

**13.01 Attached Territory.** The Town territory, upon attachment to the Village under this Cooperative Plan, shall become Village territory subject to all the Village Zoning and Code of General Ordinances on the effective date of the attachment, subject to the provisions of Section 10.05 of this Cooperative Plan respecting nonconforming uses.

**13.02 Town Territory in The Village Growth Area.**

**13.02.1** Town territory in the Village Growth Area, prior to attachment, shall be subject to any County Zoning Ordinance. applicable within the Village limits; for example, shoreland and public health ordinances. Village will assume and exercise all obligations and responsibilities, and review and approval authority of the Town in administering all Kenosha County zoning ordinances applicable to the Village Growth Area, including zoning ordinances adopted under ss. 59.692, 87.30, and 91.71 to 91.78, Wisconsin Statutes, where appropriate, as of the effective date of this Cooperative Plan.

**SECTION 14  
LOCAL ORDINANCES, COUNTY ORDINANCES AND  
MUTUAL AGREEMENTS AFFECTING TOWN AREAS  
OUTSIDE VILLAGE GROWTH AREA**

**14.01** The Town territory not included in the Village Growth Area shall continue to be governed by the General Ordinances of the Town and the County of Kenosha relating to zoning.

The Town has not enacted zoning regulations and has relied upon the County to provide for said zoning regulations pursuant to ss. 59.69, Wisconsin Statutes. The County regulations and the enforcement thereof are to remain with the County subject to change only in accordance with the provisions of the statute or incorporation to a village or Village.

**SECTION 15  
STORM WATER MANAGEMENT AND CONTROL**

**15.01** It is a finding of fact between the Town of Salem and the Village of Paddock Lake that uncontrolled storm water runoff and construction site erosion from land development and land disturbing activities can have significant adverse impacts upon local water resources and the health, safety and general welfare of the community and diminish the public enjoyment and use of natural resources.

**15.02** To that end, it is in both municipalities' interests to establish regulatory requirements for land development and land disturbing activities aimed to minimize the threats to public health, safety, welfare, and the natural resources from construction site erosion and post-construction storm water runoff.

**15.03** It is recommended that each municipality adopt erosion control and storm water management ordinances addressing control of both water quantity and quality. It is further recommended that storm water management plans be prepared for areas of significant existing and/or planned urban development. Priority should be given to those

watersheds which experience serious drainage problems and those which are expected to develop first.

**15.04** It is recommended that ordinances be consistent with the non-point source pollution control standards set forth in Chapter NR 151, Runoff Management, of the Wisconsin Administrative Code and that they include provisions to encourage low impact source controls and storm water management practices designed to maintain pre-development hydrologic conditions by promoting infiltration where appropriate. Chapter NR 152 of the Wisconsin Administrative Code, "Model Ordinances for Construction Site Erosion Control and Storm Water Management", can serve as a guide for development of the water quality control sections of the ordinance. That model is consistent with the requirements of Chapter NR 151.

**15.05** Local ordinances should call for water quantity controls on new development that incorporate post-construction release rates. The study area encompasses a combination of lands that are ultimately tributary to the Fox River and lands that are ultimately tributary to the Des Plaines River (see attachment "F"). For the lands within the Fox River watershed, the ordinances should require controls such that the post-construction peak storm water discharge rates shall not exceed the pre-construction peak discharge rates for the 2-year, 10-year, and 100-year, 24-hour design storms. It is recommended that a different standard is used for lands within the Des Plaines River watershed. A 2003 study completed by the Southeastern Wisconsin Regional Planning Commission, "A Comprehensive Plan for the Des Plaines Watershed", recommends that ordinances be created to require controls to meet the post-construction 2-year storm peak discharge rate of 0.04 cubic per second per acre of new development and the 100-year peak discharge rate of 0.30 cubic feet per second per acre of new development. These release rates should be considered as maximums.

**15.06** It is also a finding of fact that in compliance with the provisions of Chapter 283 of the Wisconsin State Statutes and Chapters NR 151 and 216 of the Wisconsin Administrative code, owners and operators of municipal separate storm sewer systems (MS4s) will be permitted to discharge storm water from all portions of the municipal separate storm sewer system owned or operated by the municipality to waters of the state in accordance with the Wisconsin Pollutant Discharge Elimination System (WPDES) General Permit No. WI-S050075-1. The Town of Salem and the Village of Paddock Lake have been named as municipalities that will require MS4 permit Coverage. The Wisconsin Department of Natural Resources anticipates authorizing MS4 permit coverage to the municipalities covered under this agreement by late 2006 or 2007. This permit will require the municipalities to reduce pollutants that discharge through its MS4 via public education and outreach, public involvement and participation, illicit discharge detection and elimination, construction site pollutant control, post-construction pollutant control and practicing pollution prevention in its municipal operations.

**SECTION 16**  
**DESIGN AND CONSTRUCTION OF PUBLIC STREETS, SIDEWALKS,**  
**IMPROVEMENTS AND PLACEMENT OF PUBLIC UTILITIES IN STREET**  
**RIGHT-OF-WAY IN VILLAGE GROWTH AREA PRIOR TO ATTACHMENT OF TOWN**  
**TERRITORY TO THE VILLAGE**

**16.01** The Town, within sixty (60) days of the Effective Date of this Agreement, shall adopt and apply Village standards in the Village Growth Area with respect to the design and construction of public streets, sidewalks, improvements generally placed in right-of-ways (trees, signs, etc.), and the placement of public utilities (including, but not limited to, water, electric, gas, telephone, and cable television, but not including sanitary sewers) in the street right-of-way.

Within the Village Growth Area prior to attachment of Town territory to the Village, when a party to this Cooperative Plan having jurisdiction over a street or highway which is situated on a Village/Town boundary line improves such street or highway, or when either the Village Water Utility or the Town install sanitary sewers or water mains within such boundary street or highway, and the territory of the other party is benefited by such improvements, the benefited party at the request of the party installing such improvements shall pay for its pro rata share of the cost of such improvement based upon the benefits received. Where the benefits received are specially assessable benefits to individual property owners, the parties mutually agree to assist in the levy and collection of said special assessments as provided by Wisconsin Statutes.

The party intending to perform such work in or upon a boundary street right-of-way is required to give notice to the other party not less than sixty (60) days before commencement of the work.

Any dispute regarding the appropriate allocation of costs shall be determined by a joint report promptly prepared and issued by the engineers for the Town or Village (as to street improvements), as appropriate. If and to the extent the engineers reach agreement, the issues shall be deemed to be finally resolved. If the engineers are not able to resolve disputed issues, the Village Administrator and the Town Chairperson or Designee are not able to resolve such issues after meeting at least twice within thirty (30) days following the issuance of the engineers' joint report or within such additional time as they may agree to in writing, a mutually satisfactory arbitrator shall be selected by the Village Administrator and the Town Chairperson or Designee within the next thirty (30) days or within such additional time as they may agree to in writing. The remaining disputed issues shall then be determined by binding arbitration. The Village and the Town shall equally share in the costs of arbitration. Alternatively, the Village Administrator and the Town Chairperson or Designee may agree in writing to litigate such issues in court, and such issues shall be litigated in court if they fail to reach timely agreement on the selection of an arbitrator. In either of which events the prevailing party shall have the right to recover from the other party its reasonable litigation expenses, including reasonable attorneys' fees.

**SECTION 17  
TOWN INCORPORATION AND AFFECT OF  
TOWN INCORPORATION ON VILLAGE GROWTH AREA**

**17.01** It is further understood that at some time in the future a portion or all of the Town outside the Village Growth Area may be the subject of a petition to the State for incorporation into a village or city. The Village agrees that it shall not oppose any future incorporation petition filed by the Town or residents thereof under the standards for incorporation in Sections 66.0201 through 66.0211, Wisconsin Statutes, as said statutes exist on the effective date of this Cooperative Plan. A copy of said statutes are attached hereto as Attachment G.

The consolidation of the Town with a bordering Town, or the incorporation of the Town as a City or Village, will not affect the implementation of this Cooperative Plan, the boundary changes provided for, or the obligations of the Town and the Village under this Cooperative Plan. In the event of consolidation or incorporation of the Town, the ordinance for consolidation or order for incorporation shall include a provision obligating the surviving municipality to implement this Cooperative Plan, the boundary changes provided for, and to otherwise carry out the obligations of the Town and Village under this Cooperative Plan.

**SECTION 18  
ENVIRONMENTAL EVALUATION OF THE COOPERATIVE PLAN**

**18.01** The Village and the Town have evaluated the environmental consequences of this Cooperative Plan, including air and water pollution impacts, energy use, and effect on urban sprawl and expect minimum impacts. This Cooperative Plan facilitates consistent and coherent Town planning for infrastructure and other development in the Town territory. This Cooperative Plan is consistent with all applicable state and federal laws, municipal regulations, shore land zoning ordinances and administrative rules.

Because intensive manufacturing development is not anticipated by this Cooperative Plan, there are no potential adverse environmental consequences (including air and water pollution) related to manufacturing development. The Master Plan for the Village Growth Area reduces the potential impact of urban sprawl by providing for open space while concentrating the location of residential and commercial development. The reservation of all natural areas, wetlands, floodplains and upland woods will allow for the continuation of natural vegetation absorbing air pollutants and preventing soil erosion.

On the Effective Date, the Town Wastewater Treatment Plant has adequate capacity to serve the Village Growth Area and the Town Service Area existing on the Effective Date.

Construction site maintenance and erosion control for new construction shall be regulated in the Village Growth Area by Chapter XXXIII of the Village's Code of General Ordinances.

Section 15 of this Plan provides for storm water management and control in the Village Growth Area and in the Town as it relates to the development of storm water management plans and cooperative efforts to manage storm water.

The development of the Village Growth Area will be in compliance with State and Federal environmental laws and regulations. Sanitary sewer and water extensions will be subject to the Department of Natural Resources approvals. No major development is expected in the Village Growth Area which would require Federal or State air pollution control permits or waivers. Private wells upon premises served by Village water service in the Village Growth Area must be maintained under a permit or abandoned under the Village Code of General Ordinances.

This Cooperative Plan and the Sanitary Sewer Agreement provide for Town sanitary sewer service to the Village Growth Area. This service will provide for compact development and minimize urban sprawl in the Village Growth Area.

Based upon plans developed at the regional, county and local levels of government for the surrounding communities, the impact of the boundary changes and the development within the Village Growth Area affected by this Cooperative Plan will be compatible with, and will have no negative impacts on, the surrounding communities. All surrounding villages and towns are subject to zoning ordinances and land division control ordinances.

## **SECTION 19 PERIODIC CONFERENCES AND LONG-RANGE PLANNING**

**19.01** Town and Village shall confer from time to time, to review and discuss concerns relating to land use, stormwater management and drainage, boundary streets, capital improvement projects, and other matters of mutual concern.

## **SECTION 20 LAND DEVELOPMENT WITHIN THE VILLAGE GROWTH AREA**

**20.01** The Village regulates land development by requiring, under ordinance, that developers execute land development agreements which require developers to provide, at their own cost and expense, all infrastructure required to serve their developments. The Village will also consult with the Town and its staff and/or consultants to include in such development agreements provisions sufficient to guaranty the timely construction of any Town owned sanitary sewer infrastructure improvements required to support such development

To the extent that there are certain infrastructure costs which must be borne by the Village, the Village budgets for such expenditures under a five (5) year Capital Improvements Plan funded through borrowing and bonding. At the present time the Village has only exercised less than five (5%) percent of its borrowing capacity, demonstrating that the Village has the financial resources to serve the Village Growth Area.

**SECTION 21  
PETITIONS TO ANNEX PRIOR TO  
EFFECTIVE DATE OF COOPERATIVE PLAN**

**21.01** The Village may process, review and approve any petition to annex property in the Village Growth Area to the Village under Sections 66.0217 or 66.0219, Wisconsin Statutes, while this Cooperative Plan is being reviewed by the State of Wisconsin, Department of Administration.

**SECTION 22  
EXTRATERRITORIAL ZONING, LAND DIVISION, CONDOMINIUM PLATTING,  
AND OFFICIAL MAPPING CONTROLS IN TOWN OUTSIDE THE  
VILLAGE GROWTH AREA**

**22.01** The Village will not exercise any extraterritorial zoning, land division, condominium platting, or official mapping controls in the Town outside the Village Growth Area.

**SECTION 23  
MASTER PLANNING**

**23.01 Master Plans.** Village adopted Master Plans for the Village Growth Area shall govern land development until repealed, amended or superseded in accordance with State law governing Master Planning.

**23.02 Mutual Approval.** Village has no objection to duly adopted Town Master Plans applicable to Town territory outside the Village Growth Area. Town has no objection to duly adopted Village Master Plans applicable to the Village Growth Area.

**23.03 New Master Plans and Amendments To Existing Master Plans.** Village, at any time, may adopt or amend any master plan for the Village Growth Area or any part thereof.

**SECTION 24  
AUTHORIZING RESOLUTIONS, ATTEST BY AFFIDAVIT,  
COOPERATIVE PLAN ADOPTION RESOLUTIONS, AND  
RECORD OF PUBLIC PARTICIPATION**

**24.01 Initial Authorizing Resolutions.** Section 66.0307(4)(a) of the Wisconsin Statutes, requires that initial authorizing resolutions for the preparation of a Cooperative Plan must be approved by each participating municipality (that is, the Village and the Town) before Cooperative Plan preparation may commence. Authorizing resolutions must be dated and signed by the chief elected official and attested by the municipal clerk of each municipality participating in the Cooperative Plan. Copies of the Village and Town initial authorizing resolutions are found in Attachment H.

**24.02 Attest By Affidavit.** Section 66.0307(4)(a)(1-4) of the Wisconsin Statutes regarding the Cooperative Plan requires an attest by affidavit that authorizing resolutions described under Section 24.01 above were sent to: The Department of Administration, Department of Natural Resources (DNR), Department of Agriculture, Trade, and Consumer Protection (DATCP), and Department of Transportation (DOT); the clerks of any municipality, school district, vocational technical and adult education district, sewer or sanitary district which has any part of its territory within five (5) miles of a participating municipality; the clerk of each county in which a participating municipality is located; and, any county zoning agency or regional planning commission whose jurisdiction includes a participating municipality. The "Attests by Affidavit" is found in Attachment I.

**24.03 Resolutions Indicating Adoption and Authorizing Transmittal of the Cooperative Plan to the State.** Copies of resolutions indicating adoption and authorizing transmittal of the Cooperative Plan to the Wisconsin Department of Administration for review, dated and signed by the chief elected official and attested by the clerk from each participating municipality – the Village and the Town – are found in Attachment J.

**24.04 Record of Public Participation and Comment.** The public comment and hearing requirements in Section 66.0307(4)(b) and (c) of the Wisconsin Statutes were met. The public hearing comments are found in Attachment A.

## **SECTION 25 NO THIRD PARTY BENEFICIARY**

**25.01** This Cooperative Plan is intended to be solely between the Village of Paddock Lake and the Town of Salem. Nothing in this Cooperative Plan shall be interpreted as giving to any person or entity not party to this Cooperative Plan any legal or equitable rights whatsoever.

## **SECTION 26 ADMINISTRATION OF THIS COOPERATIVE PLAN**

**26.01** This Cooperative Plan shall be administered on behalf of the Town by the Town Chairperson or designee, on behalf of the Village, by the Village Administrator or designee. The appointment of a designee must be in writing, and the other party to this Cooperative Plan must be notified in writing of the appointment.

## **SECTION 27 ENFORCEMENT**

**27.01 Remedies.** This Cooperative Plan is intended to provide each party with the right and standing to challenge in Court any act or omission which violates this Cooperative Plan. This Cooperative Plan is intended to provide each party with the right and standing to seek any available legal or equitable remedy to enforce this Cooperative Plan and to seek damages for the breach of this Cooperative Plan.

**27.02 Notice of Breach/Dispute Resolution.** If a party to this Cooperative Plan believes that the other party is in breach of this Cooperative Plan, the aggrieved party shall promptly serve written notice of said breach upon the other party. The parties shall meet promptly thereafter and shall endeavor in good faith to resolve any dispute amicably. If the initial meeting fails to resolve the dispute, the parties shall meet again within thirty (30) days after service of the written notice. Failure or refusal of a party to meet promptly and attempt in good faith to resolve any dispute shall be deemed a waiver by such party of any right to recover any litigation expenses or attorney fees other than statutory costs; provided, however, that good faith shall not require an amendment of this Cooperative Plan. This subparagraph is intended by the parties to waive their respective statutory right to any further notice under Subsection 893.80(1)(a), Wisconsin Statutes, to the extent such subsection is applicable.

**27.03 Limitation on Commencement of Civil Action.** No civil action may be commenced until after thirty (30) days from the effective date of written notice required by this Cooperative Plan, except that a party may commence an action seeking specific performance or injunctive relief in less than thirty (30) days if, in that party's good faith judgment, such an action is necessary to protect the public health, safety or welfare. Except as otherwise provided in this Cooperative Plan, the prevailing party in any action concerning an alleged breach of this Cooperative Plan shall be entitled to recover from the other party its reasonable costs and expenses of litigation, including reasonable actual attorney's fees.

## **SECTION 28 NO CHALLENGES TO THIS COOPERATIVE PLAN**

**28.01** Village entities and Town entities hereby waive any right each may have to commence or maintain any civil action or other proceeding to contest, invalidate or challenge this Cooperative Plan or any of the actions required or contemplated by this Cooperative Plan, or to take any actions, either directly or indirectly, to oppose in any other way, or to initiate, promote or support the opposition of this Cooperative Plan or any of the actions required or contemplated by this Cooperative Plan.

## **SECTION 29 AMENDMENT**

**29.01** This Cooperative Plan may be amended by the further mutual written agreement of the Village and Town pursuant to the provisions of Section 66.0301 of the Wisconsin Statutes. After this Cooperative Plan is also fully adopted and approved under the law under the provisions of Section 66.0307 of the Wisconsin Statutes, however, then this Cooperative Plan shall be amended pursuant to the provisions of Section 66.0307(8) of the Wisconsin Statutes. In any event, either party may arbitrarily withhold its consent to any amendment.

**SECTION 30  
GOOD FAITH AND FAIR DEALING**

**30.01** The parties hereby acknowledge that this Cooperative Plan imposes on them a duty of good faith and fair dealing.

**SECTION 31  
SEVERABILITY**

**31.01** The provision of this Cooperative Plan, and the individual parts of each such provision, shall be severable. In the event that any provision of this Cooperative Plan, or any part thereof, is held by a court of competent jurisdiction to be invalid or ineffective, the balance of this Cooperative Plan shall survive. In such event, the parties shall promptly meet to discuss how they might satisfy the intent of this Cooperative Plan by alternative means.

**31.02** The parties shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Cooperative Plan. If necessary, the parties 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 the parties are not able to reach agreement in such situation, either party may, by thirty (30) days written notice to the other, require submission of such dispute to an impartial arbitrator, to be mutually selected by the parties during such thirty (30) day period, for binding arbitration. Town and Village shall promptly pay on an equal basis all fees and expense of the selected arbitrator.

**SECTION 32  
INVALID OR INEFFECTIVE ORDINANCE**

**32.01** In the event that any ordinance, including but not limited to Attachment and Zoning Ordinances, which the 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 parties 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 parties shall use their best efforts to find, design and implement a means of successfully accomplishing the intent of this Cooperative Plan. If necessary, the parties 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 the parties are not able to reach agreement in such situation, either party may, by thirty (30) days written notice to the other, require submission of such dispute to an impartial arbitrator, to be mutually selected by the parties during such thirty (30) day period, for binding arbitration. Town and Village shall promptly pay on an equal basis all fees and expenses of the selected arbitrator.

**SECTION 33  
SUCCESSORS**

**33.01** This Cooperative Plan shall benefit and be binding upon the successors of Town, including any portion which may hereinafter be incorporated, and upon Village. Successors include, but are not limited to, a city, village or town being a party to a consolidation, and any other governmental entity which may govern the Village Growth Area.

**SECTION 34  
IMPLEMENTATION**

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

**SECTION 35  
REFERENCES**

**35.01** Any references in this Cooperative Plan to any particular agency, organization or official 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, amended, or renumbered from time to time.

**SECTION 36  
PARAGRAPH TITLES**

**36.01** Paragraph titles in this Cooperative Plan are provided for convenience only and shall not be used in interpreting this Cooperative Plan.

**SECTION 37  
INTERPRETATION**

**37.01** This Cooperative Plan shall be interpreted as though jointly drafted by the parties.

**SECTION 38  
NOTICES**

**38.01** 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 paragraph(s) or subparagraph(s) to which the notice relates. Any such notice shall be delivered in person to the clerk of the party 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 (or equivalent private delivery service). Each notice to the Town shall be addressed to the Town Clerk, Town of Salem, 9814 Antioch Road, Salem, Wisconsin 53168. Each notice to

the Village shall be addressed to the Village Clerk/Treasurer, Village of Paddock Lake, 6969 236<sup>th</sup> Avenue, Paddock Lake, Wisconsin 53168. Each party may change its address (or add addresses for facsimile, electronic mail or other communications media), for purposes of this Cooperative Plan, by written notice to the other party pursuant to this paragraph. 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.

**SECTION 39  
APPROVALS AND EFFECTIVE DATE**

**39.01 Town Approval.** This Cooperative Plan was approved by the Board of the Town of Salem at a duly noticed and convened public meeting on the 20<sup>th</sup> day of December, 2006.

**39.02 Village Approval.** This Cooperative Plan was approved by the Common Council of the Village of Paddock Lake, Wisconsin at a duly noticed and convened public meeting on the 20<sup>th</sup> day of December, 2006.

**39.03 Effective Date.** This Cooperative Plan shall become effective, under the provisions of Section 66.0301 of the Wisconsin Statutes, as on the date of which both this Cooperative Plan and the Sanitary Sewer Agreement are contemporaneously executed by the Village and the Town (the "Effective Date"). This Cooperative Plan shall also be deemed adopted under the provisions of Section 66.0307 of the Wisconsin Statutes as of the date that this Cooperative Plan is approved in writing by the State of Wisconsin Department of Administration, as required under Section 66.0307 of the Wisconsin Statutes.





## LIST OF ATTACHMENTS

- A Pubic Hearing Comments
- B Map of Town of Salem
- C-1 Legal Description of Village Growth Area
- C-2 Map of Village Growth Area
- D Salem - Paddock Lake Sewer Agreement
- E Land Use Map for Growth Area
- F Stormwater Drainage Basin Map
- G Copy of Incorporation Statutes
- H Town and Village Authorizing Resolutions
- I Affidavits from Town and Village Clerks regarding "H"
- J Final Resolution from Town and Village