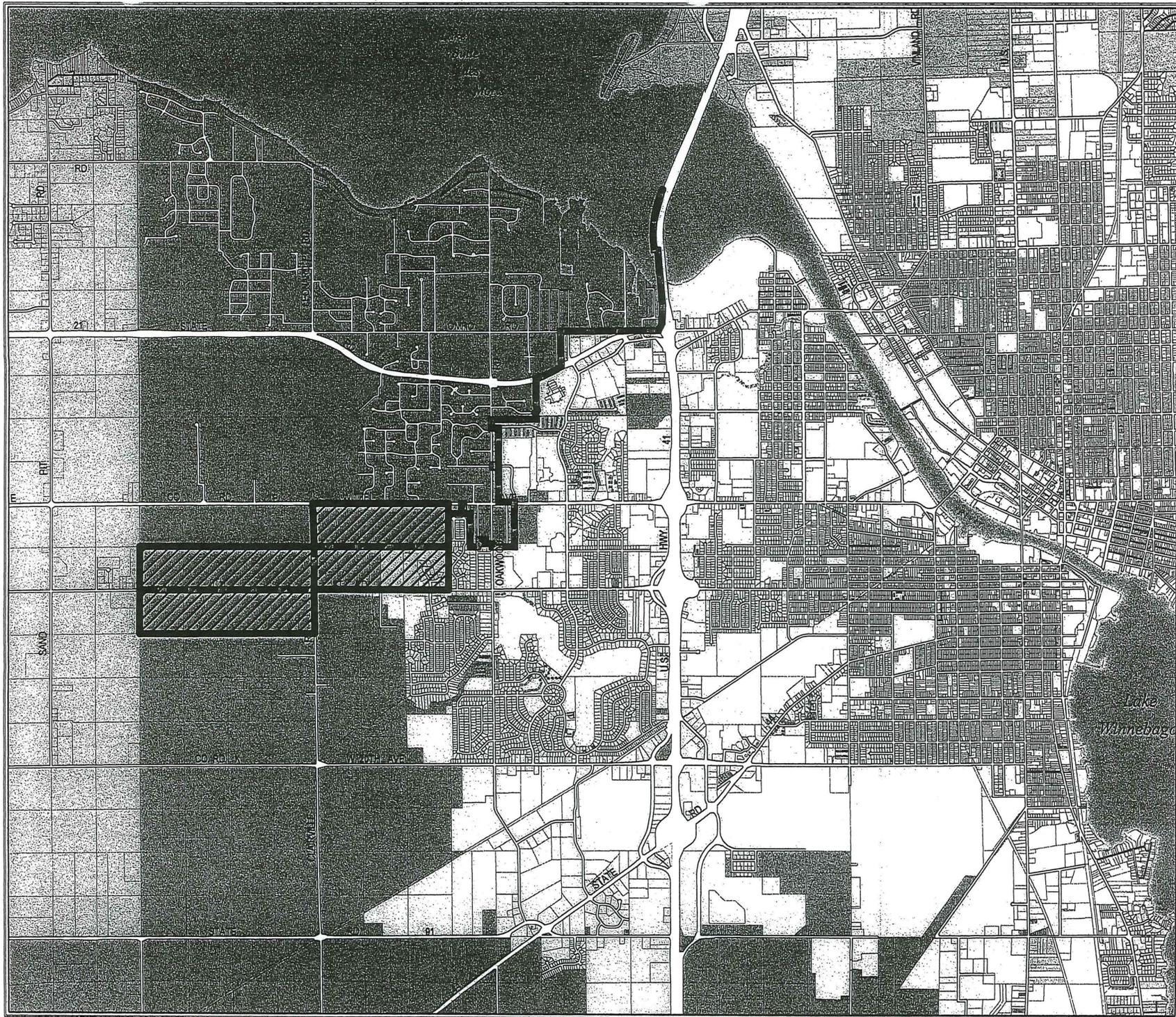
Scale: 1" = 4,000'

### DISCLAIMER

This map is neither a legally recorded map nor a survey and it is not intended to be used as one. This drawing is a compilation of records, data and information located in various city, county and state offices and other sources affecting the area shown and it is to be used for reference purposes only. The City of Oshkosh is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact the City of Oshkosh.

January 27, 2003

1/C



**OSHKOSH**  
ON THE WATER

City of Oshkosh, Wisconsin  
Community Development

## EXHIBIT B

-  Protected Area
-  City of Oshkosh
-  Buffer Area
-  Expansion Area
-  Boundary Agreement Line

-  Town of Omro
-  Town of Utica
-  Town of Nekimi
-  Town of Black Wolf
-  Town of Oshkosh

Scale: 1" = 4,000'

### DISCLAIMER

This map is neither a legally recorded map nor a survey and it is not intended to be used as one. This drawing is a compilation of records, data and information located in various city, county and state offices and other sources affecting the area shown and it is to be used for reference purposes only. The City of Oshkosh is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact the City of Oshkosh.

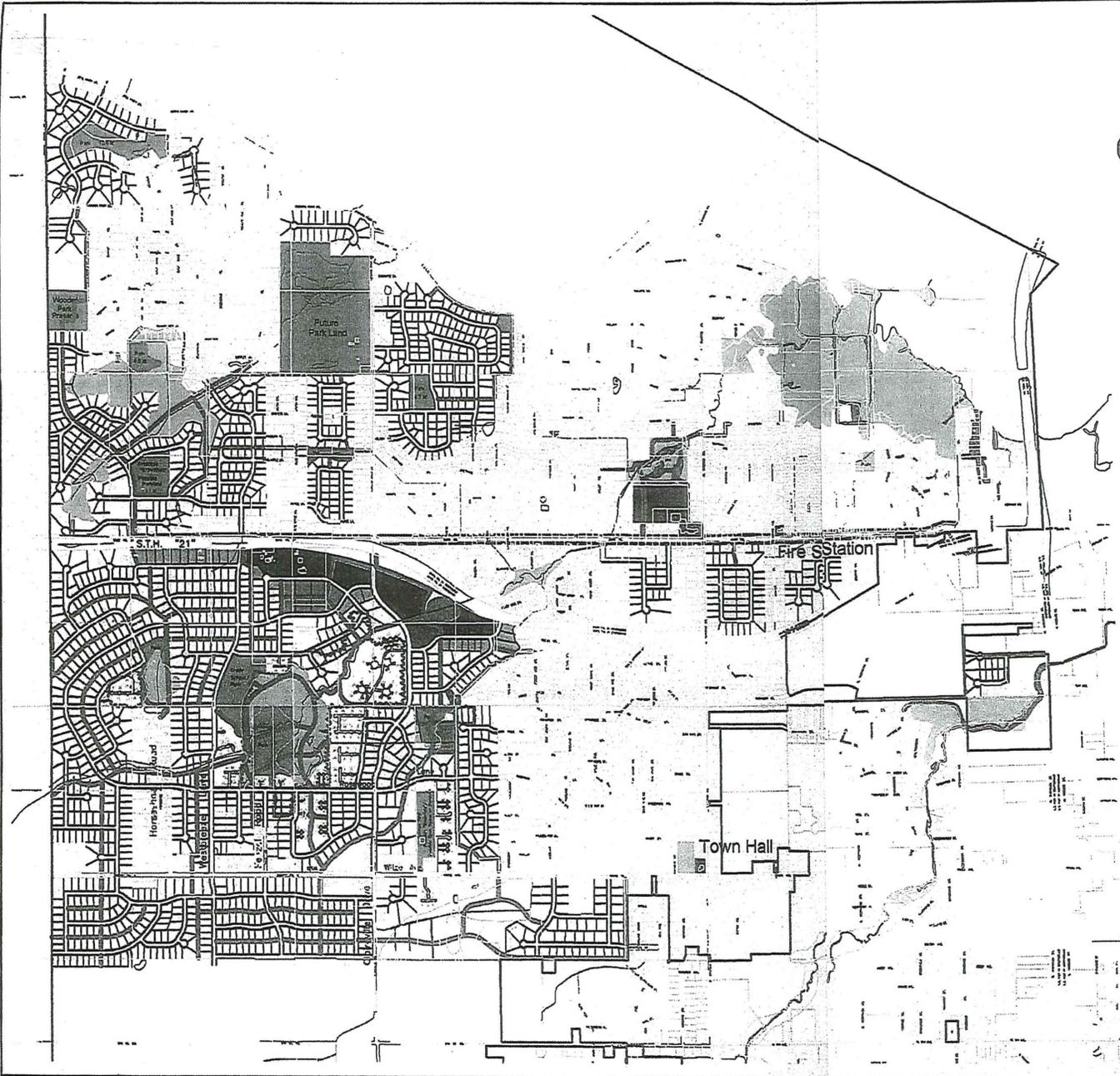
January 27, 2003

50

# Town of Algoma Comprehensive Plan

## Amendment

(Adopted June 21, 2001)



### Legend

-  Stream/Ditch
-  Wetland/Conservation
-  Existing Park
-  Existing Governmental Facilities
-  Proposed Park
-  Proposed Trail System
-  Future Cluster Housing
-  Future Governmental
-  Future Commercial
-  Future Office Park
-  Future Two-Family Units

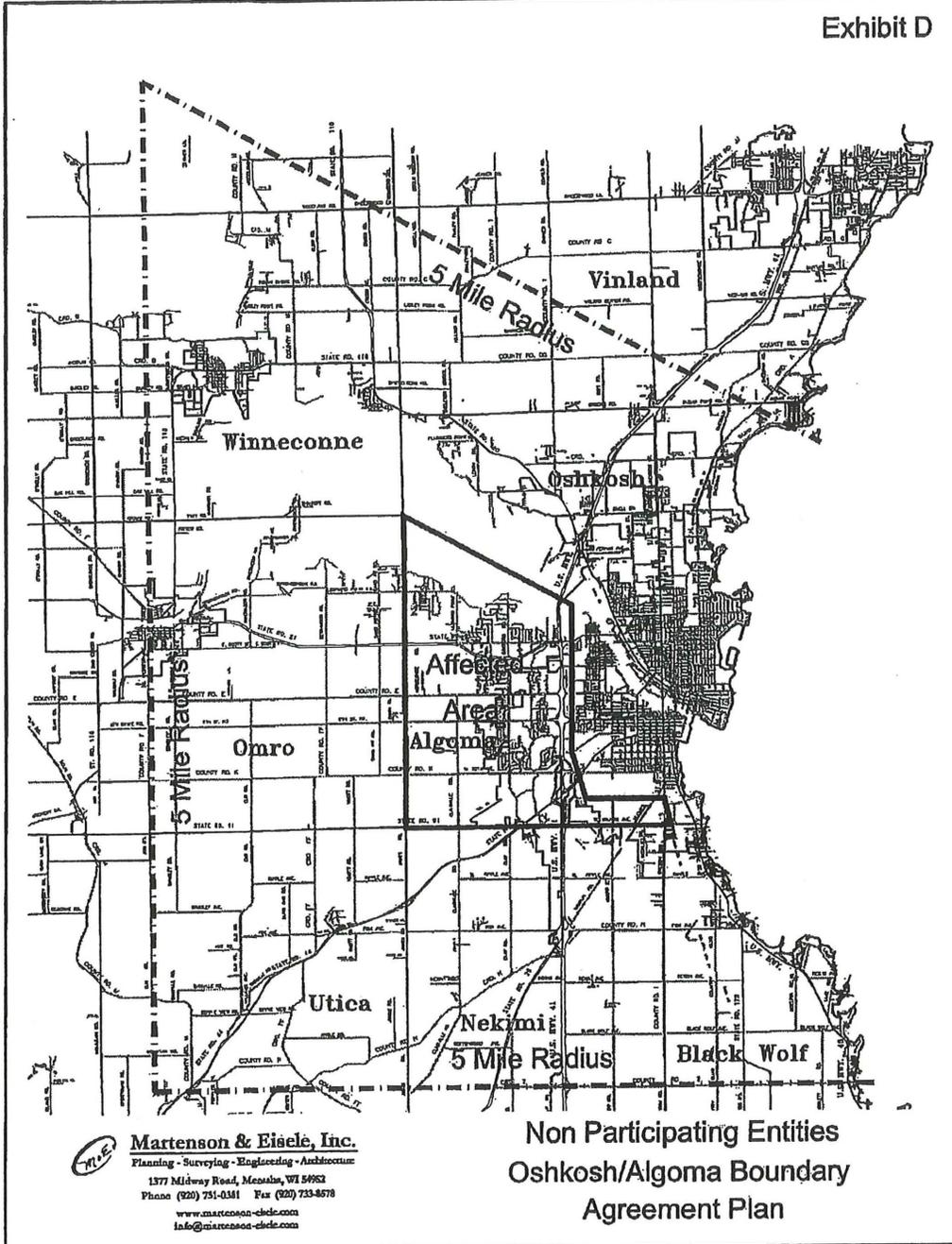


**Martenson & Eisele, Inc.**  
Planning - Surveying - Engineering - Architecture

1919 American Court, Neenah, WI 54956  
Phone (920) 731-4381 Fax (920) 733-4578  
www.martenson-eisele.com  
info@martenson-eisele.com

pmsc583909\_fmcs583905cp\_8-15-03





**Martenson & Eisele, Inc.**  
Planning - Surveying - Engineering - Architecture  
1377 Midway Road, Meosha, WI 54952  
Phone (920) 751-0381 Fax (920) 733-8578  
www.martenson-eisele.com  
info@martenson-eisele.com

Non Participating Entities  
Oshkosh/Algoma Boundary  
Agreement Plan

## EXHIBIT E

### ***Permitted Uses*** (according to Oshkosh and Winnebago County Zoning Ordinance excerpts).

Single family dwelling

Accessory structure customarily incidental to the residential principal use when located on the same lot and not occupied by nor involving the conduct of a business or home occupation.

One boathouse on lots abutting navigable water which, incidental to the residential principal use when located on the same lot not occupied by nor involving the conduct of a business or home occupation.

Home occupation.

Family day care center.

Group homes licensed, operated or permitted under authority of Wisconsin Department of Health and Social Services with 8 or fewer persons.

Public park, including all accessory structures, parking lots, signage and any other park related structures.

Agricultural.

Beekeeping.

Dairying.

Fish farms.

Floriculture.

Forestry.

Fur farms.

Grazing.

Greenhouse.

Hay.

Livestock raising.

Orchards.

Paddocks.

Pasturage.

Plant nurseries.

Poultry raising.

Stables.

Sod farming.

Truck farming.

Viticulture.

Wild crop harvesting.

Raising of:

Cash crops.

Mint.

Grass.

Seed crops.

Silage.  
Nuts and berries.  
Vegetables.  
Barns, silos, etc.

*Conditional Uses.*

Art center.  
Cemetery.  
Church.  
Commercial greenhouse and nursery.  
Community center.  
Day care center.  
Funeral home.  
Governmental structures.  
Group home licensed, operated, or permitted under authority of Wisconsin Department of Health and Social Services with 9 or more persons.  
Hospital.  
Municipal structure.  
Museum.  
Nursing home.  
Parking lot.  
Public utility structures.  
Retirement community.  
School, public and private (including kindergarten, elementary and high school).  
Swimming club, private (non-profit).  
Farm dwellings which are for those resident laborers including family of operator or laborers, who earn any part of their livelihood from farm operations on the parcel, provided the Town Board verifies – in writing – said use of proposed residential unit. (Yard standards according to the applicable residential district).

**EXHIBIT F**

**Town of Algoma Resolution  
Authorizing Support of Boundary Agreement**

**RESOLUTION**

**RESOLUTION AUTHORIZING INTERGOVERNMENTAL AGREEMENT  
BETWEEN THE  
TOWN OF ALGOMA AND THE CITY OF OSHKOSH  
AND INITIATION OF A COOPERATIVE BOUNDARY PLAN**

WHEREAS the Town of Algoma and the City of Oshkosh have negotiated the intergovernmental agreement attached hereto, regarding boundary changes and other urban growth and service issues; and

WHEREAS the intergovernmental agreement provides for the terms of the agreement to be incorporated into a cooperative plan under Wis. Stat. sec. 66.0307 to be submitted to the Wisconsin Department of Administration for approval; and

WHEREAS, the intergovernmental agreement is in the public interest;

NOW, THEREFORE, BE IT RESOLVED, by the Town Board of the Town of Algoma, Winnebago County, Wisconsin as follows:

1. The intergovernmental agreement, a copy of which is attached, is approved and the Town Chairperson and Town Clerk are authorized to execute the intergovernmental agreement as well as any other documents related thereto or required thereby in a form approved by the Town Attorney.
2. Participation in the preparation of a cooperative plan is authorized as provided in Wis. Stat. sec. 66.0307(4)(a).
3. The Town Attorney and all necessary staff are authorized and directed to participate in the preparation of a cooperative plan which contains all of the applicable provisions set forth in the intergovernmental agreement and any further provisions deemed necessary by Town and City attorneys under Wis. Stat. sec. 66.0307.

"EXHIBIT F"

4. The Town Clerk shall provide notice of this resolution as required by Wis. Stat. sec. 66.0307(4)(a), and shall work with the Town Attorney and City Attorney and City Clerk to schedule and notice a joint public hearing on the proposed plan under Wis. Stat. sec. 66.0307(4)(b).

Adopted this 4<sup>th</sup> day of MARCH, 2003.

By: Richard J. Sparbauer  
Richard J. Sparbauer, Chairperson

Attest:

Betsy A. Kunde  
Betsy A. Kunde, Town Clerk

**Exhibit G**

**City of Oshkosh Resolution  
Authorizing Support of Boundary Agreement**

(CARRIED 7-0 LOST \_\_\_\_\_ LAID OVER \_\_\_\_\_ WITHDRAWN \_\_\_\_\_)

PURPOSE: APPROVE INTERGOVERNMENTAL AGREEMENT/  
TOWN OF ALGOMA  
INITIATED BY: CITY ADMINISTRATION

WHEREAS, the City of Oshkosh and the Town of Algoma share a common border on the City's west side and the Town's east side and have had a history of concerns and disputes regarding their border including litigation over annexations from the Town to the City; and,

WHEREAS, recent developments, including a citizen-initiated effort to incorporate the Town, have led the City and Town to explore reaching an agreement to secure long-range benefits for both Parties and their citizens; and,

WHEREAS, the petition to incorporate the Town is pending before the Winnebago County Circuit Court and the State of Wisconsin Department of Administration; and,

WHEREAS, the City's long term growth and development plans envision continued westward development in a logical and well-planned fashion; and,

WHEREAS, the Town desires to protect, indefinitely, the integrity of its territory within certain boundaries and further desires to protect lands from being annexed against the owners' wishes for an extended period of time; and,

WHEREAS, the City and Town both desire that a Transition Area be established so that the eventual City-Town border is well-planned, with compatible development on both sides; and,

WHEREAS, to attain the objectives of both the City and Town and to provide for mutual peace and cooperation beneficial to citizens in both communities, representatives from the City and Town have negotiated on behalf of their respective communities an Intergovernmental Agreement designed to meet the foregoing objectives;

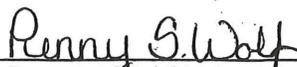
NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of Oshkosh that the Intergovernmental Agreement with the Town of Algoma, **on file in the City Clerk's Office**, is hereby approved and the proper City officials are hereby authorized to execute and deliver the agreement in substantially the same form as attached hereto, any changes in the execution copy being deemed approved by their respective signatures, and said City officials are authorized and directed to take those steps necessary to implement the terms and conditions of the Agreement.

STATE OF WISCONSIN )  
COUNTY OF WINNEBAGO ) SS  
CITY OF OSHKOSH )

I, PENNY S, WOLF, Deputy City Clerk for the City of Oshkosh, Winnebago County, Wisconsin, do hereby certify that the foregoing resolution is a true and correct copy of the original on file in my office, adopted by the Common Council of the City of Oshkosh, Wisconsin at the meeting held on February 25, 2003.

Witness my hand and the Corporation seal of the City of Oshkosh, Wisconsin.

DATED: January 20, 2004

  
Deputy City Clerk of the City of Oshkosh,  
Winnebago County, Wisconsin

FEBRUARY 25, 2003

03-56

RESOLUTION

(CARRIED 7-0 LOST \_\_\_\_\_ LAID OVER \_\_\_\_\_ WITHDRAWN \_\_\_\_\_)

PURPOSE: AUTHORIZE PREPARATION OF COOPERATIVE PLAN/  
TOWN OF ALGOMA

INITIATED BY: CITY ADMINISTRATION

WHEREAS, the Common Council of the City of Oshkosh has approved an Intergovernmental Agreement with the Town of Algoma; and,

WHEREAS, as part of that Agreement, the City and Town have agreed to develop and seek approval of a cooperative plan, pursuant to Sec. 66.0307, Wisconsin Statutes, to implement the terms and conditions contained within the Agreement;

NOW, THEREFORE, BE IT RESOLVED, by the Common Council of the City of Oshkosh that participation in the preparation of a cooperative plan is authorized as provided in Sec. 66.0307(4)(a), Wisconsin Statutes.

BE IT FURTHER RESOLVED that the proper city officials are authorized and directed to participate in the preparation of a cooperative plan which contains all of the applicable provisions set forth in the intergovernmental agreement and any further provisions deemed necessary under Sec. 66.0307, Wisconsin Statutes.

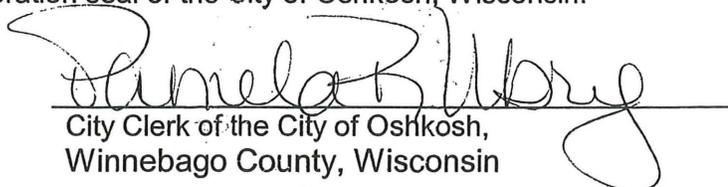
BE IT FURTHER RESOLVED that the City Clerk shall provide notice of this resolution as required by Sec. 66.0307(4)(a), Wisconsin Statutes, and shall, at the appropriate time schedule and notice a joint public hearing on the proposed plan under Sec. 66.0307(4)(b), Wisconsin Statutes.

STATE OF WISCONSIN )  
COUNTY OF WINNEBAGO ) SS  
CITY OF OSHKOSH )

I, PAMELA R. UBRIG, City Clerk for the City of Oshkosh, Winnebago County, Wisconsin, do hereby certify that the foregoing resolution is a true and correct copy of the original on file in my office, adopted by the Common Council of the City of Oshkosh, Wisconsin at the meeting held on February 25, 2003.

Witness my hand and the Corporation seal of the City of Oshkosh, Wisconsin.

DATED: January 22, 2004

  
\_\_\_\_\_  
City Clerk of the City of Oshkosh,  
Winnebago County, Wisconsin

## **Exhibit H**

### **Record of Public Participation and Comment**

On December 18, 2003, the joint public hearing required by Wis. Stat. § 66.0307(4)(b) was held at the Algoma Town Hall following proper notice. Attached are copies of the notice of the hearing, the attendance sheet from the hearing, the minutes of the hearing, and copies of all written comments received at the hearing or received by the City or Town Clerk, including the comments of the East Central Regional Planning Commission required by Wis. Stat. § 66.0307(4)(c).

The East Central Regional Planning Commission has no objection to the Plan. The objections expressed to the plan were that incorporation would be more advantageous (Dinkel), that they did not want their property annexed (Radloff and Olson), and that the creation of the Plan was too expensive for the Town. In addition, Mr. Thompson suggested several modifications of the Plan.

In response to the objections and suggestions noted above:

- The Town Board and City Council both determined that the Plan was preferable to proceeding with litigation over incorporation.
- The properties subject to intermediate and final attachment are likely to be forced into the City involuntarily during the term of the Plan in any event. The Town and the City agree that it is preferable for the transition to occur in a planned and orderly manner that maximizes the efficient delivery of services and minimizes costs to both parties. The Plan also gives property owners protection from earlier involuntary annexations that might otherwise occur.
- Whether or not the Plan was too expensively achieved is a subjective judgment. Having achieved it, it is now in the best interests of the parties.
- Mr. Thompson's suggestions are partially incorporated in the Plan. Section 4.04 now says only that sewer service will be provided in attached areas rather than specifying that it will be City sewer, leaving open the possibility of service by the Sanitary District. Section 10.06 and Exhibit J have been created providing for immediate attachment of some road segments.

**NOTICE OF JOINT PUBLIC HEARING REGARDING  
TOWN OF ALGOMA AND CITY OF OSHKOSH  
PROPOSED COOPERATIVE BOUNDARY PLAN**

Notice is hereby given that the City of Oshkosh and Town of Algoma will hold a joint public hearing in the Town of Algoma Town Hall, 15 N. Oakwood Road, Oshkosh, Wisconsin, on Thursday, December 18, 2003, at 6:00 p.m., regarding the proposed Cooperative Boundary Plan ("Plan") between the Town of Algoma and the City of Oshkosh. The Plan and related maps and exhibits will be available for inspection before the hearing beginning at 5:30 p.m.

At the hearing, all interested persons will be given an opportunity to be heard in support of or in opposition to the Plan, pursuant to Wis. Stat. § 66.0307.

The Plan may be viewed at all branches of the Oshkosh Public Library and at the following locations during regular business hours:

**City of Oshkosh**

City Clerk  
215 Church Avenue  
P.O. Box 1130  
Oshkosh, WI 53903

**Town of Algoma**

Town Hall  
15 N. Oakwood Road  
Oshkosh, WI 53904

The Plan will also be available on the Internet at: <http://www.ci.oshkosh.wi.us>

The Plan affects all of the Town of Algoma.

To allow all interested persons an opportunity to be heard during the hearing, each person will be permitted to speak only once for not more than three minutes. Written comments will also be accepted at the hearing. If you are unable to attend the hearing and would like to submit comments in writing, you may do so by delivering them to either the City Clerk or the Town Clerk at the above specified address for receipt no later than January 7, 2004.

If you need an interpreter, materials in alternate formats or other accommodations, please contact the City Clerk or Town Clerk. Please do so at least 48 hours prior to the hearing, so that proper arrangements can be made.

Richard Wollangk, City of Oshkosh City Manager  
Ken Neubauer, Town of Algoma Chairperson

TOWN OF ALGOMA  
WINNEBAGO COUNTY, WISCONSIN

MEETING DATE: 12-18-03

GROUP MEETING: Cooperative Boundary Agreement  
Public Hearing

ATTENDANCE SHEET

NAME	ADDRESS	SUBJECT TO SPEAK ON
Jackson Kinney	3368 Isaac Lane Oshkosh	
CHARLES DINKEL	1013 WILDE OAK DR.	
AM NOEBEL	4705 COUNTY RD E	
Bruce Noebel	4705 County Rd E	
Paul Oiser	2550 Clintonville Rd	
Bob Nardolsta	3016 Wilde Oak Ct	
Clair Kentopp	2453 Burnwood Dr	
Mark Green	1553 N. Oakwood Rd	
Mark Thompson	3375 Sheppard DR.	
Timothy J. Lake	1416 Valley Rd.	
JOE AVERKAMP	4106 STE RD 91	
DEWEY NELSON	2946 OAKWOOD Ln	
Richard Wollanck	1965 ARINGTON DR	
Kevin Mraz	1240 Pheasant Creek Dr	
Gray Eakle	2135 Carlton	
Don Seinfeld	2517 Burnwood Rd	
Hess Neubauer	2997 Clairville Rd	
DICK SPANBAUER	3040-SHELDON DR	
Ken Radloff	2162 JAMES Rd.	
Eves Radloff	2041 JAMES Rd	
Warren Wecht	3137 N Durkee Ave	

**TOWN OF ALGOMA**  
**WINNEBAGO COUNTY, WISCONSIN**  
**MINUTES FOR PUBLIC HEARING FOR COOPERATIVE BOUNDARY**  
**AGREEMENT**  
**DECEMBER 18, 2003 6:00 PM**

**Call To Order**

The public hearing was called to order by Atty. Yde at 6:00PM.

Atty. Yde provided background information on events that led up to today's public hearing.

**Public Comment**

Chuck Dinkel, 1013 Wylde Oak Drive- stated he is against the plan as it in his opinion forces 500 people to annex to the city. He feels incorporating as a village would be more advantageous, as a border agreement may be reversed by the court system at a later time. In his opinion the boundary agreement would inhibit progress and expansion to business parks and business in general.

Joe Averkamp-4102 State Road 91-Does not want to annex to the city, as he feels there is no advantage for him to annex, but as long as he can remain in the town for 15 years prior to annexation is ok with the agreement.

Kevin Mraz, Utility Director Algoma Sanitary District #1- The sanitary district expects that with the approval of this agreement that all parties involved will cooperate and fully support the district with sewer service area expansion up to the documented protected area of this agreement.

Dick Spanbauer, 3040 Sheldon – supports the agreement and feels it is in the best interest for the majority of the town, as it keeps the core of the town intact.

Kevin Radloff, 2162 James Road, land owned in Algoma- 4760 Hwy 91-is against the agreement as in his opinion the residents were not notified, and feels that having a member of the town board on the committee to draw up the agreement was not right. Sessions for structuring of the agreement were not open to the public. He heard about this plan six years ago in the Town of Nekimi. It is his thought that he is the sacrificial lamb of this agreement, and he would like to be compensated accordingly. As the Town of Algoma does not wish to have his property within their borders he would like to have the option of annexing to the Town of Utica or the Town of Omro.

Paul Olson, 2550 Clairville Road- Owns the town's largest industrial tax parcel. He is against the plan as he does not want to pay city taxes or services. Olson feels that the town should develop an industrial base on its own and not allow the city to do so.

Kenneth W. Neubauer, 2997 Clairville Road- Is against the plan as it has cost the town too much money already.

Public Hearing was closed at 6:32PM.

Respectfully submitted,

Betsy A. Kunde, Clerk  
Town of Algoma

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: Kenneth W. Neubauer  
Address: 2997 Claville Rd

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: Paul Oiser  
Address: 2530 Cranville W

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: Kevin Radloff  
Address: 2162 James Rd  
OSH KOSH

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: DICK SPANBAUER  
Address: \_\_\_\_\_  
\_\_\_\_\_

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: Clair Kentopp  
Address: 2453 Burnwood Dr

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: CHUCK DINKEL  
Address: 1013 WYLD E OAK DR.

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: JOE AVERKAMP  
Address: 4102 ST. RD 91  
OSH

I wish to speak.

I do not wish to speak.

Comments:

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: Bob Nadolska  
Address: 3014 1/2 Oak  
Oshkosh

I wish to speak.

I do not wish to speak.

Comments:

MAY 82

PUBLIC COMMENT ON TOWN OF ALGOMA-CITY OF OSHKOSH  
JOINT COOPERATIVE PLAN

Name: Kevin Miraz  
Address: 1247 Pleasant Circle Drive  
OSHKOSH WI 54904

I wish to speak.

I do not wish to speak.

Comments:

3375 Sheppard Drive  
Oshkosh, WI 54904

December 31, 2003

Betsy A. Kunde, Clerk  
Town of Algoma  
15 North Oakwood Road  
Oshkosh, WI 54904

Re: Oshkosh / Algoma Cooperative Plan

Dear Betsy:

I strongly support the Cooperative Plan. I do have some concerns. The first is with the first sentence of the last paragraph of Section 4.04 on page 6. There are existing parcels in the expansion area that are in the Algoma Sanitary District and will continue to be served by the Algoma Sanitary District #1. There are also areas now in the City of Oshkosh that are being served by Algoma Sanitary District #1. These were part of the Sanitary District prior to previous annexations. I question how these areas would be affected by this sentence. For example, would properties fronting on Emmers Lane need to be detached from the Sanitary District and would a new pipe have to be put in to be serviced by the City?

As previous annexations have occurred along streets such as 9<sup>th</sup> Avenue, the City has left all or part of 9<sup>th</sup> Avenue as a corridor to avoid creating islands. Most of the development on both sides of 9<sup>th</sup> Avenue from Oakwood Road west to Linden Oaks is in this situation. There are also areas such as Washburn Street north of 20<sup>th</sup> Street (GTH K) that have recently been paved by the Town. The City now plows that portion. This area will become part of the City in ten (10) years. Maryden Road is a very short street whose primary function will be to serve a large development that is taking place within the City. I feel that these streets, and others, should be maintained by the City. This could probably be accomplished either by agreement or annexation of the rights-of-way.

Enclosed is a listing of locations that I understand the City would entertain annexing. I agree with these. I would add Maryden Road.

The Algoma Fire Department has jurisdiction over portions of Highway 41 from the center of the Butte des Morts Eridge south to STH 44. Most of the frontage from STH 21 south

Betsy A. Kunde, Clerk  
Town of Algoma  
December 31, 2003  
Page 2

will be in the City in the future. I believe that the reality is that the City of Oshkosh possesses superior heavy rescue equipment that can better serve the needs of Highway 41. I believe the agreement should give the City of Oshkosh Fire and Rescue jurisdiction over this highway.

There has been considerable discussion over the years regarding the extension of Leonard Road south to meet up with Clairville Road. In fact, the City and the Town worked together so that the City, at the Town's request, official mapped either an 80' or 100' right-of-way for this road extension. There has been recent discussion by DOT and others of the possibility of moving such a road to the Algoma/Omro Town Line. I feel that this agreement should recite the intention to extend Leonard Road southerly as a four (4) lane road.

Sincerely yours,



Mark Thompson  
Supervisor, Town of Algoma

cc: Attorney Richard Yde

Jackson- These are locations that I noticed with a quick review of the map

**Locations East of Hwy 41**

Waukau Ave ( East & West of Oregon Street )  
Hughes Street ( North of Waukau Ave )  
Ripon Lane  
South Park Ave (Ripon Lane to Washburn St.)  
Poberezny Road ( North of Waukau Ave )

**Locations West of Hwy 41**

20th Ave ( Washburn St to Hwy 41 )  
Washburn St ( North of 20th Ave )  
Oakwood Road (Village Lane to Killarney Ct.)  
Homestead Drive  
9th Ave ( Fox Fire Drive to Linden Oak Drive )  
9th Ave ( Graceland Dr. to Greenfield Tr )  
Westhaven Drive (Springmill Dr to Patriot Lane )  
Washburn St (North of Sawyer Creek)

Let me know if you have any questions Thanks DCP

January 7, 2004

To: Betsy Kunde, Town Clerk  
Town of Algoma

I have lived in the Town of Algoma for 25 years and previously in the City of Oshkosh for several years.

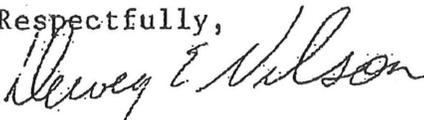
During this time, I have been aware of all the controversies. The main one being the expansion of the City into the Town. Recently, discussions have occurred between the two municipalities on a Boundary Agreement.

I believe it is in the best interest for the Town of Algoma and the City of Oshkosh that the Boundary Agreement be completed.

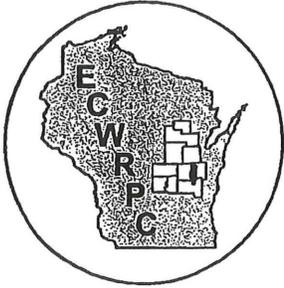
It would be good in the future for both the residents of the Town and the City.

Thank you,

Respectfully,



Dewey E. Nelson



## EAST CENTRAL WISCONSIN REGIONAL PLANNING COMMISSION

132 Main Street Menasha Wisconsin 54952-3100 (920) 751-4770 Fax (920) 751-4771  
Website: [www.eastcentralrpc.org](http://www.eastcentralrpc.org) Email: [staff@eastcentralrpc.org](mailto:staff@eastcentralrpc.org)

*An Economic Development District and Metropolitan Planning Organization  
Serving the East Central Wisconsin Region for over 30 years*

January 6, 2004

Richard Yde  
Stafford Rosenbaum, LLP  
3 S. Pinckney Street., Suite 1000  
Madison, WI 53701

Dear Mr. Yde:

ECWRPC No. 2003-353

Subject: Clearinghouse Review Comments – Cooperative Plan: Town of Algoma and City of Oshkosh

The East Central Wisconsin Regional Planning Commission, the designated metropolitan clearinghouse for the ten county East Central region, has reviewed the proposed cooperative plan between the City of Oshkosh and Town of Algoma dated November, 2003.

Staff is aware of the long history between the two entities regarding boundary issues and disputes and feels that this agreement will eliminate future problems.

East Central is advisory to the WDNR in all matters pertaining to the development and implementation of the NR-121 based Oshkosh Sewer Service Area (SSA) Plan. To that end, staff has reviewed the agreement in light of the current SSA plan and finds no major concerns with the agreement as it relates to the plan. Staff will be conducting a comprehensive update of the Oshkosh SSA Plan in 2004 and will factor the information provided by the new agreement into the plan development process and re-configuration of the existing SSA and SSA Planning Area boundaries.

If you have any questions, please contact East Central.

Sincerely,

Harlan P. Kiesow  
Executive Director

HPKjwh

Cc: Jackson Kinney, Director of Community Development, City of Oshkosh

JAN 07 2004

**Exhibit I**  
**Intergovernmental Boundary Agreement**

EXHIBIT I

INTERGOVERNMENTAL AGREEMENT

BETWEEN

THE CITY OF OSHKOSH AND THE TOWN OF ALGOMA

The Parties to this Agreement are the City of Oshkosh ("City") and the Town of Algoma ("Town"); both located in Winnebago County, Wisconsin.

RECITALS

- A. The City and Town share a common border on the City's west side and the Town's east side.
- B. The City and Town have a history of disputes regarding their border including litigation over annexations from the Town to the City.
- C. Recent developments, including a citizen-initiated effort to incorporate the Town, have caused the City and Town to explore reaching an agreement to secure long-range benefits for both Parties and their citizens.
- D. The petition to incorporate the Town is pending before the State of Wisconsin Department of Administration.
- E. The City's long term growth and development plans envision continued westward development in a logical and well-planned fashion.
- F. The Town desires to protect, indefinitely, the integrity of its territory within certain boundaries.
- G. The Town desires to protect lands from being annexed against the owners' wishes for an extended period of time.
- H. The City and Town both desire that a Transition Area be established so that the eventual City-Town border is well-planned, with compatible development on both sides.
- I. To attain the objectives of both the City and Town and to provide for mutual peace and cooperation beneficial to citizens in both communities, the City and Town desire to enter into this new Intergovernmental Agreement.

EXHIBIT I

AGREEMENT

Therefore, in accordance with the authority granted them under the Wisconsin statutes and for their mutual benefit and in the public interest, the Parties agree as follows:

1. *Establishment of Protected Area.* Lands within the Town are divided into a Protected Area and an Expansion Area as shown on Exhibits A and B attached hereto.
2. *Protected Area.* Within the Protected Area,
  - a. The City shall not annex any lands unless such annexation is approved by a four-fifths (4/5) majority of the entire Town Board.
  - b. Except as otherwise specifically provided in this Agreement, the City shall exercise no extraterritorial jurisdiction. The limitation on the City's exercise of extraterritorial jurisdiction includes, but is not limited to, zoning, land division, and official mapping.
  - c. The City and the Town shall consult with each other concerning a new north-south arterial on or near Clairville Road.
  - d. The City shall not object to nor interfere with applications by the Algoma Sanitary District ("District") to expand its boundaries or extend its sewer service area.
3. *Expansion Area.* Within the Expansion Area,
  - a. All lands within Zone A as shown on Exhibit A (east of U.S. Highway 41) shall attach to the City as of March 1, 2013.
  - b. All lands in Zone B as shown on Exhibit A shall attach to the City as of March 1, 2018.
  - c. All lands in Zone C as shown on Exhibit A (east of Clairville Road) shall attach to the City as of March 1, 2023.
  - d. All lands in Zone D as shown on Exhibit A (west of Clairville Road) shall attach to the City as of March 1, 2043.
  - e. Lands may be annexed to the City prior to the above dates only upon the unanimous consent of the owners of the lands, exclusive of any right-of-way that may be annexed. Such annexations need not be contiguous to the City and may create town or city islands. Such annexations shall include the entire width of highway rights of way abutting the lands

EXHIBIT I

annexed. The Town shall not oppose, nor support opposition to, annexations consistent with the terms of this Agreement.

- f. The Town consents to the construction of City utilities in Town rights of way and easements as necessary to serve annexed lands subject to the City's obligations (i) to maintain access to Town territory, (ii) not to interfere with Town utilities, and (iii) to restore the right of way or easement in accordance with commonly accepted practices.
- g. The Town will not interfere with or object to City applications to extend its sewer service area consistent with this Agreement.
- h. The City shall provide sanitary sewer, storm sewer and water services to lands prior to annexation or attachment on the same extension, cost and payment terms as those generally applicable to similarly situated lands within the City, provided: (1) such services could be made available to such lands if they were within the City; and (2) the owners of such lands unanimously agree to annexation or attachment to the City effective 5 years after the service is available. Lands under such agreements shall be attached to the City pursuant to this Agreement and shall be subject to City zoning and land use regulation pending the attachment.
- i. The City shall be responsible for all actions necessary to accomplish annexations or attachments as provided herein.

4. *Land Use and Zoning.*

- a. Consistent with Sec. 62.23(7a), Wis. Stats. (1999-2000), the City and the Town shall establish an extraterritorial zoning committee ("EZC"), which shall exercise such power and authority as contained therein, within the Expansion Area of the Town except as provided in section 3h.
- b. A Buffer Zone is established as shown on Exhibit B. Allowable uses within the Buffer Zone shall be limited to those set forth in Exhibit C. Additional uses shall not be permitted unless approved by the EZC, as provided in Sec. 62.23(7a), Wis. Stats.
- c. The EZC shall also have jurisdiction within the Buffer Zone for the purposes of section 4b.

EXHIBIT I

5. *Services and Utilities.*

- a. Commencing on the first day of the next month starting at least thirty (30) days after a written request from the Town to the City Manager, the City shall provide emergency ambulance services throughout the Town on the same terms under which the City currently provides such services to a portion of the Town.
- b. The District shall continue to own and operate the portions of the sanitary sewer system within the Town for the term of this Agreement regardless of what portion of the patrons of the system is in the City. To the extent supplemental agreements are necessary to implement the terms of this paragraph, the City shall cooperate with the District to enter into such agreements on terms that are fair to both.

6. *Cooperative Plan.* The Town and the City shall fully participate in the preparation of a cooperative plan and seek approval thereof under sec. 66.0307, Stats.

- a. The resolution by which each Party approves this Agreement shall authorize participation in the preparation of a plan as provided in sec. 66.0307(4)(a), Stats., and the clerk of each Party shall give notice of such resolution as required by sec. 66.0307(4)(a), Stats.
- b. Any failure to comply with paragraph a may be cured by adopting a new resolution and giving notice as provided in sec. 66.0307(4)(a), Stats., not later than 45 days after the date of commencement of the term of this Agreement.
- c. To the extent it is determined not to be contrary to the public interest after the hearings, comments and review by the Department of Administration required by sec. 66.0307(4) and (5), Stats., the cooperative plan shall incorporate the terms of this Agreement except as otherwise provided in this section.
- d. The cooperative plan shall permit attachment of territory by ordinance adopted by a simple majority of the City's Common Council in place of annexation under section 3.e of this Agreement upon the written request or agreement of the owner or owners of the parcel attached and notice to the Town.
- e. The cooperative plan shall permit the attachment of territory to the City under section 3.a, b, c, or d of this Agreement by adoption of an ordinance by a simple majority of the City's Common Council.

EXHIBIT I

- f. The cooperative plan shall provide that no part of the Town may be incorporated prior to March 1, 2008.
- g. The Town and the City shall fully cooperate to complete the preparation of the cooperative plan and submit it to the Department of Administration for final approval as soon as reasonably possible after the effective date of this Agreement.
- h. Once approved, the cooperative plan shall govern without respect to subsequent changes in statutory law.

7. *Incorporation Petitions.*

- a. The Town and the City shall jointly request the Department of Administration and the Circuit Court to suspend all proceedings related to the currently pending petition to incorporate a part of the Town while they seek approval of the cooperative plan from the Department of Administration.
- b. Within 30 days after final approval of the cooperative plan under sec. 6.g, the Town shall request the Court and the Department of Administration to dismiss the currently pending incorporation petition. For purposes of this section, final approval means that the Department of Administration has issued its approval under Wis. Stat. sec. 66.0307(5) and either the time for judicial challenge of the approval has elapsed without challenge or the approval has been upheld by the courts and the time for further appeal has elapsed.
- c. Pending final approval of the cooperative plan, the Town shall not support in any way any effort to incorporate any part of the Town.
- d. Pending final approval of the cooperative plan, the City may annex any part of the area subject to the pending incorporation petition with majority Town Board approval, consistent with Chapter 66 of the Wisconsin Statutes. The Town and the City shall sign and file with the circuit court a stipulation deleting such territory from the legal description accompanying the incorporation petition.
- e. If the cooperative plan does not receive approval from the Department of Administration under Wis. Stat. sec. 66.0307(5) by February 28, 2005, or such later date as mutually agreed in writing by the Parties, or if the approval is reversed by the courts and no further appeal or proceeding is possible to have the approval reinstated, then this Agreement shall terminate and the pending incorporation petition may proceed with the Town's support.

EXHIBIT I

8. **Term.** This Agreement shall commence upon being signed by the Parties and shall terminate at 11:59 p.m. on February 28, 2063, unless extended by mutual agreement. No later than March 1, 2053, the Parties shall meet and confer to extend this agreement on such terms and conditions as the Parties may then agree. Failure to agree on extension shall not be considered a breach or dispute subject to resolution under section 10.
  
9. **Challenge to Agreement.**
  - a. The Parties waive all rights to challenge the validity or enforceability of this Agreement or any of its provisions or to challenge any actions taken pursuant to or in accordance with this Agreement.
  
  - b. In the event of a court action by a third party challenging the validity or enforceability of the Agreement or any of its provisions, the Parties shall fully cooperate to vigorously defend the Agreement.
    - (1) If only one Party is named as a party to the action the other Party shall seek to intervene and the named Party shall support such intervention.
    - (2) No settlement of such an action shall be permitted without the approval of the governing bodies of the Parties.
    - (3) The workload to defend the Agreement shall be shared equally.
  
  - c. A challenge to the Agreement by one of the Parties or a failure to vigorously defend the Agreement constitutes a breach of the Agreement.
  
10. **Dispute Resolution.** In the event of a breach of this Agreement or a dispute between the Parties involving the application, interpretation or enforcement of this Agreement,
  - a. The Parties shall meet to seek a resolution within 10 days following written notice by one Party to the other Party of the breach or dispute.
  
  - b. If the issue is not resolved at such meeting or at an extension thereof mutually agreed to by the Parties, either Party may demand mediation. The Parties shall submit to mediation if demanded by either Party.
    - (1) If the Parties cannot agree on a mediator within five (5) days after the demand for mediation, either Party may request appointment of a qualified mediator by the Chairperson of the Alternative Dispute Resolution Committee of the State Bar of Wisconsin, or if the Chairperson fails to appoint a mediator, by the American Arbitration Association.

EXHIBIT I

- (2) The mediation session must take place within thirty (30) days of the appointment of the mediator.
  - (3) Each Party must designate a representative with appropriate authority to be its representative in the mediation of the dispute.
  - (4) Each Party must provide the mediator with a brief memorandum setting forth its position with regard to the issues that need to be resolved at least ten (10) days prior to the scheduled mediation session. The Parties must also produce all information reasonably required for the mediator to understand the issues presented. The mediator may require any Party to supplement such information.
  - (5) The mediator does not have authority to impose a settlement upon the Parties, but will attempt to help the Parties resolve their dispute. The mediation sessions shall be private. The Parties and their representatives may attend the mediation sessions.
  - (6) The cost of the mediator shall be borne equally by the Parties.
  - (7) The Parties shall maintain the confidentiality of the mediation and may not rely on, or introduce as evidence in any arbitral, judicial, or other proceeding (i) views expressed or suggestions made by the other Party with respect to a possible settlement of the dispute; (ii) admissions made by the other Party in the course of the mediation proceedings; (iii) proposals made or views expressed by the mediator; or (iv) the fact that the other Party had or had not indicated willingness to accept a proposal for settlement made by the mediator.
- c. In the event the issue is not resolved as a result of the meeting or mediation as provided in paragraphs a and b, the matter shall be submitted to binding arbitration upon written demand by either Party to the other with notice to the Municipal Boundary Review Director of the Office of Land Information Services of the State of Wisconsin Department of Administration of such demand. The arbitration shall be performed by a person designated by the Director in accordance with such rules and procedures such person may specify, subject to the terms of this Agreement. In the event the Director does not appoint an arbitrator within 30 days of the Director's receipt of a written request to do so, then:
- (1) The arbitration must be conducted in accordance with the Commercial Arbitration Rules of the American Arbitration Association ("AAA") in effect at the time of the arbitration ("Rules"), except as such Rules may be modified by this Agreement.

EXHIBIT I

- (2) A Party desiring to submit a dispute to arbitration hereunder must file a Demand for Arbitration ("Demand") with the AAA at its office in Chicago, Illinois. A copy of such Demand must be sent to the other Party at the same time. The arbitration proceeding must be conducted by a panel of three (3) arbitrators selected from a list of qualified arbitrators supplied by the AAA. The arbitrators must be selected as follows: Within ten (10) days after filing, each Party shall appoint one (1) arbitrator. Within ten (10) days after they are chosen, the two (2) arbitrators shall choose a third arbitrator who acts as chairperson of the arbitration proceedings. If the two (2) arbitrators are unable to agree upon a third arbitrator within ten (10) days, then the third arbitrator shall be appointed by the AAA. The arbitrators in the arbitration proceeding must be individuals with the necessary expertise and competency to pass on the matters presented for arbitration, but said arbitrators may have no interest in or prior connection with any Party.
- (3) Following the appointment of the arbitrators, each Party has the right to mail to any other Party (with a copy to the arbitrators) a written request for the production of certain identified documents or of all documents in possession of the other Party relevant to any claims or counterclaims in the arbitration. Within 10 days of receipt of any such request, the receiving Party must respond to such request but may object to all or part of said request (with a copy to the arbitrators), on the ground that it is unduly burdensome, that the documents requested are irrelevant or privileged, or that such documents are equally available to the requesting Party. The arbitrators will rule on the validity of any such objection and the Parties must produce documents in accordance with the ruling.
- (4) The site of the arbitration shall be in Winnebago County, Wisconsin, unless otherwise agreed to by the Parties. The Parties must diligently and expeditiously proceed with arbitration. Upon the conclusion of any hearing, the Parties shall have 30 days to submit written briefs in support of their respective positions. The arbitrators must make an award within 45 days after the filing of such briefs, subject to any reasonable delay due to unforeseen circumstances.
- (5) Except to the extent the Parties' remedies may be limited by the terms of this Agreement, the arbitrators are empowered to award any remedy available under the laws of the State of Wisconsin including, but not limited to, monetary damages, and specific performance. The arbitrators have no authority to award punitive or other damages not measured by the prevailing Party's actual damages and may not, in any event, make any ruling, finding, or

EXHIBIT I

award that does not conform to the terms and conditions of this Agreement. The award of the arbitrators must be in writing with a statement of reasons for such award and signed by the arbitrators. A written decision of a majority of the arbitrators is binding upon the Parties. An award rendered by the arbitrators in an individual or consolidated arbitration may be entered in any court having jurisdiction thereof.

- (6) The arbitrators' authority is limited solely to resolving disputes under this Agreement.
  - (7) The pendency of any arbitration hereunder does not relieve either Party of any of its obligations under this Agreement.
  - (8) The Parties shall share equally the fees and expenses of the arbitrators as well as all fees imposed by the AAA including, but not limited to, transcripts, hearing room rentals, and administrative costs. Each Party to the arbitration proceeding is responsible for its own costs and legal fees, if any, except that the arbitrators are empowered to award such costs and fees against a Party who prosecutes or defends an arbitration hereunder in bad faith or as otherwise provided in section 11.b.
- d. Paragraphs a, b, and c of this section shall be the exclusive method of resolving the issues specified in the introduction to this section and both Parties waive their rights under sec. 893.80, Stats., and their rights to seek remedies in court as to such issues except that the prohibition on court actions shall not apply to
- (1) Actions to enforce an arbitration award under c;
  - (2) Actions for injunctive relief necessary to protect the public health, safety or welfare during the dispute resolution process;
  - (3) Disputes involving a necessary third party who refuses to consent to arbitration as provided above; or
  - (4) Disputes involving a necessary third party when the Municipal Boundary Review Director fails to appoint an arbitrator.
- e. In the event any of the entities designated to perform mediation or arbitration services under this section ceases to exist or for some other reason cannot or does not perform said services, the Parties shall use their best efforts to agree on a substitute to perform the services.

11. *Remedies.* In the event of a breach of this Agreement,

EXHIBIT I

- a. Except as limited by sec. 10 above, either Party may seek declaratory judgment or specific performance of this Agreement by court action in addition to any other remedies available at law or in equity. No Party shall challenge the standing of the other in such an action.
  - b. The breaching Party shall pay the other Party's attorney fees reasonably incurred in seeking remedies for the breach provided that the breaching party has been given notice and a reasonable opportunity to cure the breach prior to commencement of any proceedings for a remedy. Following the dispute resolution procedure outlined in section 10 a and b constitutes sufficient notice and reasonable opportunity to cure under this paragraph.
12. *Binding Effect.* This Agreement shall bind, and accrue to the benefit of, all successors of the Parties, whether one or more. For example, if a part of the Town should be incorporated, both the incorporated and unincorporated entities would be considered to be Parties bound by the terms of the Agreement. Except as to the rights of owners of land currently in the Town as expressly set forth herein, and except as to the provisions for the benefit of the District as expressly set forth in sections 2.d. and 5.b., this Agreement is for the exclusive benefit of the Parties and their successors and assigns and shall not be deemed to give any legal or equitable right, remedy or claim to any other person or entity.
13. *Recording.* A notice of this Agreement may be recorded by any Party.
14. *Entire Agreement.* This Agreement contains the entire agreement of the Parties with respect to the subject matter hereof, and all prior discussions, drafts, agreements and writings are specifically superseded by this Agreement. This Agreement represents the mutual intent of the Parties and the fact that one or more of its provisions was drafted by one Party or the other shall not be construed to the benefit or detriment of any Party.
15. *Authority.* Each Party represents that it has the authority to enter into this Intergovernmental Agreement and that all necessary procedures have been followed to authorize the Agreement. Copies of the resolutions of the City's Common Council, and the Town's Board authorizing this Agreement are attached. Each person signing this Agreement represents and warrants that he or she has been duly authorized to do so.
16. *Counterparts.* This Agreement may be signed in counterparts which, when taken together, shall be effective as if all signatures appeared on the same original.

EXHIBIT I

Dated this 11<sup>th</sup> day of March 2003.

TOWN OF ALGOMA

By: Richard J. Sparbauer  
Richard Sparbauer, Town Chairperson

By: Betsy A. Kunde  
Betsy Kunde, Town Clerk

Approved as to Form:

By: Robert C. Wertsch  
Robert C. Wertsch, Town Attorney

Dated this 11<sup>th</sup> day of March 2003.

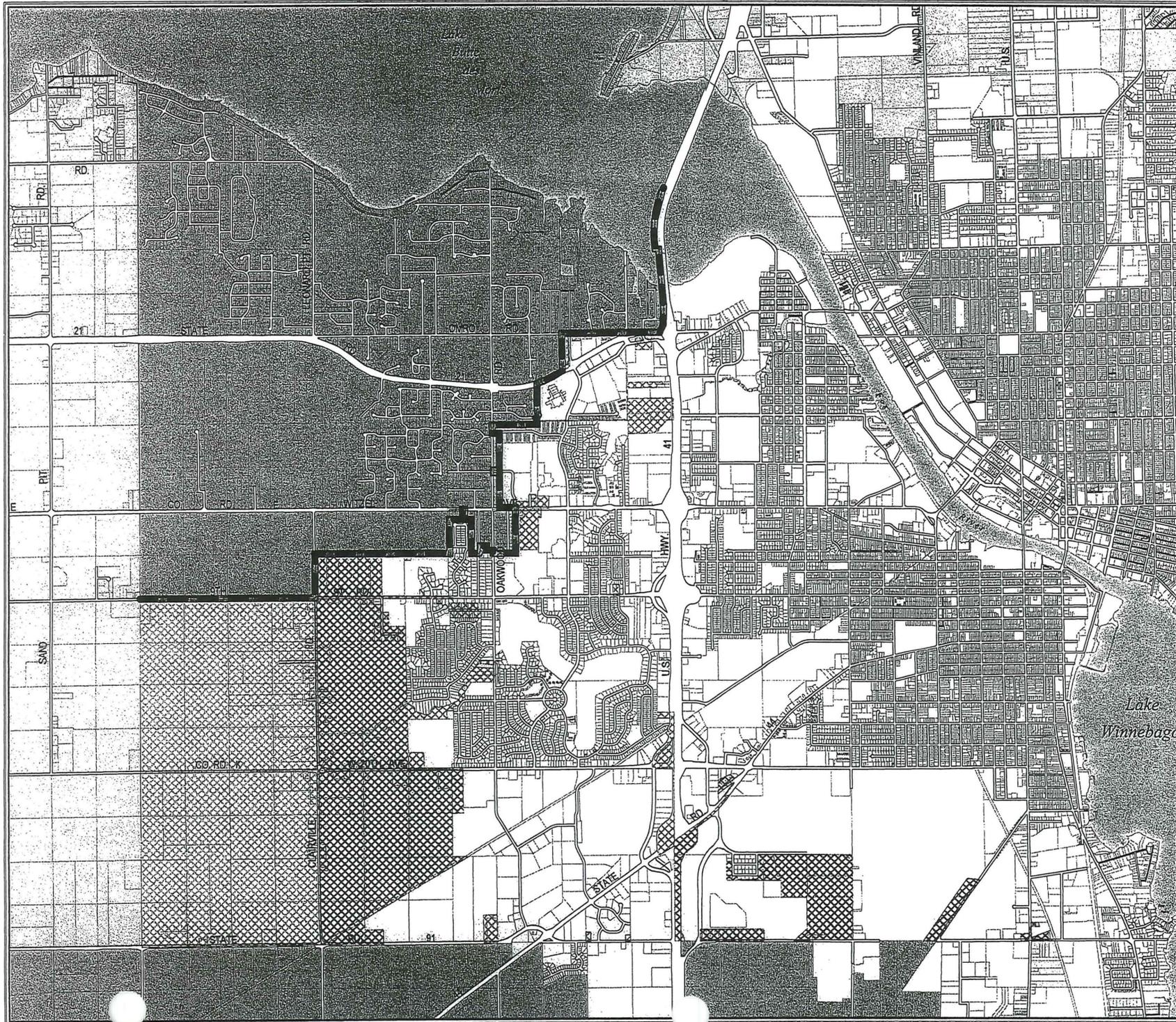
CITY OF OSHKOSH

By: Richard A. Wollangk  
Richard A. Wollangk, City Manager

By: Pamela R. Ubrig  
Pamela R. Ubrig, City Clerk

Approved as to Form:

By: Warren P. Kraft  
Warren P. Kraft, City Attorney



City of Oshkosh, Wisconsin  
Community Development

# EXHIBIT A

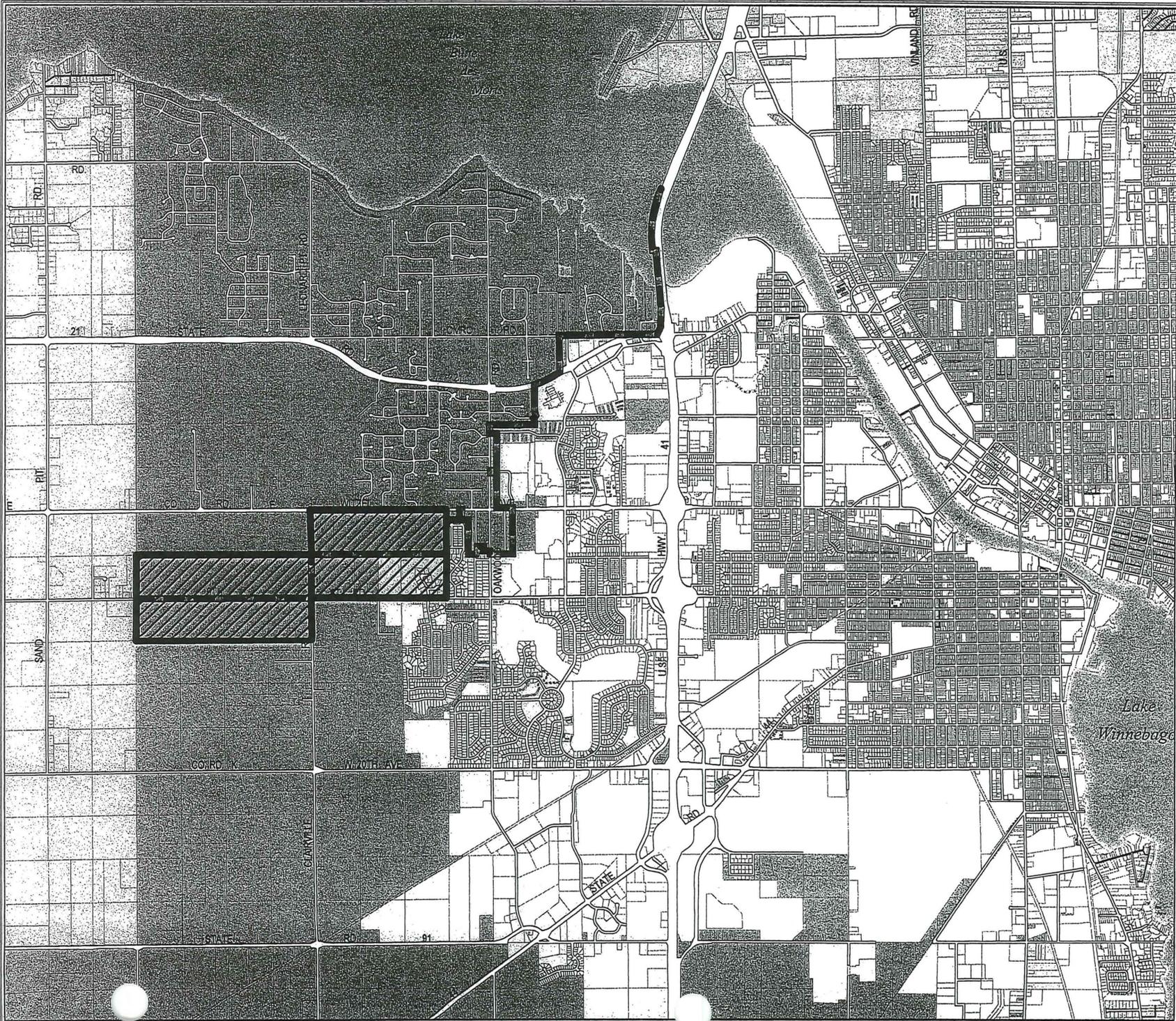
-  Protected Area
-  City of Oshkosh
-  Boundary Agreement Line
-  Zone A
-  Zone B
-  Zone C
-  Zone D
-  Town of Omro
-  Town of Utica
-  Town of Nekimi
-  Town of Black Wolf
-  Town of Oshkosh

Scale: 1" = 4,000'

**DISCLAIMER**  
This map is neither a legally recorded map nor a survey and it is not intended to be used as one. This drawing is a compilation of records, data and information located in various city, county and state offices and other sources affecting the area shown and it is to be used for reference purposes only. The City of Oshkosh is not responsible for any inaccuracies herein contained. If discrepancies are found, please contact the City of Oshkosh.

January 27, 2003

EXHIBIT I



**OSHKOSH**  
ON THE WATER

City of Oshkosh, Wisconsin  
Community Development

## EXHIBIT B

-  Protected Area
-  City of Oshkosh
-  Buffer Area
-  Expansion Area
-  Boundary Agreement Line

-  Town of Omro
-  Town of Utica
-  Town of Nekimi
-  Town of Black Wolf
-  Town of Oshkosh

Scale: 1" = 4,000'

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January 27, 2003

EXHIBIT I

**EXHIBIT C**

*Permitted Uses.*

- (1) Single family dwelling
- (2) Accessory structure customarily incidental to the residential principal use when located on the same lot and not occupied by nor involving the conduct of a business or home occupation.
- (3) One boathouse on lots abutting navigable water which, incidental to the residential principal use when located on the same lot not occupied by nor involving the conduct of a business or home occupation.
- (4) Home occupation.
- (5) Family day care center.
- (6) Group homes licensed, operated or permitted under authority of Wisconsin Department of Health and Social Services with 8 or fewer persons.
- (7) Public park, including all accessory structures, parking lots, signage and any other park related structures.
- (8) Agricultural.
- (9) Beekeeping.
- (10) Dairying.
- (11) Fish farms.
- (12) Floriculture.
- (13) Forestry.
- (14) Fur farms.
- (15) Grazing.
- (16) Greenhouse.
- (17) Hay.
- (18) Livestock raising.
- (19) Orchards.
- (20) Paddocks.
- (21) Pasturage.
- (22) Plant nurseries.
- (23) Poultry raising.
- (24) Stables.
- (25) Sod farming.
- (26) Truck farming.
- (27) Viticulture.
- (28) Wild crop harvesting.
- (29) Raising of:
  - a. Cash crops.
  - b. Mint.
  - c. Grass.
  - d. Seed crops.
  - e. Silage.
  - f. Nuts and berries.

EXHIBIT I

- g. Vegetables.
- h. Barns, silos, etc.

*Conditional Uses.*

- (1) Art center.
- (2) Cemetery.
- (3) Church.
- (4) Commercial greenhouse and nursery.
- (5) Community center.
- (6) Day care center.
- (7) Funeral home.
- (8) Governmental structures.
- (9) Group home licensed, operated, or permitted under authority of Wisconsin Department of Health and Social Services with 9 or more persons.
- (10) Hospital.
- (11) Municipal structure.
- (12) Museum.
- (13) Nursing home.
- (14) Parking lot.
- (15) Public utility structures.
- (16) Retirement community.
- (17) School, public and private (including kindergarten, elementary and high school).
- (18) Swimming club, private (non-profit).
- (19) Farm dwellings which are for those resident laborers including family of operator or laborers, who earn any part of their livelihood from farm operations on the parcel, provided the Town Board verifies – in writing – said use of proposed residential unit. (Yard standards according to the applicable residential district).

**Exhibit J**  
**Immediate Attachments**

All of U.S. Highway 41

Waukau Avenue

Hughes Street North of Waukau Avenue

Ripon Lane

South Park Avenue from Ripon Lane to Washburn Street

Poberezny Road North of Waukau Avenue

20<sup>th</sup> Avenue from Washburn Street to U.S. Highway 41

Oakwood Road from Village Lane to Killarney Court

Homestead Drive

9<sup>th</sup> Avenue from Fox Fire Drive to Linden Oak Drive

9<sup>th</sup> Avenue from Graceland Drive to Greenfield Trail

Westhaven Drive from Springmill Drive to Patriot Lane

Washburn Street North of Sawyer Creek

Washburn Street North of 20<sup>th</sup> Avenue

Maryden Road