

**Chapter V**

**EXISTING PLANS AND ORDINANCES**

This comprehensive plan is intended to update existing land use-related plans adopted by the City of Port Washington to comply with the comprehensive planning law and to reflect changes that have occurred since the plans were adopted. This plan is also intended to identify changes to the City zoning and subdivision ordinance needed to implement the comprehensive plan and to refine and detail the regional land use plan and other areawide plans adopted by SEWRPC and Ozaukee County. Accordingly, an important step in the planning process was a review of the existing framework of areawide and local plans and related land use regulations. This chapter presents a summary of that review. Plans and ordinances described in this chapter summarize those documents as they existed in 2006. Plans summarized in this chapter are an inventory of plans and regulations adopted during or prior to 2006, and should not be confused with the recommendations developed and adopted as part of this comprehensive plan. Comprehensive plan recommendations are set forth in the following nine element chapters (Chapters VI through XIV).

**PART I: AREA-WIDE PLANS**

**Regional Plans**

For the past 40 years, SEWRPC has used a cooperative, voluntary approach to preparing regional comprehensive plans. That approach envisions a 10-year planning cycle, beginning with each Federal Census of Population and Housing. During the first several years of each decade, planning efforts at the regional level are focused on updating the comprehensive planning database (new orthophotography, updated census information, travel surveys, updated land use and environmental corridor inventories, and updated information on local plans and zoning regulations). Population, household, and employment forecasts for a new design year are also prepared. The next phase of activity involves the preparation, documentation, and adoption of updated regional plans, focusing in particular on the regional land use and transportation plans. The regional plans are prepared cooperatively, with the involvement of State agencies, county and local governments, and private sector interests.

The regional plan contains extensive and detailed inventory information relating to existing land use and natural resources; population and employment information and forecasts; and regional land use, transportation, and other plan elements that provide an areawide, or metropolitan, planning framework for the preparation of county and local comprehensive plans. Typically, county and local plans refine and detail the recommendations set forth in the regional plan. The recommendations and implementation actions related to county and local plans are taken into account when the regional comprehensive plan is updated every 10 years. As a result, there is a continuous feedback loop that seeks to fully integrate local, county, and regional planning in Southeastern Wisconsin.

Regional plans affecting the City of Port Washington include:

- The regional land use plan for 2035, adopted in June 2006, (the fifth-generation regional land use plan) is the building block for all regional plans prepared by SEWRPC. The adopted regional land use plan map, as it pertains to the Ozaukee County Planning Area, is shown on Map VI-1. The Ozaukee County Board endorsed the plan on December 6, 2006. The plan recommends that urban development occur in centralized, compact areas that can be readily served by public water, sewer, and other public facilities; that primary environmental corridors be preserved; and that prime agricultural lands outside planned urban service areas be protected.

- The regional transportation system plan for 2035, adopted in June 2006, (the fifth-generation regional transportation plan) is intended to provide a vision for, and guide to, transportation system development in the Region. The plan was endorsed by the Ozaukee County Board on July 18, 2007. The plan consists of four principal elements: arterial streets and highways (shown on Map V-2), public transit (shown on Map V-3), systems management, and bicycle and pedestrian facilities (shown on Map V-4). Future needs for transit, street and highway, and other transportation improvements considered in the regional transportation planning process are derived from the future growth proposed in the regional land use plan.

The transportation systems management element of the adopted 2035 regional transportation plan includes measures intended to manage and operate existing transportation facilities to their maximum carrying capacity and travel efficiency. Recommended measures include installing ramp-meters at freeway on-ramps; providing variable message signs on freeways and on surface arterials leading to the most heavily used freeway on-ramps; and expanding the closed-circuit television network, enhancing reference markers, and evaluation and expansion of crash investigation sites on the regional freeway system. Such improvements are recommended on the entire freeway system, except for those segments where future traffic volumes are expected to be less than the design capacity. These segments include I-43 north of STH 57 in Ozaukee County, USH 41 north of STH 60 and USH 45 north of Pioneer Road in Washington County, and I-43 and USH 12 in Walworth County.

- The regional natural areas plan, adopted in September 1997, identifies the most significant remaining natural areas, critical species habitats, geological sites, and archaeological sites in the Region, and recommends means for their protection and management. The plan identifies potential sites to be placed in public or private protective ownership, and other sites to be protected, insofar as it is possible, through zoning or other regulatory means without protective ownership. It also recommends that a detailed management plan be prepared and implemented for each site placed under protective ownership. The recommendations of the regional natural areas plan were incorporated into the Ozaukee County 2020 Park and Open Space Plan. An inventory of natural areas, critical species habitat sites, and geological areas in the City is included in Chapter III. Recommendations for the acquisition and management of natural areas, critical species habitat sites, and geological areas are presented in Chapter VII, the Agricultural, Natural, and Cultural Resources Element.
- The regional water quality management plan was adopted in 1979 as a guide to achieving clean and healthy surface waters within the seven-county Region. The plan has five elements: a land use element; a point source pollution abatement element; a non-point source pollution abatement element; a sludge management element; and a water quality monitoring element. The plan is currently being updated for the Milwaukee River watershed, which includes the City. The point source pollution abatement element of the regional water quality management plan is of particular importance to land use planning. That plan element recommends major sewage conveyance and treatment facilities and identifies planned sewer service areas for each of the sewerage systems in Southeastern Wisconsin. Under Wisconsin law, major sewerage system improvements and all sewer service extensions must be in conformance with the water quality management plan. The City of Port Washington sanitary sewer service area plan described later in this chapter is an element of the regional water quality management plan.

The Commission is working with the Milwaukee Metropolitan Sewerage District (MMSD) to update the regional water quality management plan. All of the Ozaukee County planning area is included in the plan update except the Sauk Creek, Sucker Creek, and Sheboygan River watersheds and two small portions of the Lake Michigan direct drainage area located in the northeast portion of Ozaukee County. When completed, the plan will recommend the control of both point and nonpoint pollution sources, and provide the basis for decisions on community, industrial, and private waste disposal systems.

- A regional water supply plan is currently being conducted for the seven-county Region. The plan will include the following major components:

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- Water supply service areas and forecast demand for water use.
  - Recommendations for water conservation efforts to reduce water demand.
  - Evaluation of alternative sources of supply, recommended sources of supply, and recommendations for development of the basic infrastructure required to deliver that supply.
  - Identification of groundwater recharge areas to be protected from incompatible development.
  - Specification of new institutional structures necessary to carry out plan recommendations.
  - Identification of constraints to development levels in subareas of the Region that emanate from water supply sustainability concerns.
- The first component of a regional telecommunications plan, a wireless antenna siting and related infrastructure plan,<sup>1</sup> was adopted in September 2006. The plan sets forth the basic principles and concepts underlying the regional telecommunications planning process and objectives that should be met by the regional telecommunications system; presents an inventory and performance information for the existing cellular - PCS mobile wireless networks operating in the Region; describes the recommended wireless telecommunications plan for the Region; and sets forth an approach to implement plan.

The antenna siting plan consists of two levels of wireless networks – a wireless backhaul network<sup>2</sup> plan and a community-level wireless access network plan. The plan sets forth an approach to implement both the regional wireless backhaul network and community level wireless network plans. The proposed plan implementation process is intended to influence, rather than replace, existing competitive private sector, market-driven planning in order to promote the public interest within the Region. Within Ozaukee County, the Village of Thiensville is working with SEWRPC to develop a community level wireless access network plan.

A regional broadband access plan, which will build upon the wireless telecommunications plan, will be completed in late 2007. Upon implementation, the plan is intended to provide quality wireless voice communication throughout the seven-county Region.

### **Wisconsin Department of Natural Resources Master Plans**

Each property owned by the Wisconsin Department of Natural Resources (DNR) is required to have a "master plan" that establishes the goals and objectives for the property and identifies how the area will be managed and developed. These plans are designed to clearly communicate to the public how the property will "look" and what benefits the area will provide.

### **North Branch Milwaukee River Wildlife and Farming Heritage Area Feasibility Study**

Following approval by the Wisconsin Natural Resources Board in August 2002, the Wisconsin Department of Natural Resources (DNR) established the North Branch Milwaukee River Wildlife and Farming Heritage Area. The North Branch Milwaukee River Wildlife and Farming Heritage Area project boundary encompasses 19,487 acres. Approximately 9,100 acres of cropland and pasture, 5,900 acres of wetlands, and 700 acres of forest occur within the boundary. The core area of wetlands and agricultural upland near the North Branch of the Milwaukee River makes up 16,549 acres and corridors along the five tributary streams make up an additional 2,938 acres. The project area encompasses river and stream corridors, large wetland complexes, three lakes, and

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<sup>1</sup>*Documented in SEWRPC Planning Report No. 51, A Wireless Antenna Siting and Related Infrastructure Plan for Southeastern Wisconsin, September 2006.*

<sup>2</sup>*A backhaul network is designed to convey wireless communications data from multiple users in a relatively small service area to a centralized access point. Multiple access points in a larger service area in turn transmit wireless data to a cable Internet connection (gateway) maintained by a local exchange company. Information is also disseminated from the Internet to the access network, then to local users through the backhaul network.*

rural/agricultural lands. The entire study area lies within the Milwaukee River basin in northeastern Washington, northwestern Ozaukee, and southwestern Sheboygan counties.

In addition to protecting forests and wetlands, one of the primary goals of the project is to help maintain farming as a viable land use in the area. To achieve this goal, the DNR may offer to purchase development rights on farms. This technique allows landowners to sell the value of the right to develop their property while retaining underlying ownership. The DNR established a locally-based citizen advisory committee in 2004 to guide the purchase of land and development rights in the area and to advise the DNR on how to use and manage the lands it purchases. By doing so, DNR hopes to ensure that its actions positively affect farming's future in the North Branch area. The study recommends that a variety of real estate tools be used to protect the natural resources of the 19,487-acre boundary. These include the purchase of development rights, fee simple acquisition, conservation easements, donations, public-private partnership/cost-shared acquisitions, and landowner participation in other state and federal land conservation programs (ie, Conservation Reserve, Wildlife Habitat Improvement, and Wetland Reserve programs).

## **Ozaukee County Plans and Ordinances**

### ***Ozaukee County Land Use-Related Plans***

- **Ozaukee County Park and Open Space Plan.** An updated County park and open space plan was adopted by the Ozaukee County Board in June 2001.<sup>3</sup> That plan consists of both an open space preservation element and an areawide outdoor recreation element, intended to, respectively, protect areas containing important natural resources and to provide major parks, areawide trails, and resource-oriented recreational facilities. Major parks are defined as publicly owned parks at least 100 acres in size which provide opportunities for such resource-oriented activities as camping, golfing, picnicking, and swimming. Responsibility for providing community parks, neighborhood parks, and local trails is assigned to cities, villages, and towns.

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<sup>3</sup> Documented in SEWRPC Community Assistance Planning Report No. 133, 2nd Edition, A Park and Open Space Plan for Ozaukee County, Wisconsin, June 2001.

- Ozaukee County Farmland Preservation Plan. Prime agricultural lands are those lands which, in terms of farm size, the aggregate area being farmed, and soil characteristics, are best suited for the production of food and fiber. A number of important public purposes are served by the preservation of prime agricultural lands. Such public purposes include maintenance of agricultural reserves; maintenance of open space; control of public costs by avoiding the need to provide urban services such as sanitary sewer, public water, and full-time police and fire protection; and preservation of the local economic base. Prime agricultural lands in Ozaukee County were identified under the Ozaukee County farmland preservation plan,<sup>4</sup> which was adopted by the Ozaukee County Board in 1983. That plan defines prime agricultural land as follows: an individual farm must be at least 35 acres in size; at least one-half of the farm must be covered by soils meeting U. S. Natural Resources Conservation Service (NRCS) criteria for national prime farmland or farmland of statewide significance (generally Class I, II, or III soils); and the farm must occur in a contiguous farming area at least 100 acres in size. A number of local land use and master plans, adopted prior to the comprehensive planning process, have delineated farmland preservation areas, which are defined and mapped in the following section. Additional information regarding prime agricultural soils, areas that are currently farmed, and the results of the Land Evaluation and Site Assessment (LESA) analysis conducted as part of the comprehensive planning process to help identify farmland best suited for long-term agricultural use is provided in Chapter III and VIII.

### ***Ozaukee County Land-Use Related Ordinances***

- County Shoreland and Floodplain Zoning Ordinance. Under Section 59.692 of the *Wisconsin Statutes* and Chapter NR 115 of the *Wisconsin Administrative Code*, counties are responsible for the zoning of shoreland areas within unincorporated areas. Shoreland areas are defined in the *Statutes* as lands within the following distance from the ordinary high-water mark of navigable waters: one thousand feet from a lake, pond, or flowage; and three hundred feet from a river or stream or to the landward side of the floodplain, whichever distance is greater.

The Ozaukee County ordinance includes restrictions on uses in wetlands located in the shorelands, and limits the types of uses that can occur in the 100-year recurrence interval flood hazard area to prevent damage to structures and property and to protect the floodwater conveyance and storage capacity of floodplains. The ordinance also includes restrictions on the removal of vegetation and other activities in the shoreland area, and requires that most structures be set back a minimum of 75 feet from navigable waters. Minimum requirements for uses in unincorporated shoreland areas are set forth in Chapter NR 115 of the *Wisconsin Administrative Code*. Minimum floodplain requirements are set forth in Chapter NR 116.

Washington County has adopted a similar ordinance that regulates shoreland areas in unincorporated portions of that County. Map V-5<sup>5</sup> depicts shoreland areas in unincorporated areas regulated under County shoreland and floodplain zoning ordinances in 2006. Floodplains and shoreland-wetlands are also shown. The map does not include updates to floodplain mapping made as a result of the FEMA map modernization program for Ozaukee County in 2007 and changes to floodplain mapping in Washington County anticipated in 2008; nor does it include updates to the Wisconsin Wetland Inventory in Ozaukee County approved by the WDNR in 2007, and anticipated in Washington County in 2007-2008. The appropriate County planning department should be contacted to determine the locations of shoreland, floodplain, and shoreland-wetlands.

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<sup>4</sup>*Documented in SEWRPC Community Assistance Planning Report No. 87, A Farmland Preservation Plan for Ozaukee County, Wisconsin, May 1983.*

<sup>5</sup>*A new Ozaukee County Shoreland and Floodplain Zoning Ordinance was adopted by the Ozaukee County Board on April 5, 2006. New shoreland and floodplain zoning maps will be prepared in 2008.*

County regulations continue to apply in shoreland areas annexed by cities and villages after May 7, 1982, unless the city or village adopts shoreland regulations that are at least as restrictive as those included in the County ordinance. Where County regulations continue in effect, the city or village is responsible for enforcing the regulations. Cities and villages are also required to regulate wetlands within shoreland areas, including those that were in the city or village prior to 1982, under Chapter NR 117 of the *Administrative Code*; and to enforce the minimum floodplain standards set forth in Chapter NR 116 of the *Administrative Code* within all floodplain areas of the city or village.

- The Ozaukee County Nonmetallic Mining Reclamation Ordinance. This ordinance was established to ensure the effective reclamation of nonmetallic mining sites in Ozaukee County in compliance with Chapter NR 135 of the *Wisconsin Administrative Code* and Subchapter I of Chapter 295 of the *Wisconsin Statutes*. The purpose of this ordinance is to adopt the uniform statewide standards for nonmetallic mining required by Section 295.12(1)(a) of the *Statutes* and Chapter NR 135 of the *Administrative Code*. It is not intended to repeal or interfere with any existing rules, regulations, ordinances, or permits concerning nonmetallic mining reclamation previously adopted pursuant to other Wisconsin law. The requirements of this ordinance apply to all operators of nonmetallic mining sites within Ozaukee County operating or commencing operation after August 1, 2001, except for nonmetallic mining sites located in a city, village, or town within the County that has adopted an ordinance pursuant to Section 295.14 of the *Statutes* and Section NR 135.32(2) of the *Administrative Code*. All reclamation plans must meet the standards set forth by the Ozaukee County nonmetallic mining reclamation ordinance including those addressing: surface water and wetland protection, groundwater protection, topsoil management, final grading and slopes, topsoil redistribution for reclamation, revegetation and site stabilization, criteria for assessing completion of successful site reclamation, intermittent mining, and maintenance.
- Ozaukee County Highway Access Control Ordinance. The purpose of the County highway access control ordinance is to regulate access onto County trunk highways in order to promote safety, convenience, and economic viability and to protect the public investment in existing and proposed highways. The design standards set forth in the ordinance promote the orderly and safe movement in and out of private and public properties to minimize interference to through highway traffic and to control the use of drainage structures and appurtenances as may be necessary to preserve the physical structure of County highways. The ordinance contains regulations regarding existing accesses to County trunk highways, vacated accesses, access prohibitions, subdivision of land, access spacing and frequency along County trunk highways, and access design standards. Administration and enforcement practices are also included.

## **PART 2: CITY LAND USE-RELATED PLANS**

### *City and Village Master and Comprehensive Plans*

Ozaukee County city and village planning areas include a variety of land uses such as residential, commercial, industrial, parks, environmental corridors, government and institutional, and other land uses. City and village planning areas generally extend beyond corporate boundaries to include areas outside of those boundaries that are expected to be provided with sanitary sewer and other urban services by the city or village by the plan design year and annexed into the city or village. City and village planning areas are often related to the extraterritorial plat approval area granted to cities and villages under Section 236.10 of the *Statutes*.

Most of the existing city and village land use, master, and comprehensive plans address portions of the nine comprehensive planning elements required by the comprehensive planning legislation. In light of this fact, city and village officials may choose to update existing plans to meet current planning requirements. In many cases this process may entail updating data and providing additional information and recommendations which address planning elements that may not be included in existing plans. Housing, intergovernmental cooperation, and

economic development elements are the three elements commonly not included in existing land use and master plans.

Several of the nine comprehensive planning elements required by Section 66.1001 of the *Statutes* must be updated or addressed to bring existing city and village land use and master plans into compliance with the requirements of the comprehensive planning legislation. Population, household, and employment forecasts should be updated to 2035. Age distribution, education, income, and employment characteristics of the city or village must be updated or compiled. Land use demand must be projected in five year increments through 2035 and several inventory maps should be developed. Additional information and recommendations that address housing; transportation; utilities and community facilities; agricultural, natural, and cultural resources; economic development; and intergovernmental cooperation must also be compiled to fulfill the requirements of the comprehensive planning law.

Under the terms of the grant award, each city and village participating in the multi-jurisdictional planning process must adopt a comprehensive plan that complies with the requirements Section 66.1001 by May 2008. Each comprehensive plan must also address the 14 planning goals set forth in Section 16.965 of the *Statutes* (see Chapter I).

### **City of Port Washington Master Plan**

Section 62.23 of the *Wisconsin Statutes* grants cities and villages the authority to prepare and adopt local master plans or plan elements, such as a community land use plan. In 1999, the Wisconsin Legislature enacted legislation that greatly expanded the scope and significance of comprehensive plans within the State. The law, often referred to as Wisconsin's "Smart Growth" law, provides a new framework for the development, adoption, and implementation of comprehensive plans by city, village, and town units of government, as well as counties and regional planning commissions. The law, which is set forth in Section 66.1001 of the *Wisconsin Statutes*, requires that the administration of zoning, subdivision, and official mapping ordinances be consistent with a community's adopted comprehensive plan beginning on January 1, 2010. Up until that date, county and local governments can continue to implement zoning, subdivision, and official mapping ordinances without having an adopted comprehensive plan; and are not required to administer and enforce local ordinances in conformance with locally-adopted plans. The *Year 2020 City Plan, 1962-1997 Update* was adopted by the Plan Commission and Common Council on November 20, 1997.

The planning areas adopted as part of existing city and village plans are depicted on Map V-6. Map V-6 also depicts town areas included in city and village planning areas; areas where a city or village planning area overlaps with another city or village planning area; and areas where corporate boundaries have grown beyond a city or village planning area. New planning areas were identified by participating cities and villages as part of this comprehensive planning process. The new planning areas are shown on Map VIII-3 in Chapter VIII.

### **City of Port Washington Park and Open Space Plan**

A report titled *Port Washington Comprehensive Park and Open Space Plan* was adopted by the City Plan Commission in April 1996. The steps taken to prepare the plan included: inventory analysis of exiting recreational facilities; a needs analysis incorporating public comment; review of existing planning documents for the County, Region, and State; the formulation of goals; and preparation of specific development and project implementation recommendations. Implementation of the plan was consolidated into a five-year improvement schedule and budget. Three goals, each with several objectives, resulted from the planning process. The first goal is natural resource protection through preservation of high quality lands for the protection of the vegetation, drainage, and wildlife resources for enhancing the social, economic, and environmental quality of the City. The second goal is to create a complete park and open space system including parks, facilities, and open space to allow residents to participate in a wide range of outdoor recreational activities. The third goal is cost-effective implementation.

### **City of Port Washington Bicycle and Pedestrian Plan**

The City of Port Washington adopted the *City of Port Washington Bicycle and Pedestrian Plan* in fall of 1996. The plan includes an inventory of existing facilities, describes the planning process used to determine recommendations for existing and new bicycle and pedestrian facilities, contains an implementation plan and operational recommendations for bicycle and pedestrian facilities, and contains maps depicting current and future bicycle and pedestrian facilities. Recommendations from existing local bicycle and pedestrian plans and the regional bicycle and pedestrian plan have been incorporated into the County comprehensive plan.

#### **City of Port Washington Sewer Service Area Plan**

The City of Port Washington adopted a sanitary sewer service area plan in September 2000. The plan was amended in December 2003.

#### *Farmland Preservation Areas*

The Town of Belgium and Town of Cedarburg master plans, and the Town of Fredonia, Town of Port Washington, and Town of Saukville land use plans each designate farmland preservation areas within their jurisdictional areas. Farmland preservation areas typically include prime agricultural lands. Prime agricultural lands are generally defined in the local plans in terms of farm size, soil characteristics, and the aggregate area being farmed. Farmland preservation areas designated in local plans adopted prior to 2005 are shown on Map V-7.

The Town of Fredonia, Town of Belgium, and Town of Saukville plans designate prime agricultural lands as farmland preservation areas. Prime agricultural lands are defined as parcels of 35 acres or larger that are at least 50 percent covered by soils that meet NRCS standards for national prime farmland or farmland of Statewide importance (class I, II, or III soils), and which occur in aggregate blocks of farmland or conservancy lands of 100 acres or more in extent.

The Town of Port Washington plan designates exclusive agricultural areas as farmland preservation areas, but the plan does not define the criteria used to identify exclusive agricultural areas. The Town of Cedarburg plan designates agricultural lands as farmland preservation areas. Agricultural lands are defined as those lands actively being farmed with a minimum parcel size of 35 acres. Land designated for agricultural use is not based on the amount of class I, II, or III soil types covering the land.

### **PART 3: CITY LAND USE-RELATED ORDINANCES**

Good community development depends not only on quality planning at all levels of government, but on practical implementation measures as well. Land use and development regulations affect the type of uses allowed, as well as the detailed design and site layout of proposed developments. The following presents a summary of zoning and subdivision regulations adopted by the City of Port Washington.

#### **Zoning**

A zoning ordinance is a public law that regulates and restricts the use of property in the public interest. The primary function of zoning should be to implement an adopted master or comprehensive plan. Indeed, Section 66.1001(3) of the Wisconsin Statutes requires that zoning, land divisions, and official mapping decisions made by local and county governments be consistent with local and county comprehensive plans as of January 1, 2010.

A zoning ordinance divides a community into districts for the purpose of regulating the use of land and structures; the height, size, shape, and placement of structures; and the density of housing. A zoning ordinance typically consists of two parts: a text setting forth regulations that apply to each of the various zoning districts, together with related procedural and administrative requirements; and a map delineating the boundaries of zoning districts.

### ***Local Zoning Ordinances***

Each city, town, and village in Ozaukee County has adopted a zoning ordinance. Map V-8 depicts generalized zoning in the Ozaukee County planning area based on zoning in effect in 2000. To prepare the map, local zoning districts were converted to a uniform classification system and mapped. The composite map reflects general zoning as well as floodplain and shoreland zoning. On the map, floodplain zoning districts in undeveloped areas are shown as conservancy, regardless of any underlying general zoning district regulations, if the provisions of the floodplain district effectively preclude new urban development. Both the Ozaukee and Washington County floodplain zoning regulations, which are contained in the county shoreland zoning ordinances, prohibit development in the floodway portion of the floodplain. Also, where the provisions of a county shoreland zoning ordinance and a town general zoning ordinance differ, the map reflects the more restrictive ordinance.

The City of Port Washington Common Council adopted an updated zoning ordinance and map in July 2004. Table VI-1 presents a summary of district regulations included in the zoning ordinance. The City zoning ordinance includes both shoreland and floodplain zoning regulations. The zoning map depicts the location of the 100-year floodplain within the City. The City's supplementary floodplain zoning map depicts more detailed floodplain information, including the location of the floodway and the floodfringe zoning districts. The supplementary floodplain zoning map may need to be updated once the floodplain Map Modernization Project is completed by DNR in 2007. The City zoning ordinance also requires nonmetallic mining restoration plans for nonmetallic mining sites. The local zoning requirements are in addition to State nonmetallic mining site reclamation requirements.

### ***Extraterritorial Zoning Regulations***

The *Wisconsin Statutes* authorize cities and villages to adopt extraterritorial zoning regulations for adjacent unincorporated areas, in cooperation with the adjacent town, within three miles of a city of the first, second, or third class, and within 1.5 miles of a city of the fourth class or villages. Appendix \_\_ includes a summary of the process set forth in the *Statutes* for enacting an extraterritorial zoning ordinance and other land-use related extraterritorial authorities granted to cities and villages. A city or village can initiate preparation of an extraterritorial zoning ordinance and map at any time. Initiation of the extraterritorial zoning ordinance freezes existing zoning in the extraterritorial (town) area for two years, while the city or village and affected town jointly develop an extraterritorial zoning ordinance and map. A joint committee is formed to develop the ordinance. The time period can be extended for one additional year at the end of the two-year period if agreed to by the affected town. Extraterritorial platting and zoning jurisdiction for cities and villages in the Ozaukee County planning area is shown on Map V-9.

### **Stormwater Management and Erosion Control Ordinances**

Stormwater management and construction site erosion control ordinances act to protect water quality and protect and promote the health, safety, and general welfare by minimizing the amount of sediment and other pollutants carried by stormwater and runoff discharged from construction sites or land disturbing activities to lake, streams, and wetlands. The City of Port Washington has adopted and administers an Erosion Control and Stormwater Management Ordinance.

### **Land Division Regulations**

A land division ordinance is a public law that regulates the division of land into smaller parcels. Land division ordinances provide for appropriate public oversight of the creation of new parcels and help ensure that new development is appropriately located; lot size minimums specified in zoning ordinances are observed; street rights-of-way are appropriately dedicated or reserved; access to arterial streets and highways is limited in order to preserve the traffic-carrying capacity and safety of such facilities; adequate land for stormwater management, parks, drainageways, and other open spaces is appropriately located and preserved; street, block, and lot layouts are appropriate; and adequate public improvements are provided. Land division ordinances can be enacted by cities, villages, towns, and counties, with the latter's approval authority applying only in unincorporated (town) areas and limited objecting authority applying within cities and villages. Cities and villages also have

“extraterritorial” plat approval jurisdiction over subdivisions proposed in town areas near their corporate boundaries.

Chapter 236 of the *Wisconsin Statutes* sets forth general requirements governing the subdivision of land, including, among others, surveying and monumenting requirements, necessary approvals, recording procedures, and requirements for amending or changing subdivision maps. The *Statutes* also grant authority to county and local governments to review subdivision maps, commonly referred to as plats, with respect to local plans and ordinances. Section 236.45 authorizes county and local governments to adopt their own land division ordinances, which may be more restrictive than State requirements.

Under Chapter 236, local governments are required to review and take action on plats for subdivisions. Subdivisions are defined in the *Statutes* as “a division of a lot, parcel, or tract of land by the owner thereof or the owner’s agent for purpose of sale or of building development, where the act of division creates five or more parcels or building sites of 1.5 acres each or less in area; or five or more parcels or building sites of 1.5 acres each or less in area are created by successive divisions within a period of five years.” Local subdivision ordinances may be broader in scope and require review and approval of land divisions in addition to those meeting the statutory definition of a “subdivision.”

The City of Port Washington adopted a land division ordinance in \_\_\_\_\_. The City of Port Washington land division ordinance applies to all lands within the limits of the City and within the City’s extraterritorial plat approval jurisdiction. A subdivision is defined as a land division that creates five or more parcels or building sites of 1.5 acres each or less in area or where five or more parcels or building sites of 1.5 acres each or less are created within a five-year period (the Statutory definition). All divisions of land and all condo projects within the limits of the City or the City’s extraterritorial plat approval jurisdiction require City approval of a certified survey map.

### **Extraterritorial Platting Authority**

Under Section 236.10 of the *Statutes*, a city or village may review, and approve or reject, subdivision plats located within its extraterritorial area if it has adopted a subdivision ordinance or an official map. Section 236.02 of the *Statutes* defines the extraterritorial plat review jurisdiction as the unincorporated area within three miles of the corporate limits of a city of the first, second, or third class, or within 1.5 miles of the corporate limits of a city of the fourth class or a village. In accordance with Section 66.0105 of the *Statutes*, in situations where the extraterritorial plat approval jurisdiction of two or more cities or villages would otherwise overlap, the extraterritorial jurisdiction between the municipalities is divided on a line, all points of which are equidistant from the boundaries of each municipality concerned, so that no more than one city or village exercises extraterritorial jurisdiction over any unincorporated area. The extraterritorial area changes whenever a city or village annexes land, unless the city or village has established a permanent extraterritorial area through a resolution of the common council or village board or through an agreement with a neighboring city or village. A municipality may also waive its right to approve plats within any portion of its extraterritorial area by adopting a resolution that describes or maps the area in which it will review plats, as provided in Section 236.10(5) of the *Statutes*. The resolution must be recorded with the County register of deeds. Extraterritorial platting and zoning jurisdiction for cities and villages in the Ozaukee County planning area is shown on Map V-9. The City of Port Washington has extraterritorial plat review jurisdiction over parts of the Town of Port Washington and the Town of Grafton.

### **Municipal Boundary Agreements**

The *Wisconsin Statutes* provide several options for neighboring cities, villages, and towns to cooperatively determine common boundaries. Section 66.0307 of the *Wisconsin Statutes* allows any combination of cities, villages, and towns to determine the boundary lines between themselves under a cooperative plan. Section 66.0307 envisions the cooperative preparation of a plan for the affected area by the concerned local units of government and prescribes in detail the contents of the cooperative plan. Importantly, the cooperative plan must identify any boundary change and any existing boundary that may not be changed during the planning period; identify any conditions that must be met before a boundary change may occur; include a schedule of the period during which a boundary change shall or may occur; and specify arrangements for the provision of urban services

to the territory covered by the plan. A boundary agreement can also be achieved under Section 66.0225 which allows two abutting communities who are parties to a court action to enter into a written stipulation determining a common boundary. In addition, communities can agree upon common boundaries under Section 66.0301, the “intergovernmental cooperation” statute.

The City and Town of Port Washington entered into a cooperative boundary agreement under Section 66.0225 on November 23, 2004, which was approved by the Circuit Court on December 29, 2004. The agreement identifies areas of future growth for the City of Port Washington through 2025, areas that will remain in the Town in perpetuity,<sup>6</sup> and areas for shared planning between the Town and City of Port Washington. The agreement also provides terms for the provision of sanitary sewer and water services by the City to specified areas of the Town and terms for detachment of City islands within specified areas of the Town. The areas affected by the agreement are shown on Map V-10.

### **Official Mapping Ordinances**

Section 62.23(6) of the *Wisconsin Statutes* allows the Common Council of any City to establish an official map for the precise identification of right-of-way lines and boundaries of streets, highways, waterways,<sup>7</sup> and parkways and the location and extent of railroad rights-of-way, public transit facilities, parks, and playgrounds. An official map is intended to be used as a precise planning tool for implementing master and comprehensive plans and for insuring the availability of land for the above features.

Section 61.35 of the *Statutes* applies the authority provided cities under Section 62.23 to develop an official map to villages. The clerk of any city or village that adopts an official map by ordinance or resolution must record a certificate showing that the city or village has established an official map with the Ozaukee County register of deeds.

One of the basic purposes of the official map is to discourage the construction of structures and their associated improvements on land that has been designated for future public use. Local government subdivision ordinances can also require land shown on the official map to be dedicated for street, park, or other public use at the time land is subdivided. The official map is a plan implementation device that operates on a communitywide basis in advance of land development and can thereby effectively assure the integrated development of the street and highway system, and unlike subdivision control, which operates on a plat-by-plat basis, the official map can operate over the entire community in advance of development proposals. The official map is a useful device to achieve public acceptance of long-range plans in that it serves legal notice of the government’s intention well in advance of any actual improvements. The City of Port Washington has not adopted an official map.

### **SUMMARY**

Southeastern Wisconsin, Ozaukee County, and Ozaukee County’s communities have a rich history of planning. Numerous plans have been developed at the regional level including a regional land use plan, transportation system plan, natural areas plan, a water quality management plan, and a telecommunications plan. Preparation of a regional water supply plan is underway. Plans developed at the County level include a farmland preservation plan, County park and open space plan, land and water resources management plan, jurisdictional highway system plan, and a public transit plan.

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<sup>6</sup> *The agreement provides that areas will remain in the Town in perpetuity unless detachments from the Town and annexation into the City are approved by a Town Board resolution.*

<sup>7</sup> *Waterways may be placed on the map only if included within a comprehensive surface water drainage plan.*

The City of Port Washington has adopted a master plan (the *Year 2020 City Plan, 1962-1997 Update*) and a sewer service area plan. The City adopted an updated zoning ordinance and map in July 2004, and has also adopted a City subdivision ordinance.

The comprehensive planning law requires that zoning, subdivision, and official mapping ordinances be consistent with a governmental unit's comprehensive plan as of January 1, 2010. As of that date, the City's zoning and subdivision ordinances must be consistent with the comprehensive plan adopted by the Common Council. The Implementation Element (Chapter XIV) identifies modifications to existing ordinances needed to implement the comprehensive plan presented in this report.

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