



Fact Sheet: **EXTRATERRITORIAL PLATTING (ETP) JURISDICTION, Ch. 236.10**

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What is it?

Cities have been given by statute either a 3-mile (if pop. 10,000 or more) or a 1.5-mile extent of land division control outside their corporate boundaries. Villages have been given up to 1.5 miles. A city/village exercising its ETP jurisdiction is an “approving authority” in the subdivision plat or certified survey map (CSM) review process. The city/village has the same power to state its approval or rejection of the plat or CSM as it would if the proposed development was within the city/village corporate limits.

Note: While the city/village’s *rejection* of a plat or CSM within its ETP prevents the development from taking place, a city/village’s *approval* does not overrule a town’s rejection. All approving authorities (state, county, city/village, town) must approve before a plat or CSM can go forward. Just one entity’s rejection is enough to kill the proposal.

The purpose of this jurisdiction is to allow a city/village some control in the type and design of development that occurs near its borders, especially areas that may one day become part of the city/village.

What is the broad administrative process to initiate ETP?

Ch. 236.10, Stats., automatically gives ETP powers to cities and villages if they have an existing subdivision ordinance. (They may waive this authority by resolution filed with the Register of Deeds, and may rescind this waiver in the same manner, accompanied by a public hearing.)

The extraterritorial powers granted to cities and villages by statute may *not* overlap – that is, no part of a town can be under more than one extraterritorial authority. If the jurisdictions of more than one city or village overlap, the area must be divided on a line all points of which are equidistant from the boundaries of each municipality concerned. If this proves to be geometrically unfeasible, the municipalities need to mutually agree on how to divide the area.

Can a city/village’s subdivision regulations in the ETP be more restrictive than the town’s?

Yes – as long as none of the restrictions violate other town ordinances or state statutes.

On a related note, a city/village subdivision ordinance requirement that each lot have municipal sewer and water would be invalid. Only the “home court” municipality – in this case the town – may impose public improvement standards in the extraterritorial area.

It is also worth pointing out that a city/village may not condition extraterritorial plat approval on annexation.

Under what terms can a city/village reject a proposed plat or CSM within its ETP?

The plat or CSM . . .

- conflicts with state statutes or a city/village ordinance (including lot size requirements in a land division ordinance),
- fails to meet “quality of development” standards (e.g., unsuitable land due to stormwater runoff, impact on the flow of groundwater, erosion, loss of wildlife habitat), or
- fails to comply with the city/village master (comprehensive) plan.

The 2003 Wisconsin Supreme Court case (*Wood v. City of Madison*) gave a city/village the ability to deny a plat or CSM based upon the proposed *use* of the land. The effect of this case was reversed in May, 2010 by AB 260, a bill passed by the Wisconsin legislature and signed by the governor that once again limits city/village authority over plat approval in the extraterritorial area to the traditional platting authority of how land is divided, lot sizes, street configuration, etc. Cities and villages will still be able to control land uses in the extraterritorial area by working cooperatively with towns through extraterritorial zoning or boundary agreements.

Sources: Wisconsin Department of Administration – Office of Land Information Services;
“Negotiating the Maze of Land Division Regulations” by Atty William White;
“County & Local Government Land Use Planning & Regulation” by James Schneider, J.D.;
“From the Desk of Executive Director,” *Wisconsin Towns*, May 2010, by Richard Stadelman

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