

Appendix E: Model Intergovernmental Agreement Outline

A. Purpose

The *Highway 12 Corridor Growth Management Plan* suggests that local governments within both the Baraboo Area and Tourist Entertainment Corridor enter into formal intergovernmental agreements covering community development issues of mutual concern. These issues may include municipal boundaries, extraterritorial rights, rural development, sanitary sewer and water service provision, development design standards, detailed neighborhood planning, or even shared revenues from new development. Such intergovernmental agreements would help communities minimize competition for development, share both the costs and benefits of economic development, make sure that future development is of high quality, provide all parties with a greater sense of certainty on the future actions of others, and promote municipal efficiency in an era of diminishing government resources.

B. Baraboo Area Agreement Opportunity

Within the Baraboo Area in particular, there is now a unique opportunity to pursue meaningful intergovernmental discussions. Over the next couple of years, communities in the Baraboo Area will be updating their land use or comprehensive plans to meet the requirements of the State's comprehensive planning legislation. This process will allow each local government to establish its goals and directions for the future and interact with the others to identify common objectives and resolve conflicts. Further, as part of Phase 2 of the Highway 12 Corridor Growth Management Project, an independent, professional facilitator may be hired to facilitate intergovernmental discussions over the course of the comprehensive planning project.

The recommended approach for integrating intergovernmental discussions on an agreement in the pending Baraboo Area comprehensive planning process is as follows:

1. Hold an initial intergovernmental meeting with staff and officials from the five local communities and Sauk County to establish goals, a desired focus (i.e., issues of mutual concern), an approach, appropriate relationships to the parallel comprehensive planning processes, desired participants for future intergovernmental meetings, and "ground rules" for such meetings.
2. Each individual community meets by itself and obtains public input to identify its initial position on the issues of mutual concern identified through the first intergovernmental meeting, which may include issues like municipal boundaries and new development standards. These initial local positions should be developed in the spirit of intergovernmental cooperation and with the recognition that compromises on all sides will be necessary.
3. Hold a number of facilitated intergovernmental meetings among the five Baraboo Area communities addressing potential solutions and points of agreement on the issues of mutual concern.
4. Draft the comprehensive plans for each of the five communities to reflect the points of agreement reached during the intergovernmental meetings. Meet as necessary to address any outstanding issues.
5. Begin negotiation of a formal intergovernmental agreement based on the previous intergovernmental discussions (under #3 above) and the positions reflected in the comprehensive plans. There are two main formats for intergovernmental agreements under Wisconsin Statutes. The first is available under Section 66.0301, which allows any two or more communities (including Native American tribes) to agree to cooperate for the purpose of

furnishing services or the joint exercise of any power or duty authorized under State law. While this is the most commonly used approach, a “66.0301” agreement is limited by the restriction that the municipalities must be able to exercise co-equal powers. Another format for an intergovernmental agreement is a “cooperative plan” under Section 66.0307 of the Wisconsin Statutes. This approach is more labor intensive and ultimately requires State approval of the agreement, but does not have some of the limitations of the “66.0301” agreement format.

C. Agreement Outline and Issues

The following is a draft outline of issues that an intergovernmental agreement, or at least discussions of an intergovernmental agreement, on multi-jurisdictional growth and development issues could cover. The outline assumes that at least one city/village and one town are involved in the agreement. The outline is definitely not an agreement in and of itself and is not in any acceptable legal format. Municipal attorneys would need to place any agreement in a proper legal format prior to adoption.

1. Municipal Boundary Changes: Intergovernmental agreements between cities/villages and towns frequently suggest limits to long-range municipal annexation, generally in exchange for some compromises from the town. Such compromises may include the town’s agreement not to legally contest any annexation petition that is within the agreed annexation area and/or to limit town development in the possible future annexation area.
2. Sanitary Sewer Service Area Boudaries: Some agreements include provisions that define where a DNR-required sanitary sewer service area may be expanded and where it may not. This area defines where sanitary sewer may be extended and, therefore, where urban growth may occur. Again, because cities and village typically provide these sewer services, such limits typically involve some compromise on the part of the town. This may include a provision that would not allow intensive development with on-site waste disposal systems in the sanitary sewer service area.
3. Future Land Use Recommendations: Frequently, agreements include maps or descriptions that specify future land uses or development densities considered acceptable or unacceptable in certain geographic areas of mutual concern. Such maps may also show preferred transportation routes, open space areas, future public sites, airport expansion areas, or other key features or areas where agreement is desired. For example, the agreement may specify certain areas that both communities agree should remain in open space or at least maintain an open space character as limited development occurs. This may be considered important to establish hard community edges or provide for separation between distinct developed areas. Some agreements also include provisions that the communities will then amend their comprehensive plans to be consistent with the future land use recommendations in the agreement, or to not amend their comprehensive plans in a manner that would be inconsistent with the agreement.
4. Consistency Between Planning and Development: Building off of the above provision, some agreements then specify that the communities would agree to subsequently approve or recommend approval of any rezoning, conditional use permit, subdivision plat, certified survey map, or other development proposal over lands only if consistent with the agreement, or with their comprehensive plans if linked to the agreement.

5. Extraterritorial Jurisdiction Provisions: Many agreements include mutual acknowledgement and/or agreed limitations on a city or village's statutory 1½ or 3 mile extraterritorial jurisdiction for purposes of master and comprehensive planning, official mapping, and subdivision plat and certified survey map review, or unilateral extraterritorial zoning. An increasing number of intergovernmental agreements between cities/villages and adjacent towns set the framework for *cooperative* extraterritorial zoning, as allowed under Section 62.23(7)a of Wisconsin Statutes. In a cooperative extraterritorial zoning provision, a city/village and adjacent town can jointly administer zoning decisions over a mutually agreed area in the extraterritorial jurisdiction. This provides more local control (compared to county zoning) and better assures that zoning decisions in joint planning areas will be in the interest of both communities. A formal joint extraterritorial zoning committee—consisting of three representatives from each community—makes zoning decisions in these types of areas once established.
6. Joint Economic Development Efforts: The agreement provides a potential tool to establish an effort for joint economic development or marketing to the mutual benefit of all participating communities. This could include, for example, a commitment to form and market a joint business park.
7. Revenue Sharing: Some of the more innovative agreements include provisions on sharing property tax revenue from new development or mitigating tax losses resulting from annexation. These types of arrangements are allowed under Section 66.0305 of Wisconsin Statutes. For example, an agreement may include a provision that for certain lands annexed, the city/village would agree to share with the town an amount equivalent to the property tax revenue lost to the town as a result of such annexation in decreasing amounts each year. A broader provision on shared revenues may specify that all participating communities would share property tax revenue from all new developments (or all of one type of new development). This tends to minimize competition for development, increases development quality, and somewhat equalizes municipal “winners and losers” resulting from new development.
8. Road Maintenance and Upgrades: Where there are changes in municipal boundaries, responsibilities for road maintenance and upgrades can be confusing or controversial. Provisions for future maintenance, upgrades, or extensions of roads are often covered in intergovernmental agreements. Many of these provisions build off of informal arrangements in place for many years. The Conceptual Official Map included in the Highway 12 Corridor Growth Management Plan could provide one basis for logical road upgrades or extensions that are mutually agreed in an intergovernmental agreement.
9. Shared Services: The agreement may cover, include, modify, or extend shared service agreements for multiple potential services, including fire, EMS, police, library, equipment, etc. Some agreements also include provisions for providing shared municipal sanitary sewer and water services under certain conditions or establishing new or joint utility districts. Communities agreeing to share their pre-existing sewer or water services usually require a significant amount in return, potentially including the future right to annex those parcels or concessions for the communities in other aspects of the agreement.
10. Consistent Design Standards: The agreement could include minimum standards that all or certain types of new development projects would need to follow, regardless of what community the development occurred within. These might include standards for signs, landscaping,

lighting, setbacks, building design, or other features of development (see Appendix C). This type of provision tends to reduce the phenomenon of communities compromising their development standards in attempts to lure projects away from their neighbors.

11. Intergovernmental Planning Committee: Communities participating in an intergovernmental agreement may wish to appoint an ad hoc intergovernmental committee to help administer the agreement, resolve issues not addressed in this agreement, engage in joint planning or implementation efforts as the communities may want to complete, recommend proper interpretations of the terms of the agreement as necessary, and/or advise any necessary amendments or updates. If extraterritorial zoning is provided for in the intergovernmental agreement, then such an intergovernmental (or joint extraterritorial zoning) committee is required under Wisconsin Statutes to administer zoning.
12. Agreement Term: The agreement should specify the length of time that it is applicable. Twenty years is a typical timeframe, as this corresponds with local comprehensive planning time horizons. Occasionally, agreements have provisions for automatic extensions if neither party decides to withdraw.
13. Amendments and Updates: Agreements frequently include provisions that specify that communities will agree to formally discuss, consider, and as necessary jointly adopt amendments and updates to the agreement no less frequently than every five or ten years following the date of its execution. This keeps the agreement fresh in people's minds and allows adaptability as conditions change.