
Wisconsin Legislative Council

ACT MEMO



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2021 Wisconsin Act 198 [2021 Senate Bill 835]

Local Land Use Restrictions

2021 Wisconsin Act 198 makes changes to the laws governing municipal boundaries, extraterritorial zoning, and municipal condemnation power.

CHANGES TO MUNICIPAL BOUNDARY LAW

Act 198 prohibits a newly incorporated city or village from adding any of the remaining town territory for a five-year period after the incorporation, unless the territory is added through annexation by unanimous approval of the resident electors and property owners or through the town consolidation process. Prior law allowed a newly incorporated city or village to initiate a referendum for the annexation of the remaining town territory. The annexation could be approved by a majority of voters at the referendum.¹

The act allows a city or village to annex across county lines when the annexation is by unanimous approval of the owners and resident electors of the territory. Prior law required town board approval as a condition of allowing a city or village to annex territory across county lines. The act specifies that any subsequent annexation by the city or village in the county requires either town board approval or unanimous approval of the owners and resident electors of the territory.

CHANGES TO EXTRATERRITORIAL ZONING POWER

State law provides that a city or village may unilaterally enact an interim extraterritorial zoning ordinance while a comprehensive zoning plan is prepared. Act 198 makes the following changes to interim extraterritorial zoning ordinances:

- Specifies that an ordinance may preserve the existing zoning in areas subject to an existing general zoning ordinance and the existing uses in areas not subject to a general zoning ordinance. Prior law allowed an ordinance to preserve “existing zoning or uses.”
- Reduces the time that an ordinance is effective from two years to 18 months.
- Extends the time period in which any subsequent interim extraterritorial zoning ordinance that affects the same area is prohibited from two years to five years.
- Specifies that the unincorporated area subject to an ordinance includes areas that are either surrounding or entirely surrounded by a single city or village.

State law generally allows a city or village to exercise zoning and land use powers outside its municipal boundaries. The act specifies that a city or village may only exercise certain powers in town territory that is within the extraterritorial zoning jurisdiction of the city or village surrounding or included entirely within the “primary geographical area” of the city or village. The “primary geographical area” is

¹ For more detailed information regarding annexation in Wisconsin, see Legislative Council, *Overview of Wisconsin Municipal Boundary Law*, Information Memorandum (January 2022).

the area of a city or village that serves as the location of the primary seat of government and all territory that is contiguous to that area. A town may agree to allow a city or village to exercise these powers beyond this territorial limit. In effect, the act prohibits a city or village from the unilateral exercise of certain extraterritorial powers in areas surrounding “islands” of isolated municipal property.

CHANGES TO MUNICIPAL CONDEMNATION POWER

Act 198 prohibits a municipality from acquiring a blighted property outside its municipal boundaries that it intends to convey or lease to a private entity. For property outside the municipality’s boundaries, the act requires the municipality to make certain written findings regarding the purpose of the condemnation and future use of the property before the municipality acquires the property. These findings must be distributed to the owner of the property and the town, village, or city where the property is located.

Effective date: March 20, 2022

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