



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 (city/village islands not included). 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. Cities/villages can require the same review process (the documents required for submittal, the payment of review fees, etc.) for plats in the extraterritorial area as they require for plats within the city/village borders.

Note: While a 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 must approve before a plat or CSM can go forward. Just one entity’s rejection is enough to stop the proposal.

The purpose of this jurisdiction is to allow a city/village some control in the quality 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 city/village 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 land is unsuitable for the proposed development. (Reasons could include bad drainage, soil or rock formations with severe limitations for development, severe erosion potential, unfavorable topography, rare wildlife habitat, and so forth.)
- The development would have an adverse impact on existing or planned city improvements. (Such improvements could be the expansion of a nearby airport, landfill, or similar public facility.) - or -
- The quality of the proposed land division. (Acceptable “quality” elements could include lot size, amount of open space, landscaping requirements, etc., as long as none of the elements rise to the level of public improvements.)

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 by 2009 Wis. Act 399, which 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 can best exercise control over 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;
“The Current Status of Extraterritorial Plat Approval Authority in Wisconsin,” November 2014, by Brian Ohm

Compiled by Kevin Struck, Community Development Educator, Sheboygan County.



Extension

UNIVERSITY OF WISCONSIN-MADISON
SHEBOYGAN COUNTY