



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.)

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. For example, a city/village’s subdivision ordinance may require greater right-of-way widths than the town’s subdivision ordinance, in which case the city/village’s requirement would apply. However, a city/village minimum lot size requirement that was more restrictive than the town’s zoning ordinance would *not* apply.

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 a city/village ordinance.
- fails to comply with state statutes.
- fails to comply with the city/village master (comprehensive) plan.

The 2003 Wisconsin Supreme Court case (*Wood v. City of Madison*) gives a city/village the ability to deny a plat or CSM based upon the proposed *use* of the land. This case overturned the 1993 Court of Appeals case (*Boucher v. City of Madison*) that had held that a city/village could *not* deny a land division for land *use* reasons, which it argued was a matter better regulated by zoning.

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.

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