
Wisconsin Legislative Council

INFORMATION MEMORANDUM



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OVERVIEW OF WISCONSIN MUNICIPAL BOUNDARY LAW

Municipal boundaries define the physical divisions between municipalities and represent legal distinctions that organize how municipalities relate to each other and to their residents. Shifting boundary lines through an annexation, consolidation, detachment, or agreement, or changing the legal significance of an existing boundary through incorporation, modifies the rights and responsibilities in the relationship between municipalities and their residents and between municipalities themselves. This information memorandum provides an overview of state laws governing the establishment of municipal boundaries and the methods of changing them.

INCORPORATION

Municipal incorporation is the process of creating a new village or city from town territory.¹ Reasons to incorporate include increasing access to public services, increasing municipal autonomy through home rule powers and zoning authority, increasing finance options for development, and defending against a potential annexation.

Background

Cities and villages, in both the territorial era and early in statehood, were created by special acts of the Legislature.² Over a 50-year period starting in 1871, Wisconsin law was updated to prohibit the establishment of municipalities by special acts, to create general incorporation statutes, and to repeal existing special incorporation charters.³ These updates relieved the Legislature from expending substantial time managing municipal charters.⁴

The creation of general incorporation statutes shifted the responsibility of managing the conflicts and challenges that surround incorporations from the Legislature to the courts. The *Lammers* doctrine, which emerged from an early-1900s challenge to the statute incorporating the Village of Cedar Grove, requires that a constitutionally valid incorporation include a village-

¹ Towns were initially created by counties. In rare circumstances, towns can also be created when an existing town is either divided or dissolved. [s. 60.03, Stats.]

² For example, the act that incorporated the Village of Madison in the territorial era can be found [here](#) and the act that created the City of Madison can be found [here](#). Also, the Wisconsin Constitution at the founding vested the Legislature with the duty to provide for the organization of cities and villages. [Wis. Const. of 1848 art XII, s. 3.]

³ The Wisconsin Constitution was amended in 1871 to prevent special acts of the Legislature from incorporating any town or village and in 1892 to prevent special city incorporations. [Wis. Const. art. IV, s. 31 (9).] In 1872, the Legislature provided for the general incorporation of villages. [Ch. 188, Laws of 1872.] The law allowing general incorporation for cities was passed in 1889. [Ch. 326, Laws of 1889, SECS. 7 to 16.] In 1921, Wisconsin statutes were updated to repeal all city special charters, except for those of the first class, and to reincorporate existing cities under the general incorporation statute. [Ch. 242, Laws of 1921, SEC. 2.]

⁴ For example, laws amending city charters made up an entire volume of the laws passed in a biennium in the 1880s. [See Robert D. Zeinemann, *Overlooked Linkages Between Municipal Incorporation and Annexation Laws: An In-Depth Look at Wisconsin's Experience*, 39 Urb. Law. 257 (2007), at 272 n. 108.]

or city-in-fact. [*State ex rel. Town of Holland v. Lammers*, 113 Wis. 398 (1902).] This doctrine controlled disputes over incorporation for half a century, until its requirements were codified in the 1950s.⁵ In codifying the *Lammers* doctrine, the Legislature created a state agency, now the Incorporation Review Board (“Review Board”) within the Department of Administration (DOA), to review proposed incorporations.⁶ This shifted some responsibility for managing incorporations to the executive branch, but courts retained a role in reviewing procedural and technical aspects of incorporation attempts. [ss. 66.013 to 66.019, 1959-60 Stats.]

Current incorporation procedure retains this balance between the executive and judicial branches. Incorporation generally requires approval from three separate entities: the circuit court, the Review Board, and the electors of the area to be incorporated.⁷ Once incorporated, the territory may not be annexed by another village or city. [ss. 66.0201 to 66.0213, Stats.] Consequently, incorporation is initiated in some cases as a defensive move to prevent annexation by a neighboring village or city. Also, for a five-year period after incorporation, the new city or village may not add any of the remaining town territory from which the city or village was created, except through the town consolidation process or through annexation by unanimous approval of the resident electors and property owners.⁸ [s. 66.02165, Stats.]

Incorporation Petition

The incorporation process begins with a notice of intention to circulate an incorporation petition, which must be published as a Class 1 notice in the relevant county and include a description of the territory involved. Persons who are both electors and property owners in the territory to be incorporated must file the timely and complete petition with the appropriate circuit court. The petition is timely if it is filed with a circuit court of the county where all or a major part of the territory to be incorporated is located within six months of the publication date of the notice. For a proposed city or village of fewer than 300 people, the petition is complete if at least 25 persons sign the petition. If the proposed city or village includes 300 or more people, then the minimum number of signatures is 50. [s. 66.0203 (1) and (2), Stats.]

Circuit Court Review

After a petition is properly filed, the circuit court conducts a hearing, which must be properly scheduled and noticed. Notice must be provided to each town in which the territory to be incorporated is located and to each municipality in the same metropolitan community as the territory.⁹ Municipalities given notice of the hearing and impacted school districts may become a

⁵ The *Lammers* doctrine remains valid law, but is rarely invoked because of overlapping statutory provisions.

⁶ For a discussion of this update, see Zeinemann, 39 Urb. Law. 257, at 294-298.

⁷ Wisconsin law allows for a town that is adjacent to a village that contains an electronics and information technology manufacturing zone to become a city or village by incorporation referendum alone. [s. 66.0203 (10), Stats.]

⁸ This limitation applies to an incorporation petition filed with the circuit court on January 1, 2020 or later. The specific initial applicability language can be found in [2021 Wisconsin Act 198](#) at SECTION 16, sub. (3).

⁹ A “metropolitan community” is the territory of a city having a population of 25,000, or 2 incorporated municipalities within 5 miles of each other with an aggregate population of 25,000, and all contiguous area that presently or will have within three years, as determined by DOA, a population density of 100 persons per square mile. [s. 66.0201 (2) (c), Stats.]

party to the incorporation proceeding prior to the hearing.¹⁰ [ss. 66.0203 (4), (5), and (8) and 66.0205, Stats.] At the hearing, the court must determine whether:

- The petition meets the form and signature requirements.
- Any of the area proposed for incorporation is subject to certain annexation proceedings.
- The area proposed for incorporation meets certain population, density, and area requirements.

In its consideration of an incorporation petition, the circuit court must consider any annexation proceeding initiated by electors and property owners, by a city or village’s referendum, or by a city’s or village’s ordinance for territory it owns. If one of these annexations was initiated before the notice of intention to circulate an incorporation petition, then the circuit court must wait until the annexation is final before referring the petition to the Review Board and must exclude any of the annexed territory from the area proposed to be incorporated. The process for determining which boundary procedure was initiated first is sometimes referred to as the “Rule of Prior Precedent.” If the annexation proceeding was initiated within 30 days after the notice, then it may only proceed if the incorporation proceeding is determined to be invalid.¹¹ Finally, an annexation proceeding is void if it was initiated more than 30 days after the notice. [s. 66.0203 (8), Stats.]

The total population, population density, and area requirements considered by the circuit court vary depending on the proximity of the area to a metropolitan village or city and whether incorporation as a village or a city is sought. If the required standards are not met, then the court dismisses the incorporation petition; if the standards are met and the incorporation petition is otherwise sufficient, then the court refers the petition to the Review Board.¹² [ss. 66.0203 (8) (b) and 66.0205, Stats.]

Circuit Court Standards			
	Area (sq/mi)	Population	Density (any one sq/mi)
Isolated Village	1/2	150	N/A
Isolated City	1	1,000	500
Metropolitan Village	2 (4)*	2,500	500
Metropolitan City	3 (6)*	5,000	750
*The larger area applies when the proposed boundary is within 10 miles of the boundary of a 1st class city or within five miles of the boundary of a 2nd or 3rd class city.			

Review Board and Referendum

In order to be approved by the Review Board, the proposed incorporation must meet statutory standards and be in the public interest.¹³ The statutory standards require the entire area

¹⁰ Wisconsin law also allows any municipality whose boundaries are contiguous to the territory to file a resolution, passed with two-thirds majority, indicating the municipality’s willingness to annex the territory designated in the petition. [s. 66.0203 (6), Stats.]

¹¹ If the annexation proceeding was initiated on the same date as the incorporation proceeding was noticed, the circuit court must determine which process began first on that date. [s. 66.0203 (8) (c) 4., Stats.]

¹² The Review Board may impose a fee under s. 16.53 (14), Stats., before beginning the review. [s. 66.0203 (9) (b), Stats.]

¹³ The Review Board consists of five members: (a) the Secretary of DOA (or designee); (b) two members appointed by the Wisconsin Towns Association; and (c) one member each appointed by the League of

proposed for incorporation be reasonably homogenous and compact and, in the case of an isolated city or village, have a reasonably developed community center. Additionally, territory beyond the core of proposed isolated cities or villages must meet certain housing or assessed value criteria and territory beyond the core of proposed metropolitan cities or villages must have the potential for residential or other substantial urban land development within the next three years. The Review Board's public interest determination must consider four factors: (1) tax revenue; (2) level of services; (3) impact on the remainder of the town; and (4) impact on the metropolitan community. The Review Board must make any necessary investigation to apply these standards and conduct a hearing upon the timely request of an interested party.¹⁴ [ss. 66.0203 (9) and 66.0207, Stats.]

The Review Board generally must forward its findings and determination to the circuit court within 180 days.¹⁵ The Review Board must either dismiss or grant the petition, or dismiss the petition with a recommendation to submit a revised petition.¹⁶ If an incorporation petition is approved by the Review Board, the circuit court must order a referendum to be held in the territory to be incorporated, unless the area proposed for incorporation is comprised of portions of only two towns. In that case, the town board of each town must adopt a resolution approving the incorporation before the referendum is ordered. A favorable referendum vote is necessary for the incorporation to take place.¹⁷ [ss. 66.0203 (4m), (8), (9) and 66.0211, Stats.]

Statutory incorporation standards have led to the dismissal of many proposed incorporations. Common reasons for failing to meet the standards include lack of a community identity and negative effects on neighboring communities. Because meeting the general incorporation standards is often difficult, the Legislature, on occasion, enacts special incorporation procedures to lessen the burden of incorporation for certain incorporation proposals. [See ss. 66.0215 and 66.02162, Stats.]

ANNEXATION

Annexation is the process of transferring local jurisdiction of territory from an unincorporated entity, such as a town, to an incorporated entity, such as a city or village. The expansion of a village or city, by annexing the territory of a town, causes municipal boundaries to shift. Much like incorporation, property owners or residents may seek annexation to increase access to public services, more robust government and planning, or finance options. Villages or cities may seek annexation to accommodate growth, increase tax revenues, or prevent a potential incorporation.

Wisconsin Municipalities and the Wisconsin Alliance of Cities. With the exception of the DOA Secretary, all board members serve in an advisory capacity. [s. 15.105 (23), Stats.]

¹⁴ The findings of both the Review Board and the circuit court must be based on the facts as they existed at the time of the filing of the petition. [s. 66.0203 (9) (g), Stats.]

¹⁵ The circuit court may set a different time limit. Also, the time period must be stayed if alternative dispute resolution is employed to resolve disputes between interested parties arising from the incorporation petition. [s. 66.0203 (9) (d) and (dm), Stats.]

¹⁶ No petition for the same or substantially similar territory may be filed for one year following a dismissal by the Review Board or rejection by electors, except when the petition is for territory recommended for a revised petition by the Review Board after a dismissal. [s. 66.0203 (9) (h), Stats.]

¹⁷ The validity of the incorporation cannot be challenged after 60 days from the date the certificate of incorporation is issued. [s. 66.0203 (7), Stats.]

Background

Early in statehood, the Legislature controlled changes to municipal boundaries through specific annexation laws. Often, the Legislature would specify the annexed territory in a standalone act, or would amend the act that originally created the municipality in order to grant that specific municipality the general power to annex adjacent territory.¹⁸

The first general annexation law applicable to more than one municipality was passed in 1889 and only applied to cities incorporated under the general charter law passed in the same act. [Ch. 326, Laws of 1889, SECS. 17 to 21.] Over the next 40 years, the Legislature expanded general annexation power to all cities and villages.¹⁹ The last substantial revision to annexation law was in the late 1950s and added an advisory review by the state director of regional planning, now the Municipal Boundary Review Section in DOA. [Ch. 676, Laws of 1957, and Ch. 261, Laws of 1959.]

In its current form, Wisconsin law contains several different procedures for annexation that are based upon whether an area's landowners or residents, or a city or village, initiates the process. In general, annexation involves: (1) an initiating petition; (2) notice of the annexation; (3) review by DOA; (4) acceptance or rejection by the village's or city's governing body; (5) a referendum of the electors residing in the territory to be annexed; and (6) any permitted challenges by impacted towns or citizens. However, not every step is required for each type of annexation, as described below. If an annexation is initiated around the same time as an incorporation, the rule of prior precedent, discussed in the incorporation section, applies.

With one exception, all the types of annexation require the annexed territory to be contiguous to the village or city and require the annexing municipality to either pay the town property taxes lost because of the annexation for five years or enter into a boundary agreement. Courts define contiguous as "some significant degree of physical contact between the properties in question." This "significant degree of physical contact" excludes narrow strips of land connecting the city or village to a larger parcel of territory, sometimes described as "balloon on a stick" annexations. [*Town of Delavan v. City of Delavan*, 176 Wis. 2d 516 (1993); *Town of Wilson*, 2020 WI 16, ¶¶ 18-19, 31.]

Because the annexation statutes contain few additional limits on the power to annex, courts developed the "rule of reason" test that generally is a check against the abuse of a village's or city's annexation power. The test has three requirements: (1) exclusions and irregularities in boundaries must not be the result of arbitrariness; (2) some reasonable present or demonstrable future need for the annexed property must be shown; and (3) no other factors must exist which would constitute an abuse of discretion. [*Town of Wilson v. City of Sheboygan*, 2020 WI 16, ¶ 25.]

Each type of annexation is described below, followed by a table summarizing the main characteristics of each annexation option.²⁰

¹⁸ For example, the Legislature extended the limits of the City of Manitowoc in 1891, as seen [here](#), and the Legislature granted the City of Superior the general power of annexation, as seen [here](#).

¹⁹ Chs. 214 and 312, Laws of 1893; Chs. 204, 245, and 316, Laws of 1895; Ch. 138, Laws of 1897; Ch. 78, Laws of 1899; Ch. 124, Laws of 1907; Ch. 242, Laws of 1921; Ch. 314, Laws of 1925; and Ch. 251, Laws of 1931.

²⁰ Wisconsin law also allows annexation of a town island that existed on December 2, 1973, and only allows the creation of town islands through annexation if the territory being annexed is the subject of a cooperative plan for a boundary change under s. 660301 (6) or 66.0307, Stats. [s. 66.0221, Stats.] Additionally, annexations to

Annexation by Unanimous Approval

The most commonly used type of annexation is direct annexation by unanimous approval.²¹ Under this procedure, involved property owners and any other resident electors petition the clerk of the adjacent city or village.²² The petition must include a scale map and legal description of the property to be annexed and must be filed with the town or towns where the territory is located. The territory must be contiguous to the annexing city or village.²³ [s. 66.0217 (2), Stats.]

In counties with a population of 50,000 or more, annexations initiated by electors and property owners require an advisory review conducted by the Municipal Boundary Review Section in DOA. While the review is advisory, it must be considered by the annexing city or village before an annexation ordinance may be passed. DOA's advisory review determines whether the proposed annexation is in the public interest, based on:

- Whether governmental services, including zoning, for the territory could clearly be better supplied by the town or by some other village or city whose boundaries are contiguous to the territory proposed for annexation.
- The shape of the proposed annexation and the homogeneity of the territory with the annexing municipality and any other contiguous city or village.

[s. 66.0217 (6), Stats.]

The Wisconsin Court of Appeals describes DOA's review of annexations as being only "in consideration of the objectives recognized by the Legislature—to prevent haphazard, unrealistic and competitive expansion of municipalities which disregards the overall public interest." [*Incorporation of the Town of Pewaukee*, 186 Wis. 2d 515, 525 (Ct. App. 1994).]

An annexation ordinance passed by a two-thirds vote of the city or village governing body is required.²⁴ Notably, city or village residents do not vote on this type of annexation. A town may only challenge this annexation in circuit court if DOA, upon the town's request, finds that the annexation violates the contiguity or same county requirements; the challenge is limited to these issues. [s. 66.0217 (2), (6) (d) 2., and (11) (c), Stats.]

Annexation by One-Half Approval

Under the annexation by one-half approval process, Wisconsin law provides two options for the initial petition to be filed with the city or village, with the appropriate option depending on whether any electors reside in the territory proposed for annexation. If no electors reside in the territory, then owners of either one-half of the area or one-half of the assessed value within the

cities of the first class have specific procedures that limit the equalized value of a school district that the annexation may remove. [s. 62.071, Stats.]

²¹ DOA states [here](#) that annexation by unanimous approval comprise over 90 percent of annexations in a typical year.

²² An intergovernmental cooperation agreement under s. 66.0301 (6) (d), Stats., or a boundary agreement in a cooperative plan under s. 66.0307 (7), Stats., may prevent using this procedure. [s. 66.0217 (2), Stats.]

²³ If no part of the city or village is located in the same county as the territory to be annexed, then the territory may not be annexed unless the town board adopts a resolution approving the proposed annexation or the annexation receives the unanimous approval of all owners and resident electors of the territory. [s. 66.0217 (14) (b) 1., Stats.]

²⁴ No territory may be annexed unless the city or village either agrees to pay the town, annually for five years, an amount equal to the property taxes the town received from the annexed territory or enters into a boundary agreement under s. 66.0225, 66.0301, or 66.0307, Stats. [s. 66.0217 (14) (a), Stats.]

territory are required to submit a petition for direct annexation with the city or village. If electors reside in the territory, then, in addition to one of the owner options above, the petition requires signatures from a number of qualified electors equal to at least the majority of votes cast for Governor in the territory at the last gubernatorial election. [s. 66.0217 (3) (a), Stats.]

The intention to circulate the annexation petition must be properly noticed and the petition must be properly and timely filed. For counties with a population of 50,000 or more, the above DOA review process applies. Within 60 days after filing the petition, the municipal governing body may accept, reject, or take no action on the petition. If the governing body accepts the petition through adoption of an annexation ordinance, then the annexation takes effect. If the governing body rejects the petition, then no further action may be taken on the petition. If the governing body takes no action on the petition, then a referendum may be held in the territory to be annexed on the request of at least 20 percent of the resident electors in that territory. If the result of the referendum is against annexation, then all previous proceedings are nullified. If the result is for the referendum, then the governing body may pass an annexation ordinance to make the annexation effective. [s. 66.0217 (4) to (8), Stats.]

Annexation by Citizen-Initiated Referendum

A petition for a referendum on the question of annexation may be filed with a city or village clerk if it is signed by a number of qualified electors equal to at least 20 percent of the votes cast for Governor in the territory at the last gubernatorial election and the owners of at least 50 percent of the real property either in area or assessed value. The remaining process is very similar to the process for an annexation by one-half approval, except that a referendum is required when the governing body takes no action on the petition. [s. 66.0217 (3) (b) and (7), Stats.]

Annexation by City- or Village-Initiated Referendum

A city's or village's governing body may adopt a resolution by a two-thirds vote declaring its intention to apply to the circuit court for an order requiring an annexation referendum in the territory proposed to be annexed. The governing body then must properly notice the resolution and timely file its application with the circuit court. Electors and property owners in the territory may prevent the referendum if either a number of electors equal to at least a majority of the votes cast for Governor in the territory at the last gubernatorial election or the owners of more than one-half of real property in assessed value file a petition with the circuit court.

If the circuit court determines the annexation resolution is sufficient, then the court orders a referendum. If voters accept the annexation, then the territory is annexed. If the voters reject the annexation, then no part of the territory involved may be included in another annexation attempt by the same municipality for six months following the referendum. [s. 66.0219, Stats.]

Annexation of Territory Owned by a City or Village

Another annexation procedure allows the annexation of territory located in a town but owned by a city or village, if the territory is nearby, but not necessarily contiguous to, the city or village. The municipality may enact an ordinance annexing the territory, provided that the use of any noncontiguous territory is not contrary to any town or county zoning ordinance and the territory is in the same county as the municipality. Territory not in the same county may be annexed if both the town board and the county board where the territory is located adopt a resolution approving the proposed annexation and the municipality and the town enter into a boundary agreement under s. 66.0225, 66.0301, or 66.0307, Stats. [s. 66.0223, Stats.]

Annexation Options					
	Initiating Party	Contiguous	Governing Body Approval	Territory Referendum	DOA Review
Unanimous	Landowners and any Electors	Yes	2/3 vote	No	50k County
One-half Approval	Landowners and any Electors	Yes	2/3 vote	If Petitioned*	50k County
Referendum	Landowners and Electors	Yes	2/3 vote	If Necessary*	50k County
City/Village Initiated Referendum	Governing Body	Yes	2/3 vote	Yes	No
City/Village Owned Territory	City/Village	No	Ordinance	No	No

*A referendum is conducted, if required, when the governing body fails to timely accept or reject a petition.

Stipulated Boundary Agreements

If an annexation is challenged in court, the parties to the litigation may enter into a written stipulation, compromising and settling the litigation and determining the portion of the boundary that is the subject of the annexation. The court with jurisdiction over the litigation may enter a final judgment establishing the boundary as specified in the stipulation. The stipulation must be approved by the governing body of each municipality. Resident electors may request a referendum by timely submitting a petition to the municipality that is signed by at least 20 percent of the resident electors. [s. 66.0225, Stats.]

CONSOLIDATION

Consolidation is a procedure that allows a town, village, or city to consolidate with another contiguous town, village, or city.²⁵ The first consolidation statute was passed in 1873.²⁶ The consolidation process was substantively changed most recently in 1959 when the Legislature added circuit court and executive branch review to the process. [Ch. 261, Laws of 1959, SEC. 6.]

Consolidation begins when the governing body of each affected unit of government passes, by a two-thirds vote, an ordinance fixing the terms of the consolidation. After adoption, the ordinances are submitted first to the circuit court for a determination of whether the ordinances comply with formal requirements and then to DOA for a determination of whether the proposed consolidation is in the public interest.²⁷ DOA's review is based on the same public interest standards that apply to incorporations, described above. If DOA determines that the

²⁵ A county may also consolidate with another county. This process may be initiated by county boards or by electors. After the counties enter a joint consolidation agreement, the electors vote on consolidation at a referendum. [s. 59.08, Stats.]

²⁶ The original consolidation statute described the process as "annexation," but that was changed to "consolidation" in 1921. [1873 Wis. Sess. Laws c. 234; 1921 Wis. Sess. Laws c. 396 s. 3.]

²⁷ Consolidation of contiguous towns is not subject to court or DOA review. [s. 66.0229, Stats.]

consolidation is in the public interest, then the electors in each municipality must approve by referendum the consolidation ordinances in order to effect the consolidation. [s. 66.0229, Stats.]

An alternative statutory procedure authorizes the consolidation of all or part of a town with a contiguous city or village.²⁸ The procedure requires adoption of an ordinance by a two-thirds vote by the governing body of each consolidating municipality and approval by a majority of the electors at a referendum. The consolidation is not required to be submitted to the circuit court or DOA, but several requirements must be met, including:

- The consolidating town and city or village must adopt identical resolutions describing the level of specified services that will be available to the consolidated city or village, including all of the following services: (1) public parks; (2) public health; (3) animal control; (4) library; (5) fire and emergency rescue; and (6) law enforcement.
- The town and the city or village must adopt identical resolutions that relate to the ownership or leasing of government buildings.
- The city or village must execute separate boundary agreements with each city, village, and town that borders the proposed consolidated city or village.
- The consolidating town and city or village must agree to adopt a comprehensive plan under s. 66.1001, Stats., for the consolidated city or village.
- At least a part of the consolidated city or village must receive sewage disposal services.

[s. 66.0230, Stats.]

DETACHMENT

Detachment is a process by which territory is transferred from one municipality to another. For example, territory can be detached from a city or village and attached to another contiguous city, village, or town. Most commonly, detachment is used to transfer city or village territory back into an unincorporated town.

The general detachment process is initiated when a majority of the owners of three-fourths of the territory's taxable land in area (or all property owners if there is no taxable property in the territory) publishes notice of the intent to circulate a detachment petition. The owners must then file the petition with the city or village from which detachment is sought. The city or village that will lose the territory must adopt an ordinance to detach the property, while the city, village, or town that will gain the territory must adopt an ordinance to attach the property. Each ordinance must be adopted by a vote of three-fourths of all members of the respective governing body, and a failure of either governing body to adopt the ordinance is a rejection of the petition and the proceedings are void. A referendum, initiated by either the governing body or electors, is an alternative to the governing body adopting an ordinance.²⁹ [s. 66.0227, Stats.]

Another detachment process exists for certain farm lands located in a city or village.³⁰ The process includes a petition by property owners, a noticed circuit court hearing, and a court

²⁸ Before a part of a town is consolidated with a city or village, which would leave a remnant of the town, the town must form an agreement with a city, village, or town that has a common boundary with the remnant allowing the town remnant to become part of the municipality. [s. 66.0230 (3), Stats.]

²⁹ A petition signed by a number of qualified electors equal to at least five percent of the votes cast for Governor in the last gubernatorial election is required for electors to initiate the referendum.

³⁰ The remaining city or village must be left reasonably compact with substantially regular boundaries.

order. The farm land's total territory must be at least 200 acres, and only property owners of at least 20 acres may sign the petition. The territory must have been in the city or village for at least 20 years, used exclusively for agricultural purposes, contain no public improvements, and not be platted. [ss. 61.74 and 62.075, Stats.]

BOUNDARY AGREEMENTS

Any combination of cities, villages, or towns may determine their shared boundary lines under a cooperative plan approved by DOA. The cooperative plan must include, among other things, a description of its consistency with the parties' comprehensive plans, a schedule and description of boundary changes and boundaries that cannot be changed, and a provision for delivery of municipal services to the territory covered by the plan.³¹ Local procedures for adopting a cooperative plan consist of an authorizing resolution, a public hearing, adoption of the final version of the plan (an extraordinary vote may be required), an optional advisory referendum, and submittal of the plan to DOA for approval. The default duration of a plan is 10 years, but it may be longer if agreed to by the parties and approved by DOA. [s. 66.0307, Stats.]

DOA must approve a cooperative plan if the plan meets statutorily specified criteria concerning all of the following: (1) the plan's consistency with applicable laws; (2) the plan's provision for municipal services; (3) the compatibility of any affected boundary with the characteristics of the surrounding community; (4) the shape of any affected boundary; and (5) the consistency of the plan with each participating municipality's comprehensive plan. Once a plan is approved, provisions in the plan that maintain existing boundaries, schedule any boundary changes, or schedule delivery of services are binding on the parties to the plan and have the force and effect of a contract. DOA may provide mediation services under a mediated agreement procedure for common boundary issues. The statutes encourage mediation by giving an advantage to the municipality that petitions DOA for mediation. [s. 66.0307 (4m), (5), and (6) Stats.]

INTERGOVERNMENTAL AGREEMENTS

Legislation from a joint Legislative Council Special Committee on Municipal Annexations created the ability for immediately adjacent municipalities to determine the location of their common boundary lines in intergovernmental agreements. [2007 Wisconsin Act 43.] These agreements may be used by municipalities that wish to make minor changes in their common boundaries or that wish to enter into an initial, shorter-term agreement before developing a cooperative plan, as described above.

The agreement may include required, optional, or conditional boundary line changes. The agreement's maximum term may be 10 years and when the agreement expires, the boundaries determined under the agreement remain in effect while the rest of the provisions expire. The governing body of each municipality must approve the agreement by resolution after holding a public hearing. The agreement is subject to a referendum if a petition is filed that is signed by at least 20 percent of the electors residing in the territory whose jurisdiction is subject to change. Notably, no state approval is required. [s. 66.0301 (6), Stats.]

This information memorandum was prepared by Patrick Ward, Staff Attorney, on February 23, 2022 (revised May 23, 2022).

³¹ A comprehensive plan is a guide to the physical, social, and economic development of a local government. [s. 66.1001, Stats.]