

CHAPTER 5: SEWER SERVICE AREA AMENDMENT AND UPDATE PROCESS

POLICIES AND PROCEDURES

The East Central Wisconsin Regional Planning Commission has adopted "An Amendment Policy and Procedure for Sewer Service Areas" to enable sewer service area plans to be amended in response to changing conditions and community plans. This procedure provides a flexible, yet equitable and uniform basis for revising sewer service area boundaries. This chapter was updated with, input from the Land Use Advisory Committee, during 1999-2000 as part of addressing policy issues related to the "Long-Range Fox Cities, Oshkosh and Fond du Lac Transportation/Land Use Plan Addendum" and certain provisions may apply to the communities illustrated in Map 10.

East Central recommends that a representative from the government entity with Designated Management Agency (DMA) status meet with East Central staff to discuss the proposal. Most documentation and questions needed for the evaluation of the amendment can be addressed at that time.

EAST CENTRAL REVIEW AND RECOMMENDATION

East Central's Community Facilities Committee will review the proposed amendment within approximately 30 days of receipt of the request. The review will include a staff evaluation of the consistency of the proposal with East Central's amendment policies and criteria. The review will also include an evaluation of comments and recommendations received from local units of government and agencies notified of the proposal by East Central. The applicant may be requested to appear at the Community Facilities Committee meeting if there are significant issues involved. The Community Facilities Committee shall recommend approval or disapproval of the amendment. Upon approval, the amendment request shall be submitted to the Wisconsin Department of Natural Resources to request revision of the *Water Quality Management Plan*.

WDNR REVIEW AND APPROVAL

The Wisconsin Department of Natural Resources will review the East Central recommendations for the service area amendment. This review is an equivalent analysis action under s. NR 150.20 (2) (a) 3, Wis. Adm. Code. Once a WDNR decision is made, and if approved, East Central can review sewer extensions and submit comments to the WDNR for sewer extension plan conformance.

The formal amendment process includes the following elements:

Section I: Amendment Policies

- A. Sewer service area boundaries may be modified (acreage swap) provided there is no increase in the total acreage of the specific sewer service area.
- B. Sewer service area boundaries may be expanded provided there is a documented need for a sanitary sewer collection system for areas of existing urban development.
- C. Sewer service area boundaries may be expanded provided there is a documented need for sanitary sewers to serve a proposed unique facility or development.
- D. Sewer service areas may be expanded to provide communities with the flexibility to accommodate unanticipated short-term development. The community shall certify through plan commission action that the proposed amendment area is required for reasonable community growth and is consistent with adopted development plans.
- E. Sewer service area boundaries may be modified by the re-designation of previously identified environmentally sensitive areas consistent with all the following standards:
 - 1. The environmentally sensitive area is immediately adjacent to an existing sewer service area.
 - 2. Appropriate local, state and federal environmental permits are granted for the proposed development.
 - 3. Major re-designations shall pose no significant adverse water quality impacts. Major re-designations include:
 - a. Removal of any mapped wetland area for sewer development unless resulting from an activity exempted by state administrative rules governing wetland protection [NR 117.05(2)] or state approved rezoning of wetlands.
 - b. Any change which would reduce a delineated floodway of any navigable stream or river, or which would remove any area below the ordinary high water mark of a navigable stream, pond or lake.
 - c. Any change resulting in the total removal or in the continuity of any corridor segment including floodways, wetlands, shoreland buffer strips or steep slopes adjacent to water bodies. The water quality benefit that was associated with the portion of the corridor removed must be provided for in the development.
 - 4. The re-designated acreage will be added to the service area total acreage.
- F. Sewer service area boundaries may be modified or expanded to correct an error in the maps, data, transporting sewer designations, projections or allocations of the adopted sewer service area plan.

Section II: Amendment Criteria

Any proposed amendment shall be reviewed according to the following criteria:

- A. The cost-effectiveness of the proposed amendment compared to other alternatives. East Central may require this determination from the applicant.
- B. The environmental impacts of the proposed amendment shall be assessed in accordance with the criteria established in the Wisconsin Department of Natural Resources environmental assessment checklist. The Commission will evaluate the ability of the existing sewerage facilities to transport and treat the projected flows and will provide a water quality evaluation statement. East Central may also prescribe safeguards or impose additional conditions deemed necessary to protect the water quality in the area.
- C. Amendments within the Urbanized Area Sewer Service Areas, (see Map 10), should be consistent with East Central's "Long-Range Transportation/Land Use Plan Addendum" goals, objectives and policies particularly for density standards as follows:

Policy 1.4 Conformance:

- 1. The average net residential density of the buildable plat area is more than or equal to 1 unit per acre; or
 - 2. The community has illustrated that development proposals meet the density requirements by being part of an overall "mixed density" concept documented in its local land use plan which meets the policy intent. (Note: Should amendments occur over time primarily low density development which does not meet the one acre requirement and no higher density development occurs, Section V, Urbanized Area Standard (1)(d) will apply at the next scheduled plan update).
 - 3. If an amendment takes place which includes lands planned for residential development, without being platted prior to the amendment, ECWRPC will require an assurance from the community in the form of a resolution stating that the development will meet these requirements. At the time of platting, ECWRPC will require that a copy of the preliminary plat be submitted for review.
- D. Amendment areas under Section I Policy A and D shall have a common boundary with the current sewer service area and shall not create a void within the service area.
 - E. Policy B, (existing development), amendments must be contained within an approved SSA planning area. This boundary can be reviewed and considered for modification as a separate process, if necessary.
 - F. Amendment areas under Section I, Policy A and B involving the "swap" of land acreage shall, to the extent possible, utilize consistent land use areas on an acre for acre basis, based on the community's locally adopted and Commission certified comprehensive land use plan, (for Urbanized Area communities). Should the community not have enough of a particular type of land designated in its locally adopted comprehensive land use plan to allow for a swap, the community should consider utilizing the "regional swap" policy prior to submitting the amendment under Policy D. Any community affected by a "regional swap"

shall be notified and given an opportunity to comment prior to Commission approval of the amendment.

- G. Amendments submitted under Policy C, (Unique Facilities), must not only fit the definition contained in this plan, but the applicant must also submit additional information which illustrates that all impacts, including secondary land use impacts and their effects on water quality, transportation and public service provision be addressed prior to the Commission recommending approval of the amendment. Such amendment requests must also be consistent with locally adopted comprehensive land use plans. Amendments under this policy may be approved conditionally by the Commission so that other necessary approvals can occur concurrently.

Section III: Amendment Procedures

Proposed sewer service area amendments shall be reviewed according to the following procedure:

- A. Requests for sewer service area amendments should be made by the governmental entity that will be expected to serve the area. Units of government seeking an amendment to the sewer service area boundary should transmit a letter requesting the amendment to East Central along with the following documentation:
1. A map of the proposed expansion area and, if required, reference area or any area to be deleted (swapped) which affects the boundary modification;
 2. Estimates of existing and anticipated population, wastewater generation and means of collection from the area;
 3. A description of the type of existing development and/or the type of future development expected to occur;
 4. Ability of the treatment facility to treat the anticipated wastewater;
 5. Methods of stormwater management and regulation for the added service area and surrounding areas which may be impacted; and
 6. Documentation that all property owners in areas proposed to be deleted (swapped) was notified of this request by the unit of government seeking the amendment. Landowners potentially affected by the removal of property from the SSA shall be notified by the requesting entity at least 14 days prior to the scheduled Community facilities Committee meeting at which the amendment will be addressed. Failure to do so could result in the tabling of the amendment request until the next regularly scheduled CFC meeting, (policy amendment approved by WDNR on 08/26/04).
 7. Plan Commission or Board action as required under Section I, Policy D.
 8. Amendments submitted under Section I, Policy B, for Urbanized Area communities, (see Map 10), will require that additional information be submitted and criteria be met as follows:

- a. Documentation that the community's locally adopted comprehensive land use plan illustrates the area as a future urban growth area which will provide a full range of services as spelled out in the "Long-Range Transportation/Land Use Plan Addendum's" density standards;
- b. A determination of the cost-effectiveness of providing public sanitary sewer versus on-site system replacement. This determination should be consistent with NR-110 requirements;
- c. Documentation that 30% of the existing on-site systems within the proposed amendment area be considered failing, (direct need); and
- d. Documentation that approximately 30% or more of the balance of existing on-site systems within the proposed amendment area are subject to failure based on the physical condition of the on-site system itself and/or the physical characteristics of the subject site, (indirect need).

Documentation for c) and d) above can be in the form of: copies of county or state orders for on-site system replacement; copies of existing on-site system inspection reports; letters from the County Sanitarian indicating that the systems are failing or have the potential to fail; or documentation of recent private well tests which show bacterial contamination likely resulting from on-site system failure.

- B. Based on this information the Community Facilities Committee, designated as the review committee by the East Central's bylaws, will review the proposed amendment to determine whether it meets the standards set forth in the Sewer Service Area Amendment Process. If no significant adverse water quality impacts are involved, East Central shall recommend approval of the plan amendment and submit it to the Wisconsin Department of Natural Resources for state plan certification.
- C. Requests for amendments under Section I, Policy F, pertaining to the addition of 'transporting sewers', (interceptors and forcemains which do not directly service new development), may be initiated by East Central staff upon written request of the DMA and would be submitted directly to the Wisconsin Department of Natural Resources for review and certification without the need for Community Facilities Committee approval. The WDNR would review and certify such amendments within 5 to 10 business days from receipt of East Central staff's submittal. Please note that the information needs, as noted above, as well as the conformance with existing review criteria are still required for East Central and the WDNR to process such amendments, (policy amendment approved by WDNR on 08/26/04).

Section IV: Appeal

If an applicant feels that a hardship exists in the strict interpretation and application of the amendment standards and criteria, consideration may be given to providing relief through a variance subject to the following requirements:

- A. The hardship is significant and widespread owing to substantial pre-existing financial or legal commitments for sanitary sewer service.
- B. The major objectives of the sewer service area plans can be met. The appeal shall be submitted to the Chairman of East Central for action at a regularly scheduled meeting of the Commission. Further appeals may be submitted to Wisconsin Department of Natural Resources.

Section V: SSA Plan Update Procedures and Standards

Even though local, regional and state levels of government engage in planning activities to direct their future, individual or multiple conditions can change over time. Some can be predicted and handled proactively, (COMM 82, demographics, etc.), while some occur rapidly and generally without much warning, (economic conditions, regional growth patterns and rates, market demands, etc.). Sewer service area plans are meant to be proactive type of plan which identifies future sewered growth areas based on cost-effectiveness service provision, water quality and regional cooperation/coordination. When conditions change these plans need to be updated to reflect those changes. This section describes the conditions under which sewer service area plans are updated and how previously developed and approved regional goals, objectives and policies, (i.e. "Long-Range Transportation/Land Use Plan Addendum"), will apply prior to, during or after the Update process.

Minimum Update Procedures and Standards (for all Sewer Service Areas)

SSA plans will be updated on an approximate 5 year rotation. Funding, staff availability, urban growth demands and regional/state policy changes/proposals may alter this time interval. When updated the following items will be addressed:

1. A review and update of population, housing and employment trends and projections;
2. A review and update of land use demands based on socio-economic conditions and projections;
3. A review and update of existing physical conditions including:
 - a. Existing land uses;
 - b. Proposed land uses, (based on local, county, regional and state plans); and
 - c. Water quality and natural resource, (ESA), characteristics, changes and issues.
4. A description of relevant events since the last plan update pertaining to sanitary sewer or having an impact on future sewer service including:
 - a. Major WWTF improvements or changes;
 - b. Major collection system improvements or changes;

- c. Local governmental changes, (i.e. sanitary district formations, intergovernmental boundary/service agreements, comprehensive land use plan updates, regulations and requirements); and
 - d. SSA plan amendments and acreage consumption since the last plan update.
- 5. A review and modification of mapping elements, if necessary, to accommodate future sewer growth and development including:
 - a. Proposed major sewer system improvements and/or regional connections;
 - b. A revised twenty year sewer service area boundary;
 - c. A revised forty to fifty year planning area boundary; and
 - d. Environmentally Sensitive Area (ESA).
- 6. A review of local governmental actions and regulations which have implemented the sewer service area plan;
- 7. An update of citizen information/education and participation efforts;
- 8. A review of the institutional structure for plan update and amendment review/approval and for plan implementation;
- 9. A review/revision of goals, objectives and policies, if necessary; and
- 10. The development of recommendations and strategies for plan implementation.

Urbanized Area Procedures and Standards

The Urbanized Area Procedures and Standards will apply to the following communities: the Cities of Appleton, Kaukauna, Menasha, Fond du Lac, Neenah and Oshkosh; the Villages of Combined Locks, Harrison, Kimberly, Little Chute, Sherwood, North Fond du Lac; the Towns of Buchanan, Grand Chute, Greenville, Kaukauna, Vandebroek, Harrison, Calumet, Empire, Fond du Lac, Friendship, Taycheedah, Algoma, Black Wolf, Menasha, Neenah, Nekimi, Oshkosh and Vinland. While this policy targets primarily urbanized developments the Town of Oakfield and the Village of Oakfield could well benefit from its stated purpose.

The Urbanized Area Standards and Procedures include the above listed “minimum” items in addition to the following reviews of local conformance with policies and requirements as spelled out in the “Long-Range Transportation/Land Use Plan Addendum” including:

- 1. Addendum Policy 1.3 Conformance – A review of local development densities within the SSA occurring between plan updates and their conformance with the minimum residential density requirement will need to be met as follows:
 - a. Areas within the SSA prior to the WDNR certification date of 1997, (or subsequently), are not required to meet this policy, however; East Central staff will consider new residential developments which have occurred after this date as part of the overall density calculation, (therefore this will not

penalize communities for recent development meeting the criteria and being 'banked' for lower densities elsewhere within the SSA);

- b. Areas allocated and approved as part of the 1997, (or subsequent), plan update are required to meet policy;
 - c. Areas amended to the SSA after a 1997 update are required to meet policy, (see SSA Plan Amendment Policies and Procedures section for additional information); and
 - d. If an individual community does not meet the density requirements spelled out in the "Long-Range Transportation/Land Use Plan Addendum" it will not be eligible for additional Sewer Service Area acreage allocations in subsequent plan updates.
2. Addendum Policy 1.4 – A review of local unsewered development patterns and locations and advisory recommendations pertaining to such information; and
 3. Comprehensive Plan Guidelines – A review of local land use planning for conformance with the Guidelines and the communities' plan certification status.

Section VI: Definitions

Sewer Service Area: A geographic area currently or anticipated to be served with sanitary sewers within the planning period as specified in the sewer service area plan element of the *Water Quality Management Plan*. This boundary delineates areas which can be provided public sanitary sewer more cost-effectively than on-site treatment methods over a 20 year period. ECWRPC determines this boundary based on the following information, (all of which are not necessarily listed in NR-121):

- A. Definition and mapping of environmentally sensitive areas, (ESA's);
- B. Justified acreage allocations based on projected 20 year growth and development using ECWRPC accepted methodologies;
- C. Projected available 20 year capacity of the wastewater treatment facility from publicly sewered development and established holding tank receiving areas;
- D. Facilities plan listed projects and improvements;
- E. Projected available 20 year capacity of interceptor sewers, force mains and lift stations;
- F. Location of existing sewer lines;
- G. Existing and projected 20 year development patterns, (based on local comprehensive land use planning and zoning maps);
- H. Proximity to development with known failing privately owned treatment works, (POTW's), or other on-site wastewater treatment systems;
- I. Ability to provide recommended levels of urban service per the addendum matrices;

- J. Intergovernmental growth/service agreements, (advisory only); and
- K. The boundary itself is located, for administrative purposes, on the location of:

1. Environmentally Sensitive Area (ESA's);
2. Watershed, sub-watershed and drainage basin boundaries;
3. One lot depth, (300 feet), buffer from existing sewer line locations;
4. Quarter-section lines based on the Public Land Survey System, (PLSS);
5. Municipal and Sanitary District Boundaries;
6. Road centerlines;
7. Lift station service areas, (topography and depth); and
8. Gravity and interceptor sewer service areas, (topography and depth).

Sewer Service Planning Area: An area defined and approved by the Department of Natural resources under Wisconsin Administrative Code, NR-121 with the assistance and recommendation from the East Central Wisconsin Regional Planning Commission and input from involved communities. This is an area where urban growth is anticipated to occur over a longer period of time, (40 to 50 years), where short-term conflicting land use development should be discouraged. This boundary serves the purpose of delineating long-term, (40-50 year time horizon), cost-effective, urban growth areas. ECWRPC determines this boundary based on the following information, (all of which are not necessarily listed in NR-21):

- A. Definition and mapping of environmentally sensitive areas, (ESA's);
- B. Justified acreage allocations based on projected 50 year growth and development using ECWRPC accepted methodologies;
- C. Projected available 50 year capacity of interceptor sewers, force mains and lift stations;
- D. Projected available 50 year capacity of the wastewater treatment facility from publicly sewer development and establish holding tank receiving areas;
- E. Existing and projected 50 year development pattern, (based on local/county comprehensive land use plans and zoning maps);
- F. Location of existing development with known private septic problems or potential risk for on-site system failures;
- G. Intergovernmental growth/service agreements; and
- H. The boundary itself is located for, administrative purposes, on the location of:
 1. Environmentally sensitive areas, (ESA's);
 2. Watershed, sub-watershed and drainage area boundaries;
 3. Nearest quarter-section lines of the Public Land Survey System, (PLSS);
 4. Municipal and Sanitary District boundaries;
 5. Wastewater treatment plant service areas, (when multiple plants available);
 6. Road centerlines;
 7. Lift station service areas, (topography and depth);
 8. Proposed and existing interceptor sewer service areas, (topography and depth); and

9. Extraterritorial review jurisdiction of involved incorporated communities, (this would be utilized only at the discretion of all affected communities).

Existing Urban Development: A geographic area with densities of development suitable for the efficient and economic provision of urban services such as sanitary sewer, water, transportation and storm drainage. (E.g. single family residential development greater than two units per gross acre)

Reference Area: A geographic area currently within the existing sewer service area which is at least 50 percent developed.

Unique Facility or Development: A proposed facility that, regardless of location, is considered to be “unanticipated”; and is of “regional importance”. “Unanticipated” is defined as not being illustrated in a local community’s or county’s comprehensive plan and was not anticipated or projected in the sewer service area plan during the previous update. “Regional importance” is defined as a facility which, if constructed, would provide a widespread benefit to multiple local governmental jurisdictions within the Sewer Service Area. Examples of facilities fitting this criteria include state prisons, county landfills, regional public specialty facilities such as EAA, public museums or performing arts centers, churches, private, (commercial), specialty facilities such as the Kaukauna dog track, opportunistic park/recreation/open space acquisitions, public golf courses, other state and federal facilities as deemed appropriate. Not eligible are any type of school facility, local government administrative office or facility, residential golf course developments, local parks, private campgrounds, local airports or related facilities. These types and locations of future facilities should be addressed and, their needs quantified, in the community’s local land use plans and the sewer service area plan update process. These listings may be added to from time to time based on individual SSA plan amendment proposals. Those specific facilities not listed above would be reviewed based on their merits and conformance with the intent of this definition.

Expansion Area: The geographic area proposed to be added to the existing sewer service area through the amendment process.

Cost-effectiveness: Analysis of sanitary sewerage system alternatives. The analysis shall include monetary costs and environmental as well as other non-monetary costs.

Environmentally Sensitive Area: Geographic areas consisting of all lakes and streams shown on USGS quadrangle maps and their adjacent shoreland buffer areas. Also all wetlands shown on the State of Wisconsin Wetland Inventory Maps and floodways as delineated on the official Federal Emergency Management Administration Flood Boundary and Floodway Maps.

