

State of Wisconsin



2023 Senate Bill 826

Date of enactment: **March 29, 2024**

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2023 WISCONSIN ACT 264

AN ACT *to repeal* 60.23 (34) (c) 4.; *to renumber and amend* 66.0307 (7m); *to amend* 59.69 (3) (b), 59.69 (5) (c), 59.69 (5) (e) 7., 59.69 (7), 60.23 (34) (title), 60.62 (6) (a), 61.353 (5), 61.353 (6), 62.233 (5), 62.233 (6), 66.0227 (4), 236.10 (1m) (a) and 236.34 (2m) (a); and *to create* 60.23 (35) and 60.62 (7) of the statutes; **relating to:** town withdrawals from county zoning and the effect of a jurisdiction change on zoning provisions.

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

SECTION 2. 59.69 (3) (b) of the statutes is amended to read:

59.69 (3) (b) The development plan shall include the master plan, if any, of any city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any, of such city or village, that was adopted under s. 62.23 (6) in the county, without change. In counties with a population of at least 485,000 containing towns that have withdrawn from county zoning under s. 60.23 (34) or (35), the development plan shall also include, and integrate, the master plan and the official map of a town that was adopted under s. 60.23 (35) (a) 3. or 60.62 (6) (a) or (b), without change.

SECTION 3. 59.69 (5) (c) of the statutes is amended to read:

59.69 (5) (c) A county ordinance enacted under this section shall not be effective in any town until it has been approved by the town board. If the town board approves an ordinance enacted by the county board, under this section, a certified copy of the approving resolution attached to one of the copies of such ordinance submitted to the town board shall promptly be filed with the county clerk by the town. The ordinance shall become

effective in the town as of the date of the filing, which filing shall be recorded by the county clerk in the clerk's office, reported to the town board and the county board, and printed in the proceedings of the county board. The ordinance shall supersede any prior town ordinance in conflict therewith or which is concerned with zoning, except as provided by s. 60.62. A town board may withdraw from coverage of a county zoning ordinance as provided under s. 60.23 (34) or (35).

SECTION 4. 59.69 (5) (e) 7. of the statutes is amended to read:

59.69 (5) (e) 7. When any lands previously under the jurisdiction of a county zoning ordinance have been finally removed from ~~such~~ the county's jurisdiction by reason of annexation to an incorporated municipality, and after the ordinance and any regulations, approvals, and conditions imposed by under the county zoning ordinance have ceased to be effective as provided in sub. (7), the board may, on the recommendation of its zoning agency, enact amendatory ordinances that remove or delete the annexed lands from the official zoning map or written descriptions without following any of the procedures provided in subds. 1. to 6., and ~~such~~ the amendatory ordinances shall become effective upon enactment and publication. A copy of the ordinance shall be for-

* Section 991.11, WISCONSIN STATUTES: Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication."

warded by the clerk to the clerk of each town in which the lands affected were previously located. Nothing in this paragraph shall be construed to nullify or supersede s. 66.1031.

SECTION 5. 59.69 (7) of the statutes is amended to read:

59.69 (7) CONTINUED EFFECT OF ORDINANCE. ~~Whenever~~ If an area which that has been subject to a county zoning ordinance petitions to become part of a city or village, the ~~regulations imposed by the county zoning ordinance shall continue and any regulations, approvals, and conditions imposed under the county zoning ordinance continue~~ in effect, without change, and shall be enforced by the city or village until the regulations have been ordinance or the particular regulation, approval, or condition is specifically changed by official action of the governing body of the city or village, ~~except that in the event, If an ordinance of annexation is contested in the courts, the county zoning shall prevail ordinance and any regulations, approvals, and conditions imposed under the ordinance continue in effect, and the county shall have retains jurisdiction over the zoning in the area affected until ultimate determination final disposition of the court action. This subsection does not expand or modify the authority of a city or village to change a zoning ordinance, any regulation, approval, or condition imposed under a zoning ordinance, or any nonconforming use.~~

SECTION 6. 60.23 (34) (title) of the statutes is amended to read:

60.23 (34) (title) TOWN WITHDRAWAL FROM COUNTY ZONING; ~~CERTAIN POPULOUS COUNTIES.~~

SECTION 6m. 60.23 (34) (c) 4. of the statutes is repealed.

SECTION 7. 60.23 (35) of the statutes is created to read:

60.23 (35) TOWN WITHDRAWAL FROM COUNTY ZONING. (a) Subject to subds. 1. and 2., after 5 years after the effective date of this paragraph [LRB inserts date], enact an ordinance withdrawing the town from coverage of a county zoning ordinance that was approved under s. 59.69 (5) (c) and from coverage by a county development plan that was enacted under s. 59.69 (3) (a). An ordinance enacted under this paragraph may not take effect until all of the following occur:

1. Not later than 2 years before enacting an ordinance under this paragraph, the town adopts a resolution of the town's intent to enact an ordinance under this paragraph and provides a copy of the resolution to the county clerk.

2. Not earlier than 2 years and not later than 3 years after adopting the resolution under subd. 1., the town adopts a resolution informing the county of the town's withdrawal from coverage of the county's zoning ordi-

nances, and the town sends certified copies of the documents under subd. 3. to the county clerk.

3. Not later than the effective date of the resolution adopted under subd. 2., the town enacts a zoning ordinance under s. 60.62, a comprehensive plan under s. 66.1001, and an official map under s. 62.23 (6).

(am) The authority of a town board to withdraw a town from coverage of a county zoning ordinance and from coverage by a county development plan under this subsection does not apply to those portions of the county zoning ordinance or county development plan that regulate quarry operations as defined in s. 66.0441 (2) (h).

(b) Nothing in this subsection authorizes a town to withdraw from a county shoreland zoning ordinance under s. 59.692 or a county floodplain zoning ordinance under s. 87.30.

SECTION 8. 60.62 (6) (a) of the statutes is amended to read:

60.62 (6) (a) Not later than 60 days before a town board that wishes to withdraw from county zoning and the county development plan under s. 60.23 (34) may enact an ordinance under s. 60.23 (34), the town board shall enact a zoning ordinance under this section, an official map under s. 62.23 (6), and a comprehensive plan under s. 66.1001.

SECTION 9. 60.62 (7) of the statutes is created to read:

60.62 (7) (a) If a town withdraws from coverage of a county zoning ordinance under s. 60.23 (34) or (35), the ordinance and any regulations, approvals, and conditions imposed under the ordinance continue in effect until the ordinance or the particular regulation, approval, or condition is specifically changed by official action of the town. This paragraph does not expand or modify the authority of a town to change a zoning ordinance, any regulation, approval, or condition imposed under a zoning ordinance, or any nonconforming use.

(b) If a town that has been subject to a town zoning ordinance adopts a resolution under s. 59.69 (5) (c) approving the application of a county zoning ordinance within any part of the town, the town zoning ordinance and any regulations, approvals, and conditions imposed under the town zoning ordinance, that are applicable to the area within the town for which the application of the county zoning ordinance is approved, continue in effect until the town zoning ordinance or the particular regulation, approval, or condition is specifically changed by official action of the county. This paragraph does not expand or modify the authority of a town to change a zoning ordinance, any regulation, approval, or condition imposed under a zoning ordinance, or any nonconforming use.

SECTION 10. 61.353 (5) of the statutes is amended to read:

61.353 (5) Provisions of a county shoreland zoning ordinance under s. 59.692 and any regulations, approvals, and conditions imposed under the ordinance that were applicable, prior to annexation, to any shoreland annexed by a village after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing village until the effective date of an ordinance enacted by the village under sub. (2).

SECTION 11. 61.353 (6) of the statutes is amended to read:

61.353 (6) Provisions of a county shoreland zoning ordinance under s. 59.692 and any regulations, approvals and conditions imposed under the ordinance that were applicable prior to incorporation to any shoreland that is part of a town that incorporates as a village under s. 66.0203, 66.0211, or 66.0213 after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated village until the effective date of an ordinance enacted by the village under sub. (2).

SECTION 12. 62.233 (5) of the statutes is amended to read:

62.233 (5) Provisions of a county shoreland zoning ordinance under s. 59.692 and any regulations, approvals, and conditions imposed under the ordinance that were applicable, prior to annexation, to any shoreland annexed by a city after May 7, 1982, shall continue in effect and shall be enforced after annexation by the annexing city until the effective date of an ordinance enacted by the city under sub. (2).

SECTION 13. 62.233 (6) of the statutes is amended to read:

62.233 (6) Provisions of a county shoreland zoning ordinance under s. 59.692 and any regulations, approvals, and conditions imposed under the ordinance that were applicable prior to incorporation to any shoreland that is part of a town that incorporates as a city under s. 66.0203, 66.0211, 66.0213, or 66.0215 after April 30, 1994, shall continue in effect and shall be enforced after incorporation by the incorporated city until the effective date of an ordinance enacted by the city under sub. (2).

SECTION 14. 66.0227 (4) of the statutes is amended to read:

66.0227 (4) If an area ~~which~~ that has been subject to a city or village zoning ordinance is detached from one municipality and attached to another under this section, ~~the regulations imposed by the zoning ordinance and any regulations, approvals, and conditions imposed under the ordinance~~ continue in effect ~~and shall be enforced by the attaching city, village or town until the ordinance or the particular regulation, approval, or condition is specifically~~ changed by official action of the governing body of the municipality, ~~except that if~~. If the detachment or attachment is contested in the courts, the zoning ordinance and any regulations, approvals, and conditions imposed under the ordinance of the detach-

ing municipality ~~prevails~~ continue in effect, and the detaching city or village ~~has~~ retains jurisdiction over the zoning in the area affected until ~~ultimate determination final disposition~~ of the court action. This subsection does not expand or modify the authority of a municipality to change a zoning ordinance, any regulation, approval, or condition imposed under a zoning ordinance, or any nonconforming use.

SECTION 15. 66.0307 (7m) of the statutes is renumbered 66.0307 (7m) (a) and amended to read:

66.0307 (7m) (a) If a town is a party to a cooperative plan with a city or village, the town and city or village may agree, as part of the cooperative plan, to authorize the town, city, or village to ~~adopt~~ enact a zoning ordinance under s. 60.61, 61.35, or 62.23 for all or a portion of the town territory covered by the plan. The exercise of zoning authority by a town under this subsection paragraph is not subject to s. 60.61 (3) or 60.62 (3).

(b) 1. If a county zoning ordinance applies to the town territory covered by ~~the~~ a cooperative plan subject to an agreement under par. (a), that ordinance and ~~amendments to it~~ any regulations, approvals, and conditions imposed under the ordinance continue in effect until ~~a zoning the ordinance is adopted under this subsection, or the particular regulation, approval, or condition is specifically~~ changed by official action of the town, city, or village with authority to enact a zoning ordinance under the agreement under par. (a). This subdivision does not expand or modify the authority of a town, city, or village to change a zoning ordinance, any regulation, approval, or condition imposed under a zoning ordinance, or any nonconforming use.

2. If a zoning ordinance is ~~adopted~~ enacted under this subsection par. (a), that zoning ordinance ~~continues~~ and any regulations, approvals, and conditions imposed under the ordinance continue in effect after the planning period ceases until ~~a different zoning ordinance for the territory is adopted the ordinance or the particular regulation, approval, or condition is specifically~~ changed under other applicable law.

(c) This subsection does not affect zoning ordinances adopted under s. 59.692 or 87.30 or ch. 91.

SECTION 16. 236.10 (1m) (a) of the statutes is amended to read:

236.10 (1m) (a) Except as provided in par. (b), a county planning agency under sub. (1) (b) 3. or (c) 2. has no authority to approve or object to the preliminary or final plat of a subdivision that is located in a town that has, before the preliminary plat is submitted for approval, or before the final plat is submitted for approval if no preliminary plat is submitted, enacted an ordinance under s. 60.23 (34) ~~or (35)~~ withdrawing the town from county zoning and the county development plan.

SECTION 17. 236.34 (2m) (a) of the statutes is amended to read:

236.34 (2m) (a) Except as provided in par. (b), a county planning agency under s. 236.10 (1) (b) 3. or (c) 2. has no authority to approve or object to a certified survey map that divides land that is located in a town that

has, before the certified survey map is submitted for approval, enacted an ordinance under s. 60.23 (34) or (35) withdrawing the town from county zoning and the county development plan.
