



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-5667/1
EVM&KRP:skw

2021 SENATE BILL 840

January 13, 2022 - Introduced by Senator STAFSHOLT, cosponsored by Representative BROOKS. Referred to Committee on Housing, Commerce and Trade.

1 **AN ACT** *to renumber* 60.61 (2) (b); *to renumber and amend* 62.23 (7) (b); and
2 *to create* 60.61 (2) (b) 2., 60.61 (2) (b) 3., 62.23 (7) (b) 3., 66.10015 (1) (es),
3 66.10015 (7) and 236.11 (2) (am) of the statutes; **relating to:** local approvals of
4 workforce housing projects; zoning for certain residential uses; and a
5 requirement that street addresses be assigned at the time of subdivision plat
6 approval.

Analysis by the Legislative Reference Bureau

This bill requires municipalities to take certain actions with regard to certain housing development and provides for judicial review of certain denials of applications for approvals related to workforce housing projects.

Under the bill, any municipality that has a zoning ordinance and that furnishes water and sewer service must 1) provide at least one district in which multifamily housing providing not fewer than 16 residential units per acre is a permitted use and 2) with certain limitations, permit residential use at a density of at least 16 residential units per acre in any district designated for commercial use.

Also under the bill, a political subdivision must 1) establish a process for approving, denying, or conditionally approving an application for approval of a workforce housing project within 90 days of receiving the application and 2) approve any application for approval of a workforce housing project that is consistent with the housing element of the political subdivision's comprehensive plan or consistent

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with the political subdivision's zoning ordinance unless the political subdivision demonstrates that the project would have an adverse impact on public health or safety that is significant, quantifiable, direct, and unavoidable and the impact cannot be mitigated without making the project financially infeasible as a workforce housing project.

The bill also provides that a person aggrieved by the failure of a political subdivision to approve an application for a workforce housing project including at least four residential units may appeal the decision to the circuit court of the county in which the project was to be completed. If the court finds that the political subdivision has failed to satisfy certain statutory requirements related to comprehensive planning or failed to prepare certain reports, the court must order the political subdivision to approve the application.

Finally, the bill provides that a county, town, city, or village (approving authority) that has the right to approve or object to a map of a subdivision (plat) must, if the approving authority has the right to do so, assign street addresses to the lots within the plat no later the date on which the plat is approved or deemed approved by the approving authority, unless the time is extended by agreement with the subdivider.

Because this bill may increase or decrease, directly or indirectly, the cost of the development, construction, financing, purchasing, sale, ownership, or availability of housing in this state, the Department of Administration, as required by law, will prepare a report to be printed as an appendix to this bill.

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

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

1 **SECTION 1.** 60.61 (2) (b) of the statutes is renumbered 60.61 (2) (b) 1.

2 **SECTION 2.** 60.61 (2) (b) 2. of the statutes is created to read:

3 60.61 **(2)** (b) 2. Any town that has a zoning ordinance under this subsection and
4 that furnishes water and sewer service shall provide at least one district in which
5 multifamily housing providing not fewer than 16 residential units per acre is a
6 permitted use.

7 **SECTION 3.** 60.61 (2) (b) 3. of the statutes is created to read:

8 60.61 **(2)** (b) 3. Notwithstanding subd. 1., in a town that has a zoning ordinance
9 under this subsection and that furnishes water and sewer service, any district

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1 designated for commercial use shall permit residential use at a density of at least 16
2 residential units per acre. This subdivision does not apply to those portions of a
3 district located immediately adjacent to an area designated or used for industrial use
4 or where residential use would have an adverse impact on public health or safety to
5 adjacent property users that is significant, quantifiable, direct, and unavoidable
6 unless the developer can mitigate the adverse impact without making the project
7 financially infeasible. A town shall demonstrate an adverse impact under this
8 subdivision by reference to objective written standards, policies, or conditions
9 relating to public health or safety that exist on the date that the town receives an
10 application for zoning approval. A zoning ordinance or other general land use plan
11 is not an objective written standard, policy, or condition relating to public health or
12 safety under this subdivision. This subdivision does not affect the authority of a town
13 to require compliance with local development requirements, except for those that
14 prohibit residential use in a district designated for commercial use, that require a
15 density of fewer than 17 residential units per acre, that require more than 2 parking
16 spaces per unit, or that impose any other requirement that would make the use
17 financially infeasible.

18 **SECTION 4.** 62.23 (7) (b) of the statutes is renumbered 62.23 (7) (b) 1. and
19 amended to read:

20 62.23 (7) (b) 1. For any and all of said purposes the council may divide the city
21 into districts of such number, shape, and area as may be deemed best suited to carry
22 out the purposes of this section; and within such districts it may regulate and restrict
23 the erection, construction, reconstruction, alteration, or use of buildings, structures,
24 or land. All such regulations shall be uniform for each class or kind of buildings and

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1 for the use of land throughout each district, but the regulations in one district may
2 differ from those in other districts.

3 4. No ordinance enacted or regulation adopted under this subsection may
4 prohibit forestry operations that are in accordance with generally accepted forestry
5 management practices, as defined under s. 823.075 (1) (d).

6 2. a. The council may establish mixed-use districts that contain any
7 combination of uses, such as industrial, commercial, public, or residential uses, in
8 a compact urban form.

9 2. b. The council may with the consent of the owners establish special districts,
10 to be called planned development districts, with regulations in each, which in
11 addition to those provided in par. (c), will over a period of time tend to promote the
12 maximum benefit from coordinated area site planning, diversified location of
13 structures, and mixed compatible uses. Such regulations shall provide for a safe and
14 efficient system for pedestrian and vehicular traffic, attractive recreation and
15 landscaped open spaces, and economic design and location of public and private
16 utilities and community facilities and ~~insure~~ ensure adequate standards of
17 construction and planning. Such regulations may also provide for the development
18 of the land in such districts with one or more principal structures and related
19 accessory uses, and in planned development districts and mixed-use districts the
20 regulations need not be uniform.

21 **SECTION 5.** 62.23 (7) (b) 3. of the statutes is created to read:

22 62.23 (7) (b) 3. a. Any city that has a zoning ordinance under this subsection
23 and that furnishes water and sewer service shall provide at least one district in
24 which multifamily housing providing not fewer than 16 residential units per acre is
25 a permitted use.

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1 b. Notwithstanding subd. 1., in a city that has a zoning ordinance under this
2 subsection and that furnishes water and sewer service, any district designated for
3 commercial use shall permit residential use at a density of at least 16 residential
4 units per acre. This subd. 3. b. does not apply to those portions of a district located
5 immediately adjacent to an area designated or used for industrial use or where
6 residential use would have an adverse impact on public health or safety to adjacent
7 property users that is significant, quantifiable, direct, and unavoidable unless the
8 developer can mitigate the adverse impact without making the project financially
9 infeasible. A city shall demonstrate an adverse impact under this subd. 3. b. by
10 reference to objective written standards, policies, or conditions relating to public
11 health or safety that exist on the date that the city receives an application for zoning
12 approval. A zoning ordinance or other general land use plan is not an objective
13 written standard, policy, or condition relating to public health or safety under this
14 subd. 3. b. Notwithstanding par. (am), this subd. 3. b. does not affect the authority
15 of a city to require compliance with local development requirements, except for those
16 that prohibit residential use in a district designated for commercial use or that
17 require a density of fewer than 17 residential units per acre.

18 **SECTION 6.** 66.10015 (1) (es) of the statutes is created to read:

19 66.10015 (1) (es) “Workforce housing” means housing to which all of the
20 following apply, as adjusted for family size and the county in which the household is
21 located, based on the county’s 5-year average median income and housing costs as
22 calculated by the U.S. Bureau of the Census in its American Community Survey:

23 1. The housing costs a household no more than 30 percent of the household’s
24 gross median income.

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1 2. The residential units are for initial occupancy by individuals whose
2 household median income is no more than 120 percent of the county's gross median
3 income.

4 **SECTION 7.** 66.10015 (7) of the statutes is created to read:

5 66.10015 (7) WORKFORCE HOUSING. (a) A political subdivision shall do all of the
6 following:

7 1. Establish a process for approving, denying, or conditionally approving an
8 application for approval of a workforce housing project within 90 days of receiving
9 the application.

10 2. Approve any application for approval of a workforce housing project that is
11 consistent with the housing element of the political subdivision's comprehensive
12 plan or consistent with the political subdivision's zoning ordinance unless the
13 political subdivision demonstrates that all of the following apply:

14 a. The project would have an adverse impact on public health or safety that is
15 significant, quantifiable, direct, and unavoidable. A political subdivision shall
16 demonstrate an adverse impact under this subd. 2. a. by reference to objective
17 written standards, policies, or conditions relating to public health or safety that exist
18 on the date that the political subdivision receives the application. A zoning
19 ordinance or other general land use plan is not an objective written standard, policy,
20 or condition relating to public health or safety under this subd. 2. a.

21 b. The impact under subd. 2. a. cannot be mitigated without making the project
22 financially infeasible as a workforce housing project.

23 (b) A person aggrieved by the failure of a political subdivision to approve an
24 application under par. (a) 2. for a workforce housing project including at least 4
25 residential units may appeal the decision to the circuit court of the county in which

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1 the project was to be completed. If the court finds that the political subdivision has
2 failed to satisfy the requirements of s. 66.1001 (2) (b), 66.10013, or 66.10014, the
3 court shall order the political subdivision to approve the application.

4 **SECTION 8.** 236.11 (2) (am) of the statutes is created to read:

5 236.11 (2) (am) If a plat is approved or deemed approved by an approving
6 authority under par. (a) and the approving authority has the right to assign a street
7 address to a lot within the plat, the approving authority shall, no later than the date
8 of approval, assign the lot's street address, unless the time is extended by agreement
9 with the subdivider.

10 **SECTION 9. Initial applicability.**

11 (1) The treatment of ss. 60.61 (2) (b) 3., 62.23 (7) (b) 3. b., and 66.10015 (7) (a)
12 2. and (b) first applies to an application received on the effective date of this
13 subsection.

14 (2) The treatment of s. 236.11 (2) (am) first applies to a preliminary or final plat
15 submitted for approval under s. 236.11 on the effective date of this subsection.

16 (END)