

2005 Assembly Bill 620

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2005 WISCONSIN ACT 208

AN ACT *to amend* 59.69 (5) (a), 59.69 (5) (e) 2., 60.61 (4) (b), 60.61 (4) (c) 1., 62.23 (7) (d) 1. a., 62.23 (7) (d) 1. b., 62.23 (7) (d) 2. and 66.1001 (6); and *to create* 59.69 (5) (f), 60.61 (4) (e), 62.23 (7) (d) 4. and 66.1001 (4) (f) of the statutes; **relating to**: requiring notice to persons affected by zoning actions and comprehensive plans that change the allowable use of their property.

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

SECTION 1. 59.69 (5) (a) of the statutes is amended to read:

59.69 (5) (a) When the county zoning agency has completed a draft of a proposed zoning ordinance, it shall hold a public hearing thereon, following publication in the county of a class 2 notice, under ch. 985. If the proposed ordinance has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the ordinance or a description of the property affected by the ordinance and a statement that a map may be obtained from the zoning agency. After such hearing the agency may make such revisions in the draft as it considers necessary, or it may submit the draft without revision to the board with recommendations for adoption. Proof of publication of the notice of the public hearing held by such agency shall be attached to its report to the board.

SECTION 2. 59.69 (5) (e) 2. of the statutes is amended to read:

59.69 (5) (e) 2. Upon receipt of the petition by the agency it shall call a public hearing on the petition. Notice of the time and place of the hearing shall be given by publication in the county of a class 2 notice, under ch.

985. If an amendment to an ordinance, as described in the petition, has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the zoning agency. A copy of the notice shall be mailed by registered mail to the town clerk of each town affected by the proposed amendment at least 10 days prior to the date of such hearing. If the petition is for any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the agency shall mail a copy of the notice to the owner or operator of the airport bordered by the airport affected area.

SECTION 3. 59.69 (5) (f) of the statutes is created to read:

59.69 (5) (f) The county zoning agency shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance or amendment that affects the allowable use of the property owned by the person. If the county zoning agency completes a draft of a proposed zoning ordinance under par. (a) or if the agency receives a petition under par. (e) 2., the agency shall send a notice, which contains a copy of the proposed ordinance or petition, to each person on the list whose property, the allowable use of which, may be affected by

* Section 991.11, WISCONSIN STATUTES 2003-04 : 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 as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

the proposed ordinance or amendment. The notice shall be by mail or in any reasonable form that is agreed to by the person and the agency. The agency may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this paragraph may take effect even if the agency fails to send the notice that is required by this paragraph.

SECTION 4. 60.61 (4) (b) of the statutes, as affected by 2005 Wisconsin Act (Assembly Bill 399), is amended to read:

60.61 (4) (b) Before the town board may adopt an ordinance under sub. (2), the town zoning committee shall recommend zoning district boundaries and appropriate regulations and restrictions for the districts. In carrying out its duties, the town zoning committee shall develop a preliminary report and hold a public hearing on the report before submitting a final report to the town board. The town zoning committee shall give notice of the public hearing on the preliminary report and of the time and place of the public hearing on the report by a class 2 notice under ch. 985. The town zoning committee shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the town. If the town zoning committee makes a substantial change in its report following the public hearing, it shall hold another public hearing on the report. After the final report of the town zoning committee is submitted to the town board, the board may adopt an ordinance under sub. (2) following a public hearing held by the board on the proposed ordinance. The town board shall give notice of the public hearing on the proposed ordinance and of the time and place of the public hearing on the ordinance by a class 2 notice under ch. 985. If the proposed ordinance has the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the ordinance or a description of the property affected by the ordinance and a statement that a map may be obtained from the town board. A copy of an adopted ordinance shall be sent to the commanding officer, or the officer's designee, of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the town.

SECTION 5. 60.61 (4) (c) 1. of the statutes, as affected by 2005 Wisconsin Act (Assembly Bill 399), is amended to read:

60.61 (4) (c) 1. After the town board has adopted a town zoning ordinance, the board may alter, supplement or change the boundaries or regulations established in the ordinance if a public hearing is held on the revisions. The board shall give notice of any proposed revisions in the zoning ordinance and of the time and place of the public

hearing on them by a class 2 notice under ch. 985. If the proposed amendment would have the effect of changing the allowable use of any property, the notice shall include either a map showing the property affected by the amendment or a description of the property affected by the amendment and a statement that a map may be obtained from the town board. The board shall allow any interested person to testify at the hearing, and shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the town. If any proposed revision under this subdivision would make any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the board shall mail a copy of such notice to the owner or operator of the airport bordered by the airport affected area.

SECTION 6. 60.61 (4) (e) of the statutes is created to read:

60.61 (4) (e) The town board shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance or amendment that affects the allowable use of the property owned by the person. If the town zoning committee completes a final report on a proposed zoning ordinance and the town board is prepared to vote on the proposed ordinance under par. (b) or if the town board is prepared to vote on a proposed amendment under par. (c) 1., the town board shall send a notice, which contains a copy of the proposed ordinance or amendment, to each person on the list whose property, the allowable use of which, may be affected by the proposed ordinance or amendment. The notice shall be by mail or in any reasonable form that is agreed to by the person and the town board. The town board may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this paragraph may take effect even if the town board fails to send the notice that is required by this paragraph.

SECTION 7. 62.23 (7) (d) 1. a. of the statutes, as affected by 2005 Wisconsin Act (Assembly Bill 399), is amended to read:

62.23 (7) (d) 1. a. Upon the request of the city council, the city plan commission, the board of public land commissioners, or if the city has neither, the city plan committee of the city council shall prepare and recommend a district plan and regulations for the city. Following the formulation of tentative recommendations a public hearing shall be held by, at the council's option, the council, the plan commission, the board of public land commissioners or the plan committee. The entity holding the hearing shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. At least 10 days' prior

written notice of any such hearings shall be given to the clerk of any municipality whose boundaries are within 1,000 feet of any lands included in the proposed plan and regulations, and to the commanding officer, or the officer's designee, of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city, but failure to give such notice shall not invalidate such district plan or regulations. Publication of a class 2 notice, under ch. 985, of the tentative recommendations and hearings thereon must be made once during each of the 2 weeks prior to such hearing. If the proposed district plan and regulations have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the plan and regulations or a description of the property affected by the plan and regulations and a statement that a map may be obtained from the city council.

SECTION 8. 62.23 (7) (d) 1. b. of the statutes, as affected by 2005 Wisconsin Act (Assembly Bill 399), is amended to read:

62.23 (7) (d) 1. b. The council may make changes in the tentative recommendations after first submitting the proposed changes to the plan commission, board of public land commissioners or plan committee for recommendation and report and after publishing a class 2 notice, under ch. 985, of the proposed changes and hearings thereon as well as the notice to the clerk of any contiguous municipality and to the commanding officer, or the officer's designee, of any military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city, as required in subd. 1. a. Hearings on the proposed changes may be held by, at the council's option, the council, the plan commission, the board of public land commissioners or the plan committee. The entity holding the hearing shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. If the proposed changes to the proposed district plan and regulations have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the changes or a description of the property affected by the changes and a statement that a map may be obtained from the city council.

SECTION 9. 62.23 (7) (d) 2. of the statutes, as affected by 2005 Wisconsin Act (Assembly Bill 399), is amended to read:

62.23 (7) (d) 2. The council may adopt amendments to an existing zoning ordinance after first submitting the proposed amendments to the city plan commission, board of public land commissioners or plan committee for recommendation and report and after providing the notices as required in subd. 1. b. of the proposed amend-

ments and hearings thereon. In any city which is not located in whole or in part in a county with a population of 500,000 or more, if the proposed ~~amendment~~ amendments would make any change in an airport affected area, as defined in sub. (6) (am) 1. b., the council shall mail a copy of such notice to the owner or operator of the airport bordered by the airport affected area. A hearing shall be held on the proposed amendments by, at the council's option, the council, the plan commission, the board of public land commissioners or the plan committee. The entity holding the hearing shall consider any comments made, or submitted, by the commanding officer, or the officer's designee, of a military base or installation, with at least 200 assigned military personnel or that contains at least 2,000 acres, that is located in or near the city. If the proposed amendments have the effect of changing the allowable use of any property within the city, the notice shall include either a map showing the property affected by the amendments or a description of the property affected by the amendments and a statement that a map may be obtained from the city council. If the council does not receive recommendations and a report from the plan commission, board of public land commissioners or plan committee within 60 days of submitting the proposed amendments, the council may hold hearings without first receiving the recommendations and report.

SECTION 10. 62.23 (7) (d) 4. of the statutes is created to read:

62.23 (7) (d) 4. The city council shall maintain a list of persons who submit a written request to receive notice of any proposed zoning action that may be taken under subd. 1. a. or b. or 2. that affects the allowable use of the person's property. If the plan commission, the board of public land commissioners, or city plan committee of the city council completes action on any tentative recommendations that are noticed under subd. 1. a., proposed changes to a proposed district plan and regulations that are submitted under subd. 1. b., or proposed amendments that are submitted under subd. 2., and the city council is prepared to vote on the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, the city council shall send a notice, which contains a copy of the tentative recommendations, proposed changes to a proposed district plan, and regulations or proposed amendments, to each person on the list whose property, the allowable use of which, may be affected by the tentative recommendations or proposed changes or amendments. The notice shall be by mail or in any reasonable form that is agreed to by the person and the city council. The city council may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person. An ordinance or amendment that is subject to this subdivision may take effect even if the city council fails to send the notice that is required by this subdivision.

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SECTION 11. 66.1001 (4) (f) of the statutes is created to read:

66.1001 (4) (f) A political subdivision shall maintain a list of persons who submit a written request to receive notice of any proposed ordinance, described under par. (c), that affects the allowable use of the property owned by the person. At least 30 days before the hearing described in par. (d) is held a political subdivision shall provide written notice, including a copy of the proposed ordinance, to all such persons. The notice shall be by mail or in any reasonable form that is agreed to by the person and the political subdivision. The political subdivi-

sion may charge each person on the list who receives a notice a fee that does not exceed the approximate cost of providing the notice to the person.

SECTION 12. 66.1001 (6) of the statutes is amended to read:

66.1001 (6) **COMPREHENSIVE PLAN MAY TAKE EFFECT.** Notwithstanding sub. (4), a comprehensive plan, or an amendment of a comprehensive plan, may take effect even if a local governmental unit fails to provide the notice that is required under sub. (4) (e) or (f), unless the local governmental unit intentionally fails to provide the notice.
