ASSEMBLY BILL 260 (LRB-1391)

An Act to renumber 236.45 (3); and to create 236.45 (3) (b) of the statutes; relating to: extraterritorial plat approval on basis of land's use.

2009							
05-08.	A.	Introduced by Representatives Smith, Jorgensen, Roth, Hubler, Schneider, Vruwink, Danou, Fields, Clark, Dexter, Ripp, Kerkman, Kestell, Bies, Brooks, Gunderson, A. Ott, Ballweg and Suder; cosponsored by Senators Kreitlow, Vinehout, Holperin, Harsdorf and Olsen.					
05-08.	A.		173				
09-23.	A.	Public hearing held.					
10-22.	A.	Executive action taken.					
11-16.	A.						
11-16.	A.	Referred to committee on Rules					
2010							
02-17.	A.	Placed on calendar 2-23-2010 by committee on Rules.					
02-23.	A.	Read a second time	685				
02-23.	A.	Assembly amendment 1 offered by Representatives Berceau and Molepske Jr. (LRB a1646)	685				
02-23.	A.	Assembly amendment 1 laid on table, Ayes 56, Noes 39					
02-23.	A.	Assembly amendment 2 offered by Representatives Berceau and Molepske Jr. (LRB a1641)					
02-23.	A.	Point of order that Assembly amendment 2 not germane well taken	686				
02-23.	A.	Ordered to a third reading	686				
02-23.	A.	Rules suspended	686				
02-23.	A.	Read a third time and passed	686				
02-23.	A.	Representative Hilgenberg added as a coauthor	685				
02-23.	A.	Ordered immediately messaged	686				
02-24.	S.	Received from Assembly					
02-26.	S.	Read first time and referred to committee on Rural Issues, Biofuels, and Information Technology					
03-03.	S.	Executive action taken.					
03-04.	S.	Report concurrence recommended by committee on Rural Issues, Biofuels, and Information Technology,					
		Ayes 5, Noes 0	614				
03-04.	S.	Available for scheduling.					
04-14.	S.	Placed on calendar 4-15-2010 pursuant to Senate Rule 18(1).					
04-15.	S.	Read a second time.					
04-15.	S.	Refused to refer to committee on Senate Organization, Ayes 11, Noes 22.					
04-15.	S.	Senate amendment 1 offered by Senator Lassa (LRB a2238).					
04-15.	S.	Senate amendment 1 rejected, Ayes 25, Noes 8.					
04-15.	S.	Ordered to a third reading.					
04-15.	S.	Rules suspended.					
04-15.	S.	Read a third time and concurred in , Ayes 27, Noes 6.					
04-15.	S.	Ordered immediately messaged.					
04-15.	A.	Received from Senate concurred in.					



2009 ENROLLED BILL

ADOPTED	DOCUMENT	S:		
Orig	□ Engr	SubAmdt		09 - 1391/1
Amendmen	its to above (i	f none, write "NONE"):_None	2
Corrections	s - show date	(if none, write "NON	E"): Non	<u>e</u>
Topic	Pel			
		4-/6-/0 Date	Enrolli	ng Drafter

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LRB-1391/1 PJK&MES:nwn:rs

2009 ASSEMBLY BILL 260

May 8, 2009 – Introduced by Representatives Smith, Jorgensen, Roth, Hubler, Schneider, Vruwink, Danou, Fields, Clark, Dexter, Ripp, Kerkman, Kestell, Bies, Brooks, Gunderson, A. Ott, Ballweg and Suder, cosponsored by Senators Kreitlow, Vinehout, Holperin, Harsdorf and Olsen. Referred to Committee on Renewable Energy and Rural Affairs.

- AN ACT to renumber 236.45 (3); and to create 236.45 (3) (b) of the statutes;
- 2 **relating to:** extraterritorial plat approval on basis of land's use.

Analysis by the Legislative Reference Bureau

Current law specifies whether a county, town, city, or village has the right to approve or object to a plat (the map of a subdivision). Generally, the location of the subdivision determines which local governmental unit or units have the right to approve the plat. However, if a subdivision lies in the unincorporated area within three miles of the corporate limits of a first, second, or third class city, or within one and one-half miles of a fourth class city or village, the governing body of the city or village has the right to approve the plat under its extraterritorial plat approval jurisdiction, as well as the board of the town within which the subdivision lies and the planning agency of the county within which the subdivision lies if the planning agency employs on a full-time basis a professional engineer, a planner, or another person charged with administering zoning or other planning legislation. Approval of a plat is conditioned on, among other things, the plat's compliance with the local ordinances and a comprehensive, master, or development plan of the local governmental unit or units that have the right to approve the plat.

In Wood v. City of Madison, 2003 WI 24, 260 Wis. 2d 71, 659 N.W. 2d 31, the Wisconsin Supreme Court determined that a city with extraterritorial plat approval jurisdiction over a plat could object to the plat on the basis of the proposed use of land outside the city limits. Wood overruled Boucher Lincoln-Mercury v. Madison Plan Comm., 178 Wis. 2d 74, 503 N.W. 2d 265 (Ct. App. 1993), which held that extraterritorial plat approval or denial based on the use of the land in the plat is

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unilateral land use control (or zoning), and that the statutes require extraterritorial zoning to be a cooperative effort between the city and the town in which the zoning ordinance is in effect.

This bill prohibits a municipality (city or village) from denying approval of a plat or certified survey map on the basis of the proposed use of land within the extraterritorial plat approval jurisdiction of the municipality unless the denial is based on a plan or regulations adopted under the statute referred to in *Boucher Lincoln–Mercury* that sets out the requirements for the cooperative effort between the municipality and the town for extraterritorial zoning.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 236.45 (3) of the statutes is renumbered 236.45 (3) (a).

SECTION 2. 236.45 (3) (b) of the statutes is created to read:

236.45 (3) (b) Notwithstanding par. (a) and subs. (1) and (2), a municipality may not deny approval of a plat or certified survey map under this section or s. 236.10 or 236.13 on the basis of the proposed use of land within the extraterritorial plat approval jurisdiction of the municipality, unless the denial is based on a plan or regulations, or amendments thereto, adopted by the governing body of the municipality under s. 62.23 (7a) (c).

SECTION 3. Initial applicability.

(1) This act first applies to preliminary plats or, in cases in which no preliminary plats are submitted, final plats, and to certified survey maps, that are submitted for approval on the effective date of this subsection.

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