

1985 Senate Bill 288

Date of enactment: **March 19, 1986**  
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## 1985 Wisconsin Act 136

AN ACT to amend 59.97 (5) (e) 2 and 5, 60.61 (2) (e) and (4) (c) 1 and 62.23 (7) (d) 2; and to create 59.97 (4g), 59.97 (5) (e) 5m, 60.61 (4) (c) 3, 62.23 (6) (am), 62.23 (7) (d) 2m. b and 66.31 of the statutes, relating to certain county, city, village and town zoning provisions affecting airports.

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

**SECTION 1. Findings and purpose.** (1) The legislature finds that:

(a) There is a need for land use zoning for uses compatible with airport activity and such zoning is in the public interest as a viable method of accommodating the conflicting interests of the public in aviation services and a safe and healthy environment.

(b) Land use compatibility is the responsibility of municipalities, and to promote safe airport operations it is appropriate for municipalities to restrict the use of land adjacent to or in the immediate vicinity of an airport to activities and purposes compatible with airport operations, including landing and takeoff of aircraft.

(2) The legislature intends to establish certain zoning procedures which supplement the existing authority of counties, cities, villages and towns to protect airport aerial approaches and which balance the right of owners and occupants of land to the peaceful use, possession and enjoyment of their property with the public's interest in transportation and related services provided by aviation.

**SECTION 2.** 59.97 (4g) of the statutes is created to read:

59.97 (4g) AIRPORT AREAS. In any county which has created a county zoning agency under sub. (2) (a), the county's development plan shall include the location of any part of an airport, as defined in s. 62.23 (6) (am) 1. a, located in the county and of any part of an airport affected area, as defined in s. 62.23 (6) (am) 1. b, located in the county.

**SECTION 3.** 59.97 (5) (e) 2 and 5 of the statutes are amended to read:

59.97 (5) (e) 2. Upon receipt of such petition by such agency it shall call a public hearing thereon. Notice of the time and place of such hearing shall be given by publication in the county of a class 2 notice, under ch. 985. A copy of such 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 such 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 such notice to the owner or operator of the airport bordered by the airport affected area.

5. Upon receipt of such agency report the county board may adopt the ordinance as drafted by the zoning agency or with amendments, or it may deny the petition for amendment, or it may refuse to deny the petition as recommended by the agency in which case it shall rerefer the petition to the agency with directions to draft an ordinance to effectuate the petition and report the same back to the county board which may then adopt or reject such ordinance. ~~In case~~

5g. If a protest against a proposed amendment is filed with the county clerk at least 24 hours prior to the date of the meeting of the county board at which the report of the zoning agency under subd. 4 is to be considered, duly signed and acknowledged by the owners of 50% or more of the area proposed to be altered, or by abutting owners of over 50% of the total perimeter of the area proposed to be altered included within 300 feet of the parcel or parcels proposed to be rezoned, action on such ordinance may be deferred until the zoning agency has had a reasonable opportunity to ascertain and report to the county board as to the authenticity of such ownership statements. Each signer shall state the amount of area or frontage owned by him and shall include a description of the lands owned by him. If such statements are found to be true, such ordinance shall not be adopted except by the affirmative vote of three-fourths of the members of the county board of supervisors present and voting. If such statements are found to be untrue to the extent that the required frontage or area ownership is not present such protest may be disregarded.

**SECTION 4.** 59.97 (5) (e) 5m of the statutes is created to read:

59.97 (5) (e) 5m. If a proposed amendment under this paragraph would make any change in an airport affected area, as defined under s. 62.23 (6) (am) 1. b, and the owner or operator of the airport bordered by the airport affected area files a protest against the proposed amendment with the county clerk at least 24 hours prior to the date of the meeting of the county board at which the report of the zoning agency under subd. 4 is to be considered, no ordinance which makes such a change may be adopted except by the affirmative vote of two-thirds of the county board of supervisors present and voting.

SECTION 5. 60.61 (2) (e) and (4) (c) 1 of the statutes are amended to read:

60.61 (2) (e) Adopt an official map showing areas, outside the limits of villages and cities, suited to carry out the purposes of this section. Any map adopted under this paragraph shall show the location of any part of an airport, as defined in s. 62.23 (6) (am) 1. a, located in the town and of any part of an airport affected area, as defined in s. 62.23 (6) (am) 1. b, located in the town.

(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. The board shall allow any interested person to testify at the hearing. 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) (c) 3 of the statutes is created to read:

60.61 (4) (c) 3. A proposed amendment, supplement or change to the town zoning ordinance must be adopted by not less than a two-thirds vote of the town board if the proposed amendment, supplement or change would make any change in an airport affected area, as defined under s. 62.23 (6) (am) 1. b and if a protest against the proposed revision is presented to the town board prior to or at the public hearing under subd. 1 by the owner or operator of the airport bordered by the airport affected area.

SECTION 7. 62.23 (6) (am) of the statutes is created to read:

62.23 (6) (am) 1. In this paragraph:

a. "Airport" means an airport as defined under s. 114.002 (7) which is owned or operated by a county, city, village or town either singly or jointly with one or more counties, cities, villages or towns.

b. "Airport affected area" means the area established by an agreement under s. 66.31. If a county, city, village or town has not established such an agree-

ment, "airport affected area" in that county, city, village or town means the area located within 3 miles of the boundaries of an airport.

2. If the council of any city which is not located in whole or in part in a county with a population of 500,000 or more has established an official map under par. (a), the map shall show the location of any part of an airport located within the area subject to zoning by the city and any part of an airport affected area located within the area subject to zoning by the city.

SECTION 8. 62.23 (7) (d) 2 of the statutes 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 amendments 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 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. 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.

2m. a. In case of a protest against ~~such an~~ amendment proposed under subd. 2, duly signed and acknowledged by the owners of 20% or more either of the areas of the land included in such proposed amendment, or by the owners of 20% or more of the area of the land immediately adjacent extending 100 feet therefrom, or by the owners of 20% or more of the land directly opposite thereto extending 100 feet from the street frontage of such opposite land, such amendment shall not become effective except by the favorable vote of three-fourths of the members of the council voting on the proposed change.

SECTION 9. 62.23 (7) (d) 2m. b of the statutes is created to read:

62.23 (7) (d) 2m. b. In any city which is not located in whole or in part in a county with a population of 500,000 or more, if a proposed amendment under subd. 2 would make any change in an airport affected area, as defined under sub. (6) (am) 1. b and the owner or operator of the airport bordered by the airport affected area protests against the amendment, the amendment shall not become effective except by the favorable vote of two-thirds of the members of the council voting on the proposed change.

SECTION 9m. 66.31 of the statutes is created to read:

**66.31 Agreement to establish an airport affected area.** Any county, town, city or village may establish by written agreement with an airport, as defined in s. 62.23 (6) (am) 1. a:

(1) The area which will be subject to ss. 59.97 (4g) and (5) (e) 2 and 5m, 60.61 (2) (e) and (4) (c) 1 and 3 and 62.23 (7) (d) 2 and 2m. b respectively, except that

no part of the area may be more than 3 miles from the boundaries of the airport.

(2) Any requirement related to permitting land use in an airport affected area, as defined in s. 62.23 (6) (am) 1. b, which does not conform to the zoning plan or map under s. 59.97 (4g), 60.61 (2) (e) or 62.23 (6) (am) 2. A county, town, city or village may adopt such requirement by ordinance.

**SECTION 10. Cross-reference changes.** In the sections of the statutes listed in Column A, the cross-references shown in Column B are changed to the cross-references shown in Column C:

A	B	C
Statute Sections	Old Cross-References	New Cross-References
62.23 (7) (d) 3	subd. 2	subds. 2 and 2m

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