



## 2003 ASSEMBLY BILL 271

April 18, 2003 - Introduced by Representatives ALBERS, LADWIG, HINES, LOEFFELHOLZ, MCCORMICK, MUSSER, OWENS and VAN ROY, cosponsored by Senators WELCH and SCHULTZ. Referred to Committee on Property Rights and Land Management.

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

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### *Analysis by the Legislative Reference Bureau*

Generally, under current law, if a city, village, town, or county (political subdivision) or a subunit of a political subdivision wants to propose a new zoning ordinance or if a political subdivision or a subunit of a political subdivision wants to amend an existing ordinance, the political subdivision or the subunit must first hold a public hearing on the proposed ordinance or amendment and provide notice that the hearing will be held.

This bill specifies that a town zoning committee must hold a public hearing and give notice of the hearing on a preliminary report on recommended zoning district boundaries and zoning regulations for such districts and that a town board give notice of a public hearing on a proposed zoning ordinance.

This bill also requires that, if a proposed zoning ordinance, amendment to a zoning ordinance or zoning district plan or regulation has the effect of changing the allowable use of any property within the boundaries of the political subdivision, the political subdivision or subunit of the political subdivision must send a notice, which contains a copy of the proposed ordinance or amendment, to each person whose

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property may be affected and who has previously notified the political subdivision in writing, of his or her desire to be placed on a list to receive such a notice. The notice shall also include either a map showing the property affected by the ordinance or amendment, or a description of the property affected and a statement that a map may be obtained from the political subdivision or subunit of the political subdivision. The political subdivision or subunit of the political subdivision may charge a fee for providing the notice. The fee may not exceed the approximate cost of providing the notice. Under the bill, an ordinance or amendment may take effect even if the political subdivision does not comply with the bill's notice requirements. In general, the bill does not apply to first class cities (presently only Milwaukee).

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

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

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

13           59.69 (5) (e) 2. Upon receipt of the petition by the agency it shall call a public  
14 hearing on the petition. Notice of the time and place of the hearing shall be given  
15 by publication in the county of a class 2 notice, under ch. 985. If an amendment to

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1 an ordinance, as described in the petition, has the effect of changing the allowable  
2 use of any property, the notice shall include either a map showing the property  
3 affected by the amendment or a description of the property affected by the  
4 amendment and a statement that a map may be obtained from the zoning agency.

5 A copy of the notice shall be mailed by registered mail to the town clerk of each town  
6 affected by the proposed amendment at least 10 days prior to the date of such  
7 hearing. If the petition is for any change in an airport affected area, as defined in  
8 s. 62.23 (6) (am) 1. b., the agency shall mail a copy of the notice to the owner or  
9 operator of the airport bordered by the airport affected area.

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

11 59.69 (5) (f) The county zoning agency shall maintain a list of persons who  
12 submit a written request to receive notice of any proposed ordinance or amendment  
13 that affects the allowable use of the property owned by the person. If the county  
14 zoning agency completes a draft of a proposed zoning ordinance under par. (a) or if  
15 the agency receives a petition under par. (e) 2., the agency shall send a notice, which  
16 contains a copy of the proposed ordinance or petition, to each person on the list whose  
17 property may be affected by the proposed ordinance or amendment. The notice shall  
18 be by mail or in any reasonable form that is agreed to by the person and the agency.  
19 The agency may charge each person on the list who receives a notice a fee that does  
20 not exceed the approximate cost of providing the notice to the person. An ordinance  
21 or amendment that is subject to this paragraph may take effect even if the agency  
22 fails to send the notice that is required by this paragraph.

23 **SECTION 4.** 60.61 (4) (b) of the statutes is amended to read:

24 60.61 (4) (b) Before the town board may adopt an ordinance under sub. (2), the  
25 town zoning committee shall recommend zoning district boundaries and appropriate

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1 regulations and restrictions for the districts. In carrying out its duties, the town  
2 zoning committee shall develop a preliminary report and hold a public hearing on the  
3 report before submitting a final report to the town board. The town zoning committee  
4 shall give notice of the public hearing on the preliminary report and of the time and  
5 place of the public hearing on the report by a class 2 notice under ch. 985. If the town  
6 zoning committee makes a substantial change in its report following the public  
7 hearing, it shall hold another public hearing on the report. After the final report of  
8 the town zoning committee is submitted to the town board, the board may adopt an  
9 ordinance under sub. (2) following a public hearing held by the board on the proposed  
10 ordinance. The town board shall give notice of the public hearing on the proposed  
11 ordinance and of the time and place of the public hearing on the ordinance by a class  
12 2 notice under ch. 985. If the proposed ordinance has the effect of changing the  
13 allowable use of any property, the notice shall include either a map showing the  
14 property affected by the ordinance or a description of the property affected by the  
15 ordinance and a statement that a map may be obtained from the town board.

16 **SECTION 5.** 60.61 (4) (c) 1. of the statutes is amended to read:

17 60.61 (4) (c) 1. After the town board has adopted a town zoning ordinance, the  
18 board may alter, supplement or change the boundaries or regulations established in  
19 the ordinance if a public hearing is held on the revisions. The board shall give notice  
20 of any proposed revisions in the zoning ordinance and of the time and place of the  
21 public hearing on them by a class 2 notice under ch. 985. If the proposed amendment  
22 would have the effect of changing the allowable use of any property, the notice shall  
23 include either a map showing the property affected by the amendment or a  
24 description of the property affected by the amendment and a statement that a map  
25 may be obtained from the town board. The board shall allow any interested person

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1 to testify at the hearing. If any proposed revision under this subdivision would make  
2 any change in an airport affected area, as defined in s. 62.23 (6) (am) 1. b., the board  
3 shall mail a copy of such notice to the owner or operator of the airport bordered by  
4 the airport affected area.

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

6 60.61 (4) (e) The town board shall maintain a list of persons who submit a  
7 written request to receive notice of any proposed ordinance or amendment that  
8 affects the allowable use of the property owned by the person. If the town zoning  
9 committee completes a final report on a proposed zoning ordinance and the town  
10 board is prepared to vote on the proposed ordinance under par. (b) or if the town board  
11 is prepared to vote on a proposed amendment under par. (c) 1., the town board shall  
12 send a notice, which contains a copy of the proposed ordinance or amendment, to each  
13 person on the list whose property may be affected by the proposed ordinance or  
14 amendment. The notice shall be by mail or in any reasonable form that is agreed to  
15 by the person and the town board. The town board may charge each person on the  
16 list who receives a notice a fee that does not exceed the approximate cost of providing  
17 the notice to the person. An ordinance or amendment that is subject to this  
18 paragraph may take effect even if the town board fails to send the notice that is  
19 required by this paragraph.

20 **SECTION 7.** 62.23 (7) (d) 1. a. of the statutes is amended to read:

21 62.23 (7) (d) 1. a. Upon the request of the city council, the city plan commission,  
22 the board of public land commissioners, or if the city has neither, the city plan  
23 committee of the city council shall prepare and recommend a district plan and  
24 regulations for the city. Following the formulation of tentative recommendations a  
25 public hearing shall be held by, at the council's option, the council, the plan

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1 commission, the board of public land commissioners or the plan committee. At least  
2 10 days' prior written notice of any such hearings shall be given to the clerk of any  
3 municipality whose boundaries are within 1,000 feet of any lands included in the  
4 proposed plan and regulations but failure to give such notice shall not invalidate  
5 such district plan or regulations. Publication of a class 2 notice, under ch. 985, of the  
6 tentative recommendations and hearings thereon must be made once during each of  
7 the 2 weeks prior to such hearing. If the proposed district plan and regulations have  
8 the effect of changing the allowable use of any property within the city, the notice  
9 shall include either a map showing the property affected by the plan and regulations  
10 or a description of the property affected by the plan and regulations and a statement  
11 that a map may be obtained from the city council.

12 **SECTION 8.** 62.23 (7) (d) 1. b. of the statutes is amended to read:

13 62.23 (7) (d) 1. b. The council may make changes in the tentative  
14 recommendations after first submitting the proposed changes to the plan  
15 commission, board of public land commissioners or plan committee for  
16 recommendation and report and after publishing a class 2 notice, under ch. 985, of  
17 the proposed changes and hearings thereon as well as the notice to the clerk of any  
18 contiguous municipality as required in subd. 1. a. Hearings on the proposed changes  
19 may be held by, at the council's option, the council, the plan commission, the board  
20 of public land commissioners or the plan committee. If the proposed changes to the  
21 proposed district plan and regulations have the effect of changing the allowable use  
22 of any property within the city, the notice shall include either a map showing the  
23 property affected by the changes or a description of the property affected by the  
24 changes and a statement that a map may be obtained from the city council.

25 **SECTION 9.** 62.23 (7) (d) 2. of the statutes is amended to read:

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1           62.23 (7) (d) 2. The council may adopt amendments to an existing zoning  
2 ordinance after first submitting the proposed amendments to the city plan  
3 commission, board of public land commissioners or plan committee for  
4 recommendation and report and after providing the notices as required in subd. 1.  
5 b. of the proposed amendments and hearings thereon. In any city which is not located  
6 in whole or in part in a county with a population of 500,000 or more, if the proposed  
7 amendment amendments would make any change in an airport affected area, as  
8 defined in sub. (6) (am) 1. b., the council shall mail a copy of such notice to the owner  
9 or operator of the airport bordered by the airport affected area. A hearing shall be  
10 held on the proposed amendments by, at the council's option, the council, the plan  
11 commission, the board of public land commissioners or the plan committee. If the  
12 proposed amendments have the effect of changing the allowable use of any property  
13 within the city, the notice shall include either a map showing the property affected  
14 by the amendments or a description of the property affected by the amendments and  
15 a statement that a map may be obtained from the city council. If the council does not  
16 receive recommendations and a report from the plan commission, board of public  
17 land commissioners or plan committee within 60 days of submitting the proposed  
18 amendments, the council may hold hearings without first receiving the  
19 recommendations and report.

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

21           62.23 (7) (d) 4. The city council shall maintain a list of persons who submit a  
22 written request to receive notice of any proposed zoning action that may be taken  
23 under subd. 1. a. or b. or 2. that affects the allowable use of the person's property.  
24 If the plan commission, the board of public land commissioners or city plan  
25 committee of the city council completes action on any tentative recommendations

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1 that are noticed under subd. 1. a., proposed changes to a proposed district plan and  
2 regulations that are submitted under subd. 1. b. or proposed amendments that are  
3 submitted under subd. 2. and the city council is prepared to vote on the tentative  
4 recommendations, proposed changes to a proposed district plan and regulations or  
5 proposed amendments, the city council shall send a notice, which contains a copy of  
6 the tentative recommendations, proposed changes to a proposed district plan and  
7 regulations or proposed amendments, to each person on the list whose property may  
8 be affected by the tentative recommendations or proposed changes or amendments.  
9 The notice shall be by mail or in any reasonable form that is agreed to by the person  
10 and the city council. The city council may charge each person on the list who receives  
11 a notice a fee that does not exceed the approximate cost of providing the notice to the  
12 person. An ordinance or amendment that is subject to this subdivision may take  
13 effect even if the city council fails to send the notice that is required by this  
14 subdivision.

15 (END)