

**1999 DRAFTING REQUEST**

**Bill**

Received: **10/5/98**

Received By: **shoveme**

Wanted: **As time permits**

Identical to LRB:

For: **Wayne Wood (608) 266-7503**

By/Representing: **Dottie**

This file may be shown to any legislator: **NO**

Drafter: **shoveme**

May Contact: **Don Dyke, 6-0292**

Alt. Drafters:

Subject: **Munis - miscellaneous**

Extra Copies:

**Topic:**

Town land use planning, residential development in towns, annexation limits

**Instructions:**

See Attached. Redraft 1997 AB 838 (-1980/3), based on 1995-96 WLCS 0252/P8; add 1997 a1944/1; The bill prohibits residential development in a town outside of a planned "residential transition area", subject to some exceptions

**Drafting History:**

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	shoveme 10/6/98	gilfokm 10/13/98		_____			S&L
/1		gilfokm 12/15/98	jfrantze 10/14/98	_____	lrb_docadmin 12/16/98	lrb_docadmin 12/17/98	
			jfrantze 12/16/98	_____			

FE Sent For:

02-04-99

<END>

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*add a 1944/1*

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1?	shoveme	1-12-14	10/13	10/14			
11	MES 10/6/98						
	FE Sent For:		10/16	10/16			

*11 MES 10/6/98*

*10/13*  
*10/16*  
*10/16*

FE Sent For:

*END*  
*10/16*

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Due Tues or Wed, 12/15 or 12/16

**1997 ASSEMBLY BILL 838**

Kg  
PMNR

February 25, 1998 - Introduced by Representatives WOOD and KELSO, cosponsored by Senator RISSER. Referred to Committee on Urban and Local Affairs.

regen

1 AN ACT to amend 60.10 (2) (h), 60.61 (3) (intro.), 60.62 (3), 66.021 (2) (intro.),  
2 66.024 (intro.) and 66.025; and to create 15.105 (14), 16.965, 20.505 (4) (if) and  
3 66.011 of the statutes; relating to: limitations on residential development in  
4 towns, plans for residential development in towns, limitations on annexation  
5 of town territory, creating the land use board and making an appropriation.

**Analysis by the Legislative Reference Bureau**

Currently, in general, there are no statutory provisions that restrict residential development in towns. Also under current law, town territory that is contiguous to any city or village may be annexed to that city or village under several methods. Two of the methods are: 1) direct annexation, under which a petition for annexation that was signed by the required number of electors and landowners is filed with the city or village clerk; and 2) annexation by referendum, under which a petition for referendum that was signed by the required number of electors and landowners is filed with the city or village clerk and a referendum is held and passes in the town. Under both of these methods, in a county with a population of at least 50,000, the department of administration (DOA) is authorized to mail to the clerks of the town and city or village involved in the proposed annexation a notice that states that in the opinion of DOA, the annexation is against the public interest. Upon receiving such notice, the annexing municipality is required to review DOA's advice before final action is taken.

Subject to 2 general exceptions, this bill prohibits residential development in a town outside of a "residential transition area." Such an area is defined as town

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territory that is identified as a transition area by a town plan that is prepared according to procedures that are created in the bill. The exceptions to the general prohibition on residential development are for certain dwellings on farmland and for residential development on a lot that, on the effective date of the bill, is included in a preliminary or final subdivision plat that has been submitted for approval or in a subdivision plat that has been recorded if the development is permitted by an existing zoning ordinance or to which no zoning ordinance applies.

Also under the bill, no city or village may annex any town territory unless the town board of the town from which the territory is proposed to be annexed adopts a plan according to the requirements under the bill and the governing body of the city or village agrees to the town plan. Under certain circumstances, approval of the plan by DOA is required and the prohibition on annexation continues until DOA either approves or disapproves the plan.

Under the bill, the adoption by a town of a plan that designates a residential transition area requires a number of steps and procedures. The town plan may be prepared by a single town, or may be cooperatively developed by any combination of cities, villages and towns. The required steps and procedures include notice to DOA and other state agencies, the clerks of various units of government that have any of their territory within ~~5~~ miles of the town, the clerk of the county in which the town is located and any county zoning agency or regional planning commission whose jurisdiction includes the town; public hearing requirements; and public comment requirements. The plan is also required to have a number of elements and must address a number of goals, unless the required elements or goals are inapplicable to or incompatible with the town plan and the reasons for the inapplicability or incompatibility are stated in the plan.

Required plan elements include a statement to guide future growth and development of the town, a statement of objectives to protect the environment, a statement of how the plan is consistent with the goals that are addressed in the plan, a land use element, a transportation element, a utility and facility element, an implementation element and a boundary element. Goals that must be addressed by the plan include a settlement pattern goal, a quality of wildlife and land resources goal, a recreation goal, a housing goal and a public services and utilities goal.

The requirements for establishing a town plan vary depending on whether the town has a common boundary with a city or village and on the proximity of the residential transition area to a city or village. If a town has a common boundary with a city or village, the town may establish a residential transition area within the town's "transition area jurisdiction", which is defined as the unincorporated area within ~~1.5~~ miles of the corporate limits of a ~~1st~~, ~~2nd~~ or ~~3rd~~ class city, or within 1.5 miles of a ~~4th~~ class city or a village, if the town board approves a plan, if the city or village approves the plan and, if necessary, DOA approves the plan. If a town has a common boundary with a city or village, the town may establish a residential transition area outside of the town's transition area jurisdiction if, in addition to the requirements for establishing a residential transition area within the town's transition area jurisdiction, any other town with which the town has a common border approves the town plan. If the town has no common boundaries with a city or village, the town may

*five*

*first*

*second*

*third*

*three*  
*fourth*

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establish a residential transition area within the town if the town adopts a plan as provided in the bill. If a town plan is adopted by a town in a county with a population of at least 50,000, any elector of the town adopting the plan or of a city or village agreeing to the plan may request that DOA review and approve the plan. DOA is required to approve the plan if it complies with the required plan elements and is consistent with the goals that the plan must address. DOA's decision to approve or disapprove a town plan is subject to judicial review.

five  
If a town and a city or a village, or a town and another town, are unable to reach an agreement on the provisions of a town plan a mediation committee, which is made up of ~~5~~ five appointees of the county executive or chair of the county board, is required to resolve the dispute upon the request of one of the parties and determine the provisions of the town plan. The committee's decision is considered to be an agreement between the parties on the town plan, except that the committee's decision is subject to review by the state land use board, which is created in the bill. The land use board is required to resolve the dispute upon the request of one of the parties and determine the provisions of the town plan. The board's decision is considered to be an agreement between the parties on the town plan, except that the board's decision is subject to judicial review.

A town plan that is agreed to by a city or village and, if necessary, approved by DOA, is binding to the extent that it designates a residential transition area and to the extent that the plan provides for boundary freezes or adjustments. The plan may also specify other elements of the plan that, if agreed upon, are binding. Unless a city or village agrees to do so, no town plan may require a city or village to provide or extend public services or make public improvements.

Under the bill, no residential development may commence in the residential transition area until a zoning ordinance, that is consistent with the town plan, is in effect. The town may enact a zoning ordinance, notwithstanding current law limitations on the exercise of town zoning in relation to county zoning, or the town may choose to continue to operate under the zoning ordinance of another jurisdiction that applies to town territory that is included in the plan. The zoning provisions in the bill do not affect shoreland, wetlands or exclusive agricultural zoning, or airport approach ordinances.

A town plan may be amended during the term of the plan that is specified in the original plan. An amendment to a town plan is subject to agreement by the same city, village or other town that approved the original plan, and to DOA approval if DOA had to approve the original plan. If the amendment to the plan proposes to change or freeze a municipal boundary, or change the designation of a residential transition area, the same procedures that are required for the original plan must be followed for the amendment, otherwise an expedited procedure, which does not include the same hearing requirements, may be used in most cases.

**ASSEMBLY BILL 838**

For further information see the *state and local* fiscal estimate, which will be printed as an appendix to this bill.

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

1           **SECTION 1.** 15.105 (14) of the statutes is created to read:

2           15.105 (14) LAND USE BOARD. (a) *Creation.* There is created a land use board  
3 attached to the department of administration under s. 15.03.

4           (b) *Members.* The board consists of 3 members, to serve for 3-year terms.  
5 Members may be removed from the board only for just cause.

6           (c) *Meetings.* The chairperson shall call a meeting of the board as soon as  
7 possible after receiving a copy of a resolution that is described in s. 66.011 (10) (c) and  
8 (11) (c).

9           **SECTION 2.** 16.965 of the statutes is created to read:

10          **16.965 Land use board.** (1) DEFINITION. In this section, “board” means the  
11 land use board.

12          (2) BOARD DUTIES. (a) The board shall resolve disputes between a town and a  
13 city or village, or between 2 or more towns, that relate to a town plan that is adopted  
14 by a town under s. 66.011 and results in a dispute that is described in s. 66.011 (10)  
15 (c) and (11) (c). After reviewing the documents that are submitted to the board by  
16 the parties to the dispute, the board shall issue a written decision that determines  
17 the contents of a town plan, as described in s. 66.011 (10) (c) and (11) (c).

18          **SECTION 3.** 20.505 (4) (if) of the statutes is created to read:

19          20.505 (4) (if) *Land use board.* A sum sufficient for the general program  
20 operations of the board under s. 16.965.

21          **SECTION 4.** 60.10 (2) (h) of the statutes is amended to read:



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1           60.10 (2) (h) *Exercise of certain zoning authority.* ~~In~~ Except as provided in s.  
2 66.011 (13) (b), in a town located in a county which has enacted a zoning ordinance  
3 under s. 59.69, authorize, under s. 60.62 (2), the town board to enact town zoning  
4 ordinances under s. 61.35.

5           **SECTION 5.** 60.61 (3) (intro.) of the statutes is amended to read:

6           60.61 (3) EXERCISE OF AUTHORITY. (intro.) ~~Before~~ Except as provided in s. 66.011  
7 (13) (b), before exercising authority under sub. (2), the town board shall petition the  
8 county board to initiate, at any regular or special meeting, action to enact a county  
9 zoning ordinance under s. 59.69. The town board may proceed under sub. (2) if:

10          ✓ **SECTION 6.** 60.62 (3) of the statutes is amended to read:

11          60.62 (3) ~~In~~ Except as provided in s. 66.011 (13) (b), in counties having a county  
12 zoning ordinance, no zoning ordinance or amendment of a zoning ordinance may be  
13 adopted under this section unless approved by the county board.

14          **SECTION 7.** 66.011 of the statutes is created to read:

15          **66.011 Residential development in towns; town plans; and annexation**  
16 **of town territory. (1) DEFINITIONS.** In this section:

17          (a) "Agricultural use" has the meaning given in s. 91.01 (1).

18          (b) "Common boundary" means the area at which the boundary of a city, village  
19 or town meets the boundary of another city, village or town, except that a common  
20 boundary must be greater than a single point of intersection between the 2  
21 municipalities.

22          (c) "Department" means the department of administration.

23          (d) "Dwelling" means any building that contains ~~one~~ or 2 dwelling units or an  
24 apartment building, rowhouse, town house, condominium or manufactured  
25 building, as defined in s. 101.71 (6), that does not exceed 60 feet in height or 6 stories

*Prop. a/ stats.*

*1*

**ASSEMBLY BILL 838**

1 and that consists of 3 or more attached dwelling units the initial construction of  
2 which is begun on or after January 1, 1993. "Dwelling" does not include a facility  
3 licensed under ch. 50.

4 (dm) "Dwelling unit" means a structure or that part of a structure which is used  
5 or intended to be used as a home, residence or sleeping place by one person or by 2  
6 or more persons maintaining a common household, to the exclusion of all others.  
7 "Dwelling" does not include a facility licensed under ch. 50.

8 (e) "Farmland" means a parcel of 35 or more acres of contiguous real property  
9 that is in agricultural use, ~~as defined in s. 91.01(1)~~ and that customarily produces,  
10 each year, not less than \$6,000 in gross farm profits resulting from agricultural use.

11 (f) "Municipality" means a city, village or town.

12 (g) "Residential development" means the construction of a dwelling, other than  
13 the construction of a dwelling on farmland which is occupied by any of the following:

14 1. An owner, as defined in s. 91.01 (9), of the parcel.

15 2. A person who, or a family at least one adult member of which, earns the  
16 majority of his or her gross income from conducting the farm operations on the parcel.

17 3. A parent or child of an owner who conducts the majority of the farm  
18 operations on the parcel.

19 4. A parent or child of an owner who resides on the parcel and who previously  
20 conducted the majority of the farm operations on the parcel.

21 (h) "Residential transition area" means that territory of a town identified as a  
22 transition area by a town plan that is approved under this section.

23 (i) "Transition area jurisdiction" means the unincorporated area within 3 miles  
24 of the corporate limits of a 1st, 2nd or 3rd class city, or within 1.5 miles of a 4th class  
25 city or a village, ~~if~~ <sup>except that if</sup> transition area jurisdictions overlap, the transition area of each

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1 city or village shall be determined by dividing the overlapping area <sup>is the</sup> on a line, all <sup>divided by</sup>  
2 points of which are equidistant from the boundaries of each city or village.

3 (2) AREAS WHERE RESIDENTIAL DEVELOPMENT PROHIBITED. Residential  
4 development may not occur in a town outside of a residential transition area, except  
5 that residential development may occur on a lot that, on the effective date of this  
6 subsection .... [revisor inserts date], is included in a preliminary or final subdivision  
7 plat that has been submitted for approval under s. 236.11 or in a subdivision plat that  
8 has been recorded under s. 236.25 if the residential development is permitted by a  
9 zoning ordinance that is in effect on the effective date of this subsection .... [revisor  
10 inserts date], or if no zoning ordinance applies to the lot. This subsection does not  
11 prevent the enactment of a zoning ordinance on or after the effective date of this  
12 subsection .... [revisor inserts date], that prevents or regulates residential  
13 development on the lot, subject to sub. (13).<sup>✓</sup>

14 (3) ANNEXATION LIMITATIONS. (a) After the effective date of this paragraph ....  
15 [revisor inserts date], no city or village may annex any town territory under s. 66.021,  
16 66.024 or 66.025 unless the town board of a town from which territory is proposed  
17 to be annexed adopts a plan under this section and the governing body of the city or  
18 village agrees to the plan under sub. (10). If the governing body of the city or village  
19 agrees to the town plan under sub. (10), annexation and other boundary changes are  
20 subject to sub. (18).

21 (b) If the governing body of a city or village agrees to a town plan under sub.  
22 (10) and department approval of the plan is necessary under sub. (14), the  
23 prohibition on annexation under par. (a) continues until the department approves or  
24 disapproves the plan.

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1           **(4) PROCEDURE FOR ADOPTING TOWN PLAN.** (a) *Authorizing resolution.* Before  
2 preparing a town plan under this section, a town shall adopt a resolution authorizing  
3 the preparation of the plan. Notice of the resolution shall be given in writing, within  
4 5 days after the resolution is adopted, to all of the following:

5           1. The department of administration, the department of agriculture, trade and  
6 consumer protection, the department of natural resources and the department of  
7 transportation.

8           2. The clerks of any city, village, town, school district, technical college district,  
9 sewerage district or sanitary district which has any part of its territory within 5 miles  
10 of the town.

11           3. The clerk of the county in which the town is located.

12           4. Any county zoning agency under s. 59.69 (2) or regional planning commission  
13 whose jurisdiction includes the town.

14           (b) *Public hearing.* At least 120 days after adoption of the resolution under par.  
15 (a), the town shall hold a public hearing on the proposed plan. Notice of the hearing  
16 shall be given by class 3 notice under ch. 985. Notice of the hearing may not be given  
17 until the proposed plan is available for public inspection.

18           (c) *Comment on plan.* Any person may comment on the plan during the hearing  
19 and may submit written comments before, at or within 20 days following the hearing.  
20 All comments shall be considered by the town. Any county zoning agency under s.  
21 59.69 (2) or regional planning commission whose jurisdiction includes the town shall  
22 comment in writing on the plan's effect on the master plan adopted by the regional  
23 planning commission under s. 66.945 (9), or development plan adopted by the county  
24 board or county planning agency under s. 59.69 (3), and on the delivery of municipal  
25 services, and may comment on any other aspect of the plan. Any county in the

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1 regional planning commission's jurisdiction may submit comments on the effect of  
2 the plan on the master plan adopted under s. 66.945 (9) and on the delivery of county  
3 services or on any other matter related to the plan. If agreement to a town plan is  
4 required by the governing body of a city or village under sub. (8) (b) or (9) (a) 2. before  
5 the plan may take effect, that city or village shall comment in writing on the plan's  
6 effect on the city's or village's master plan, adopted under s. 62.23 (3).

7 (d) *Adoption of final plan.* After the public hearing under par. (b) and  
8 consideration of comments made on the proposed town plan, the town board may  
9 revise the plan in response to the comments and may, by resolution, adopt a final  
10 version of the plan.

11 (5) REQUIRED ELEMENTS OF TOWN PLANS. Unless an element is incompatible with  
12 or inapplicable to the plan and the reasons for the incompatibility or inapplicability  
13 are stated as required under sub. (6), a town plan prepared under this section shall  
14 contain all of the following:

15 (a) A statement of objectives, policies and programs of the town to guide the  
16 future growth and development of land, public services and facilities and to protect  
17 the environment. The statement shall include identification of any existing land use  
18 plan or comprehensive plan, required or voluntary, being utilized by the town and  
19 an explanation of how the town plan is consistent, or inconsistent with the existing  
20 land use plan or comprehension plan.

21 (b) A statement of how the town plan is consistent with the goals under sub.  
22 (7). If a goal under sub. (7) is, in whole or in part, incompatible with or inapplicable  
23 to the plan, the plan shall identify the incompatible or inapplicable goal and state the  
24 reasons for the incompatibility or inapplicability.

INS.  
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**ASSEMBLY BILL 838****SECTION 7**

1           (c) A land use element, designating the proposed general distribution, general  
2 location and interrelationship of land use for residential, commercial, industrial,  
3 open space, vacant space and vacant facilities, recreational facilities, agriculture,  
4 forestry and other categories of public and private uses of land. The land use element  
5 shall include a map, indicating the current and proposed general land use and  
6 indicating the residential transition area of any unincorporated area covered by the  
7 plan. The land use element shall include the present and prospective location,  
8 amount, intensity and character of land uses, the present and prospective population  
9 densities and the appropriate timing or sequence of land development activities in  
10 relation to the provision of necessary community facilities and services.

11           (d) A transportation element, consisting of a map and statement of present and  
12 prospective transportation facilities and the capacity of such facilities, showing  
13 existing and proposed highways and streets by type and, where applicable, parking  
14 facilities, transit routes, terminals, bicycle paths and trails and other recreational  
15 trails, scenic roads, airports, railroads and port facilities, and other similar facilities  
16 or uses, with indications of priority of need.

17           (e) A utility and facility element, consisting of a map and statement of present  
18 and prospective community facilities and public utilities and the capacity of such  
19 facilities and utilities, showing existing and proposed educational, recreational and  
20 other public sites, buildings and facilities, including hospitals, libraries,  
21 power-generating plants and transmission lines, water supply, sewage disposal,  
22 refuse disposal, storm drainage, recycling and other similar facilities and activities,  
23 and recommendations to meet the town's future needs for facilities and services, with  
24 indications of priority of need, cost and method of financing the expansion or creation  
25 of such facilities, services and utilities.

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1 (f) An implementation element that specifies the term of the planning period  
2 and the plan, and that defines and schedules, for the term of the plan, the specific  
3 public actions to be undertaken in order to achieve the goals and objectives of the  
4 plan.

5 (g) A boundary element which shall, concerning any common boundary  
6 between the town and city, village or other town that is covered by the plan, do all  
7 of the following:

8 1. Identify any boundary change and any existing boundary that may not be  
9 changed during the planning period.

10 2. Identify any conditions that must be met before a boundary change may  
11 occur.

12 3. Designate the party to the plan that is required to ratify any boundary  
13 changes by enacting an ordinance under sub. (19).

14 (6) EXCEPTION TO REQUIRED PLAN ELEMENTS. If a plan element required under  
15 sub. (5) is, in whole or in part, inapplicable to or incompatible with a town plan, the  
16 plan shall identify the inapplicable or incompatible element and state the reasons  
17 for the inapplicability or incompatibility.

18 (7) GOALS OF TOWN PLANS. Unless a goal is incompatible with or inapplicable  
19 to the plan and the reasons for the incompatibility or inapplicability are stated as  
20 required under sub. (5) (b), a town plan prepared under this section shall address in  
21 writing the following goals:

22 (a) *Settlement pattern goal.* To plan development that results in a settlement  
23 pattern of compact urban areas separated by rural countryside or undeveloped open  
24 space. To achieve this goal:

25 1. Plans should clearly delineate between urban and rural areas.

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1           2. Residential and commercial development should occur primarily in compact  
2 urban areas, and strip development which intrudes in rural countryside or open  
3 space, and other development which contributes to urban sprawl, should be  
4 discouraged. When possible, existing territory within an urban area should be  
5 developed before new territory on the edge of an urban area is developed.

6           3. Public investments, including the construction of new or modification of  
7 existing infrastructure, should reinforce the general character and planned growth  
8 patterns of the area.

9           4. Economic growth, consistent with public infrastructure plans, should occur  
10 primarily within existing urban areas and secondarily in other growth areas as  
11 specified in the town plan.

12           (b) *Quality of resources goal.* To maintain and improve the quality of wildlife  
13 and land resources.

14           (c) *Recreation goal.* To maintain and enhance recreational opportunities for  
15 residents of this state and visitors to this state. To achieve this goal:

16           1. Growth should not significantly diminish the value and availability of  
17 outdoor recreational activities.

18           2. Public access to noncommercial outdoor recreational opportunities, such as  
19 lakes and hiking trails, should be identified, provided and protected wherever  
20 appropriate.

21           (d) *Housing goal.* To ensure the availability of safe and affordable housing for  
22 residents of the state. To achieve this goal:

23           1. Housing should be encouraged to meet the needs of diverse social and income  
24 groups in each town, particularly for those residents who have low or moderate  
25 income and to avoid segregation of income groups.



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1           2. New and rehabilitated housing should be safe, sanitary, located conveniently  
2 to employment and commercial centers and coordinated with the provision of  
3 necessary public facilities and utilities.

4           3. Sites for multifamily and manufactured housing should be readily available  
5 in locations with similar access to employment and commercial centers and similar  
6 amenities as the locations for single-family conventional dwellings in the same  
7 community.

8           (e) *Public services and utilities goal.* To plan for, finance and provide an  
9 efficient system of public facilities and services to meet future needs. To achieve this  
10 goal:

11           1. Public facilities and services should meet all of the needs of the community,  
12 including fire and police protection, emergency medical services, schools, water  
13 supply and distribution, sanitary sewer systems, solid waste disposal, storm water  
14 management and erosion control systems.

15           2. The rate of growth should not exceed the ability of the community and the  
16 area to provide facilities and services.

17           **(8) ESTABLISHMENT OF RESIDENTIAL TRANSITION AREAS PROXIMATE TO A CITY OR**  
18 **VILLAGE.** If a town has a common boundary with a city or village, the town may  
19 establish a residential transition area within the town's transition area jurisdiction  
20 if all of the following apply:

21           (a) The town board adopts a town plan under this section.

22           (b) The city or village agrees to the town plan under sub. (10).

23           (c) If necessary, the department approves the plan under sub. (14).

24           **(9) ESTABLISHMENT OF OTHER RESIDENTIAL TRANSITION AREAS.** (a) If a town has  
25 a common boundary with a city or village, the town may establish a residential

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1 transition area within the town that is outside of the town's transition area  
2 jurisdiction if all of the following apply:

3 1. The town board adopts a town plan under this section.

4 2. The city or village agrees to the town plan under sub. (10).

5 3. Any other town with which the town has a common boundary agrees to the  
6 town plan under sub. (11).

7 4. If necessary, the department approves the plan under sub. (14).

8 (b) If a town does not have a common boundary with a city or village, the town  
9 may establish a residential transition area within the town if the town adopts a town  
10 plan under this section.

11 **(10) AGREEMENT TO TOWN PLAN BY ADJOINING CITY OR VILLAGE.** (a) If a town board  
12 adopts a town plan under sub. (8) (a) or (9) (a) 1. the city or village with the common  
13 boundary, by resolution, shall agree to or object to the plan within 45 days after the  
14 town adopts the plan, unless the 45–day period is extended by the town. A copy of  
15 the resolution shall be sent to the clerk of the county in which the town that adopted  
16 the plan is located. Failure of a city or village to agree to or object to a town plan  
17 within the 45–day or extended period constitutes agreement to the plan and has the  
18 same effect as adoption of a resolution by the city or village agreeing to the plan.

19 (b) 1. If the city or village objects to the town plan and the parties are unable  
20 to reach agreement on the town's plan, the mediation committee under subd. 2. shall  
21 resolve the dispute if the governing body of the town or of the city or village adopts,  
22 and sends a copy to the committee, a resolution requesting that the committee settle  
23 the dispute and sends a copy of the resolution to the clerk of the other unit of  
24 government that is a party to the dispute. Both parties to the dispute shall submit  
25 written documents to the committee, in a form specified by the committee, that

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1 describe their position on what provisions the town plan should contain. The  
2 documents shall be submitted to the committee within 60 days after the adoption of  
3 a resolution requesting that the committee settle the dispute. Within 60 days after  
4 receipt of the written documents, the committee shall issue a written decision that  
5 determines the provisions of the town plan. The committee's decision shall be  
6 considered to be an agreement between the parties on the town plan, except that the  
7 committee's decision may be appealed by either party to the land use board under  
8 par. (c). Under the land use board's review, the committee's decision may be affirmed,  
9 modified or vacated.

10 2. Unless a mediation committee has been created under sub. (11), the  
11 mediation committee shall consist of 5 members, who are appointed by the county  
12 executive of the county in which the town is located or, if the county does not have  
13 an executive, by the chair of the county board. Three members of the committee  
14 constitute a quorum, and the affirmative votes of 3 members are needed to take  
15 action on any issue that is before the committee. All appointees shall be confirmed  
16 by the county board. All appointees serve at the pleasure of the appointing authority.  
17 The members of the committee shall consist of the following:

- 18 a. One person who is a town chair.
- 19 b. One person who is a mayor or city manager.
- 20 c. One person who is a realtor or a developer.
- 21 d. One person who is a superintendent of schools.
- 22 e. One person who is a county or regional planner.

23 (c) If one of the parties under par. (b) objects to the mediation committee's  
24 decision, the land use board under s. 16.965 shall resolve the dispute if the governing  
25 body of the town or of the city or village adopts, and sends a copy to the board, a

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1 resolution requesting that the board settle the dispute and sends a copy of the  
2 resolution to the clerk of the other unit of government that is a party to the dispute.  
3 Both parties to the dispute shall submit written documents to the board, in a form  
4 specified by the board, that describe their position on what provisions the town plan  
5 should contain. The documents shall be submitted to the board within 60 days after  
6 the adoption of a resolution requesting that the board settle the dispute. Within 60  
7 days after receipt of the written documents, the board shall issue a written decision  
8 that determines the provisions of the town plan. The board's decision shall be  
9 considered to be an agreement between the parties on the town plan, except that the  
10 board's decision is subject to judicial review under ch. 227. Under the judicial review,  
11 the board's decision may be affirmed, modified or vacated. If the board's decision is  
12 vacated, no agreement between the parties exists.

13 **(11) AGREEMENT TO TOWN PLAN BY ADJOINING TOWN.** (a) If a town board adopts  
14 a town plan under sub. (9) (a) 1. and another town has a common boundary with the  
15 town, the other town, by resolution, shall agree to or object to the plan within 45 days  
16 after the plan is adopted, unless the 45-day period is extended by the town that has  
17 adopted the plan. A copy of the resolution shall be sent to the clerk of the county in  
18 which the town that adopted the plan is located. Failure of a town to agree to or object  
19 to a town plan within the 45-day or extended period constitutes agreement to the  
20 plan and has the same effect as adoption of a resolution by the town agreeing to the  
21 plan.

22 (b) 1. If a town that has a common boundary with a town that adopts a plan  
23 under sub. (9) (a) 1. objects to the town plan and the parties are unable to reach  
24 agreement on the town's plan, the mediation committee under subd. 2. shall resolve  
25 the dispute if the governing body of one of the towns adopts, and sends a copy to the

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1 committee, a resolution requesting that the committee settle the dispute and sends  
2 a copy of the resolution to the clerk of the other town that is a party to the dispute.  
3 Both parties to the dispute shall submit written documents to the committee, in a  
4 form specified by the committee, that describe their position on what provisions the  
5 town plan should contain. The documents shall be submitted to the committee  
6 within 60 days after the adoption of a resolution requesting that the committee settle  
7 the dispute. Within 60 days after receipt of the written documents, the committee  
8 shall issue a written decision that determines the provisions of the town plan. The  
9 committee's decision shall be considered to be an agreement between the parties on  
10 the town plan, except that the committee's decision may be appealed by either party  
11 to the land use board under par. (c). Under the land use board's review, the  
12 committee's decision may be affirmed, modified or vacated.

13 2. Unless a mediation committee has been created under sub. (10), the  
14 mediation committee shall consist of 5 members, who are appointed by the county  
15 executive of the county in which the town that has adopted the plan is located or, if  
16 the county does not have an executive, by the chair of the county board. Three  
17 members of the committee constitute a quorum, and the affirmative votes of 3  
18 members are needed to take action on any issue that is before the committee. All  
19 appointees shall be confirmed by the county board. All appointees serve at the  
20 pleasure of the appointing authority. The members of the committee shall consist of  
21 the following:

- 22 a. One person who is a town chair.
- 23 b. One person who is a mayor or city manager.
- 24 c. One person who is a realtor or a developer.
- 25 d. One person who is a superintendent of schools.

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1 e. One person who is a county or regional planner.

2 (c) If one of the parties under par. (b) objects to the mediation committee's  
3 decision, the land use board under s. 16.965 shall resolve the dispute if the governing  
4 body of one of the towns adopts, and sends a copy to the board, a resolution requesting  
5 that the board settle the dispute and sends a copy of the resolution to the clerk of the  
6 other town that is a party to the dispute. Both parties to the dispute shall submit  
7 written documents to the board, in a form specified by the board, that describe their  
8 position on what provisions the town plan should contain. The documents shall be  
9 submitted to the board within 60 days after the adoption of a resolution requesting  
10 that the board settle the dispute. Within 60 days after receipt of the written  
11 documents, the board shall issue a written decision that determines the provisions  
12 of the town plan. The board's decision shall be considered to be an agreement  
13 between the parties on the town plan, except that the board's decision is subject to  
14 judicial review under ch. 227. Under the judicial review, the board's decision may  
15 be affirmed, modified or vacated. If the board's decision is vacated, no agreement  
16 between the parties exists.

17 **(12) BINDING ELEMENTS; SCOPE OF TOWN PLAN.** (a) The boundary element of a  
18 town plan under sub. (5) (g) and the designation of a residential transition area in  
19 a town plan under sub. (5) (c) are binding during the term of the plan on the town and  
20 the governing body of any city, village or town that has agreed to the plan under sub.  
21 (10) or (11). The town plan shall specify which, if any, other elements of the plan have  
22 been agreed to by a city, village or town, whether such elements will be binding and  
23 on whom they will be binding. The elements of a town plan that are binding have  
24 the force and effect of a contract and may be enforced by this state or by any city,  
25 village or town whose agreement to the plan was required under sub. (8) (b) or (9) (a)

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1 2. or 3. Unless a city or village agrees to do so, no town plan may require a city or  
2 village to provide or extend public services or make public improvements.

3 (b) The territorial scope of a town plan is determined by the plan. The  
4 territorial scope of a town plan shall include at a minimum the area designated by  
5 the plan as a residential transition area. The territorial scope of a town plan may  
6 include areas within the town that are outside of the residential transition area.

7 **(13) IMPLEMENTATION OF TOWN PLAN BY ZONING.** (a) No residential development  
8 may commence in a residential transition area until a zoning ordinance, that is  
9 consistent with the town plan that designates the residential transition area, is in  
10 effect. The zoning ordinance shall apply to the territory that is included in the town  
11 plan. Subject to par. (b), the zoning may be enacted by any municipality or county  
12 that has zoning jurisdiction over the territory that is included in the town plan.

13 (b) A town may enact a zoning ordinance under s. 60.61 or, notwithstanding s.  
14 60.22 (3), under s. 62.23 for the town territory included in a town plan. The exercise  
15 of zoning authority by a town under this paragraph is not subject to s. 60.10 (2) (c)  
16 and (h), 60.61 (3) or 60.62 (3). If a zoning ordinance of another jurisdiction applies  
17 to town territory that is included in a town plan, that ordinance continues until a  
18 zoning ordinance is enacted under this paragraph, except that if a residential  
19 development has commenced in a town in an area that is subject to a zoning  
20 ordinance of another jurisdiction before a town enacts a zoning ordinance under this  
21 paragraph and the residential development has received zoning approval from that  
22 jurisdiction, the residential development may continue after the town enacts a  
23 zoning ordinance under this paragraph if, at the time the residential development  
24 commenced, the lot on which the development commenced is included in a  
25 preliminary or final subdivision plat that has been submitted for approval under s.

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SS.

1 236.11 or in a subdivision plat that has been recorded under s. 236.25. This  
2 subsection does not affect zoning ordinances enacted under s. 59.692, 87.30 or 91.71  
3 to 91.78 or ordinances enacted under s. 114.136 (1).

4 (c) A town may contract for planning and enforcement of the zoning required  
5 under this subsection.

6 **(14) DEPARTMENT REVIEW AND APPROVAL OF CERTAIN PLANS.** (a) If a town located  
7 in a county having a population of 50,000 or more adopts a town plan and the town  
8 plan is agreed to under sub. (8) (b) or (9) (a) 2. and 3., any elector of the town adopting  
9 the plan or of a city or village agreeing to the plan may, within 30 days after the plan  
10 is adopted or, if agreement is required before the plan may take effect, within 30 days  
11 after the plan is agreed to or is considered to have been agreed to, request in writing  
12 that the department review and approve the plan.

13 (b) If a request is made under par. (a), the department shall request the town  
14 to submit the plan for review and within 10 days after receiving the department's  
15 request, the town shall submit the plan. After receiving the plan, the department  
16 shall notify immediately the person who requested the review. The department shall  
17 approve the plan within 60 days after submittal if the plan complies with sub. (5) and  
18 is consistent with the goals under sub. (7), to the extent the goals are compatible with  
19 and relevant to the plan. The department shall issue its determination whether to  
20 approve the town plan in writing. Notwithstanding s. 227.42, a request for review  
21 of a plan under par. (a) may not be treated as a contested case, as defined in s. 227.01  
22 (3), for purposes of ch. 227.

23 (c) Any person may request a public hearing before the department on a town  
24 plan submitted to the department for approval. A request for a public hearing shall  
25 be in writing and shall be submitted to the department within 20 days after a review



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1 has been requested. If requested, the department shall hold a public hearing on the  
2 plan in the town that adopted the plan. If requested to hold a public hearing, the  
3 department is required to hold only one hearing, regardless of the number of requests  
4 for a hearing.

5 (d) If a request under par. (a) is made for department approval of a town plan,  
6 the plan may not go into effect until the plan is approved or the request is withdrawn,  
7 whichever occurs first.

8 (15) COURT REVIEW OF DEPARTMENT DECISION. The decision of the department  
9 under sub. (14) to approve or not to approve a town plan or an amendment to a plan  
10 is subject to judicial review under ch. 227.

11 (16) AMENDMENTS TO TOWN PLAN. (a) *Authority to amend plan.* A town plan may  
12 be amended during the term of the plan that is specified in sub. (5) (f). An  
13 amendment to a town plan is subject to agreement by the same city, village or other  
14 town that approved the underlying town plan, and is also subject to department  
15 approval if the department approved the original plan.

16 (b) *When full procedure required.* An amendment to a town plan that proposes  
17 to change or freeze a municipal boundary or change the designation of a residential  
18 transition area shall follow the same procedure as that required for an original plan.

19 (c) *When expedited procedure may occur.* An amendment to a town plan that  
20 does not propose to change a boundary shall follow the same procedure as that  
21 required for an original plan except that the hearing under sub. (4) (b) is not required  
22 unless objection to the amendment is made in writing by any person to the clerk of  
23 a participating municipality. An amendment under this paragraph shall be adopted  
24 by resolution. Notice of the amendment and adopting resolution shall follow the  
25 procedures specified in sub. (4) (a). Notice that the amendment will be adopted

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1 without a public hearing unless objection is made in writing shall be given by a class  
2 3 notice under ch. 985. If no written objection to the amendment is received within  
3 7 days after the last required notice is published, the amendment may be adopted  
4 without a public hearing. If written objection is timely made, the public hearing and  
5 other requirements under sub. (4) (b) and (c) apply.

6 **(17) COOPERATIVE DEVELOPMENT OF TOWN PLANS; OTHER AGREEMENTS.** Any  
7 combination of municipalities may cooperatively develop a town plan under this  
8 section. Cooperative development of a town plan may be done in conjunction with  
9 other land use plans and other intergovernmental agreements, including  
10 agreements under ss. 66.023, 66.028 and 66.30. A town may contract with any  
11 person in developing a town plan.

12 **(18) CERTAIN BOUNDARY CHANGES RESTRICTED.** Subject to a cooperative plan  
13 under s. 66.023, if the governing body of a city or village agrees to a town plan under  
14 sub. (10), the town board of another town agrees to the town plan under sub. (11), if  
15 necessary, and the plan is approved by the department under sub. (14), if necessary,  
16 the common boundary between the city or village and the town that is covered by the  
17 town plan under this section may be revised during the term of the plan only as  
18 provided under the town plan.

19 **(19) BOUNDARY CHANGE ORDINANCE; FILING AND RECORDING REQUIREMENTS.** A  
20 boundary change under a town plan shall be accomplished by the enactment of an  
21 ordinance by the governing body designated to do so in the plan. The filing and  
22 recording requirements under s. 66.021 (8) (a), as they apply to cities and villages  
23 under s. 66.021 (8) (a), apply to municipalities under this subsection. The  
24 requirements for the secretary of state shall be the same as those required in s.  
25 66.021 (8) (b).

**ASSEMBLY BILL 838**

1           **(20) TIME FOR BRINGING ACTION.** No action to contest the validity of a town plan  
2 under this section or an amendment to a plan, regardless of the grounds for the  
3 action, may be commenced after 60 days from the date on which the plan or the  
4 amendment takes effect. No action relating to compliance with a binding element  
5 of a town plan may be commenced later than 180 days after the failure to comply.

6           **SECTION 8.** 66.021 (2) (intro.) of the statutes is amended to read:

7           **66.021 (2) METHODS OF ANNEXATION.** (intro.) Subject to s. 66.023 (7) and to a  
8 town plan enacted under s. 66.011, territory contiguous to any city or village may be  
9 annexed thereto in the following ways:

10           **SECTION 9.** 66.024 (intro.) of the statutes is amended to read:

11           **66.024 Annexation by referendum; court order.** (intro.) As a complete  
12 alternative to any other annexation procedure, and subject to s. 66.023 (7) and to a  
13 town plan enacted under s. 66.011, unincorporated territory which contains electors  
14 and is contiguous to a city or village may be annexed thereto in the manner hereafter  
15 provided. The definitions in s. 66.021 (1) shall apply to this section.

16           **SECTION 10.** 66.025 of the statutes ~~is affected by 1997 Wisconsin Act 27~~ is  
17 amended to read:

18           **66.025 Annexation of owned territory.** In addition to other methods  
19 provided by law and subject to ss. s. 59.692 (7), a town plan enacted under 66.011,  
20 and subject to s. 66.023 (7), territory owned by and lying near but not necessarily  
21 contiguous to a village or city may be annexed to a village or city by ordinance enacted  
22 by the board of trustees of the village or the common council of the city, provided that  
23 in the case of noncontiguous territory the use of the territory by the city or village is  
24 not contrary to any town or county zoning regulation. The ordinance shall contain  
25 the exact description of the territory annexed and the names of the towns from which

*Prop. photo.*

S.

## ASSEMBLY BILL 838

## SECTION 10

1 detached, and shall operate to attach the territory to the village or city upon the filing  
2 of 6 certified copies thereof in the office of the secretary of state, together with 6 copies  
3 of a plat showing the boundaries of the territory attached. Two copies of the  
4 ordinance and plat shall be forwarded by the secretary of state to the department of  
5 transportation, one copy to the department of natural resources, one copy to the  
6 department of revenue and one copy to the department of public instruction.

7 **SECTION 11. Nonstatutory provisions.**

8 (1) LAND USE BOARD. Notwithstanding the length of term specified in section  
9 15.105 (14) (b) of the statutes, as created by this act, the initial term of one of the  
10 members appointed under section 15.105 (14) (b) of the statutes, as created by this  
11 act, shall expire on July 1, ~~1999~~<sup>2001</sup>, the initial term of another one of the members so  
12 appointed shall expire on July 1, ~~2000~~<sup>2002</sup>, and the initial term of another one of the  
13 members so appointed shall expire on July 1, ~~2001~~<sup>2003</sup>.

14 (END)

**ASSEMBLY AMENDMENT,  
TO 1997 ASSEMBLY BILL 838**

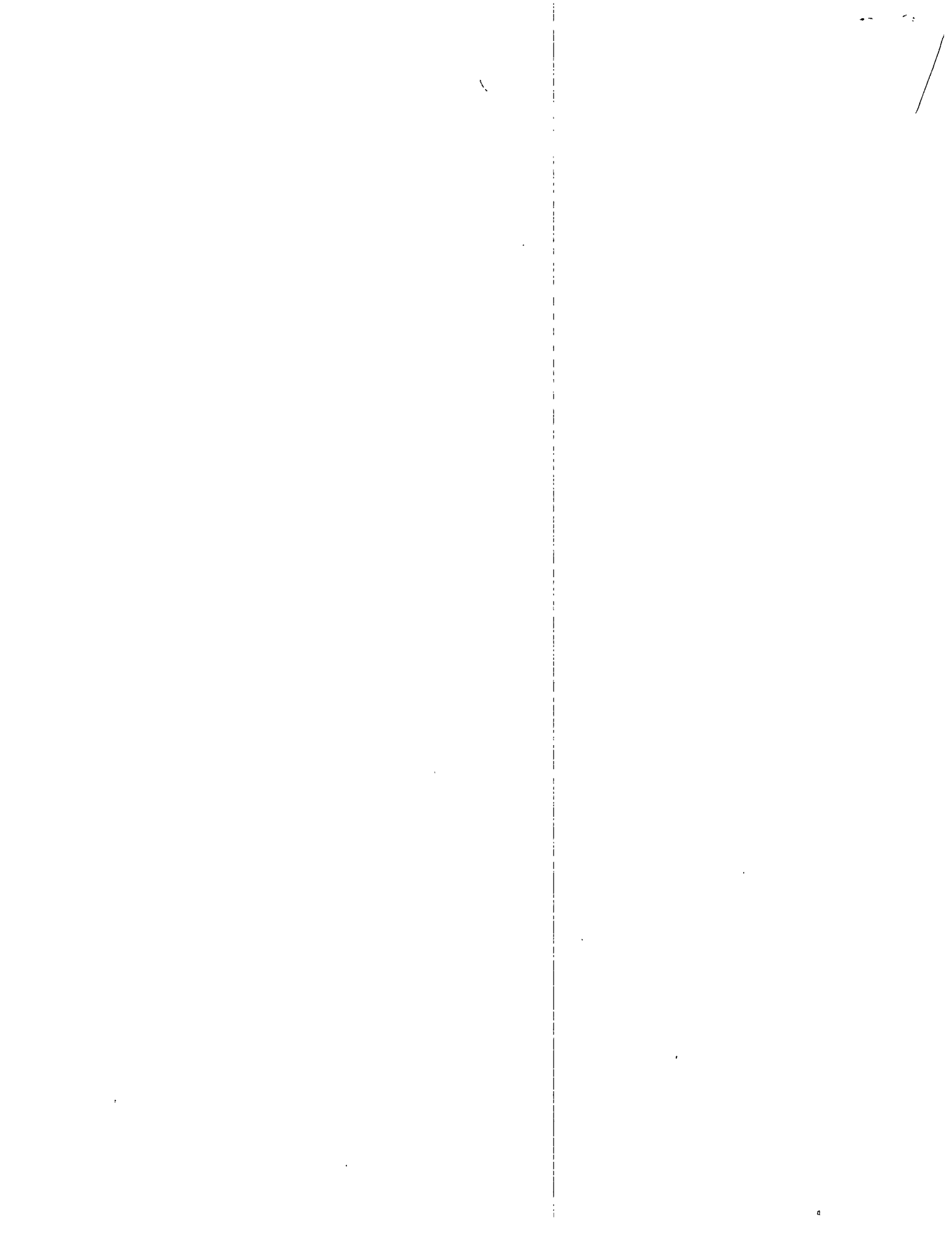
Revised -  
per Dotter

INS. 9-16

1 At the locations indicated, amend the bill as follows:

2 **1.** Page 9, line 16: after "facilities" insert "; to identify and protect historical  
3 and socially significant structures".

4 (END)



**SUBMITTAL  
FORM**

**LEGISLATIVE REFERENCE BUREAU  
Legal Section Telephone: 266-3561  
5th Floor, 100 N. Hamilton Street**

DEC 16 1998

The attached draft is submitted for your inspection. Please check each part carefully, proofread each word, and sign on the appropriate line(s) below.

Date: 12/16/98

To: Representative Wood

Relating to LRB drafting number: LRB-0463

**Topic**

Town land use planning, residential development in towns, annexation limits

**Subject(s)**

Munis - miscellaneous

1. **JACKET** the draft for introduction

Wayne W. Wood

in the **Senate** \_\_\_\_\_ or the **Assembly**  (check only one). Only the requester under whose name the drafting request is entered in the LRB's drafting records may authorize the draft to be submitted. Please allow one day for the preparation of the required copies.

2. **REDRAFT**. See the changes indicated or attached \_\_\_\_\_.

A revised draft will be submitted for your approval with changes incorporated.

3. Obtain **FISCAL ESTIMATE NOW**, prior to introduction \_\_\_\_\_.

If the analysis indicates that a fiscal estimate is required because the proposal makes an appropriation or increases or decreases existing appropriations or state or general local government fiscal liability or revenues, you have the option to request the fiscal estimate prior to introduction. If you choose to introduce the proposal without the fiscal estimate, the fiscal estimate will be requested automatically upon introduction. It takes about 10 days to obtain a fiscal estimate. Requesting the fiscal estimate prior to introduction retains your flexibility for possible redrafting of the proposal.

If you have any questions regarding the above procedures, please call 266-3561. If you have any questions relating to the attached draft, please feel free to call me.

Marc E. Shovers, Senior Legislative Attorney  
Telephone: (608) 266-0129