



# NANCY VANDERMEER

STATE REPRESENTATIVE • 70<sup>TH</sup> ASSEMBLY DISTRICT

TO: Honorable Members of the Assembly Committee on Local Government

FROM: State Representative Nancy VanderMeer

DATE: January 17, 2024

SUBJECT: Testimony in Support of Assembly Bill 881

Thank you Chairman Novak for holding a hearing on AB 881 today and thank you committee members for being here. Counties and towns in Wisconsin share general zoning authority in unincorporated areas (areas outside of cities and villages). Some unincorporated areas are subject to county zoning regulation, others are subject to a town-specific zoning ordinance, and other incorporated areas are un-zoned. The best approach to zoning regulation differs from place to place.

Under current law, towns must “opt in” to a county general zoning ordinance for that ordinance to apply in the town. Once in, a town can generally only opt out of a county zoning ordinance after the applicable county adopts a comprehensive rezoning ordinance. Counties rarely undertake comprehensive rezoning efforts because these are large and time-consuming projects for counties to undertake. It is also difficult to determine what level of modification constitutes a “comprehensive” rezone. If towns elect to opt out after a county comprehensive rezone, they may be left with no zoning ordinance in place.

Under this bill, beginning five years after enactment of this legislation, a town that opted to be subject to a county zoning ordinance may withdraw from coverage under that ordinance and from coverage under a county land division ordinance after providing a two-year notice to the county. Towns that exercise this option must adopt their own zoning ordinance and related regulations and plans. With these changes, towns will have more incentive to opt in under county zoning knowing that they will have a more meaningful option to exit if there comes a time when they believe they are better situated to manage their own zoning authority. This legislation will promote counties and towns working more closely with each other to manage this regulatory authority and will allow larger towns to shift to their own regulatory structure at a point in time when such a move is appropriate for their constituents.

The bill also specifies that preexisting zoning approvals and nonconforming uses are preserved when there is a transfer of zoning authority between a county and a town. The bill makes other changes to related statutes for consistency.

The Wisconsin Towns Association and the Wisconsin Counties Association have worked together on this bill. The goal is to foster communication and collaboration between counties and towns and create opportunity for appropriate zoning ordinances that are a good fit for property owners and residents of a particular community.

Again, thank you for the opportunity for a public hearing on this proposal.



**Assembly Bill 881: Town Withdrawal from County Zoning  
Assembly Committee on Local Government  
Testimony of Senator Joan Ballweg  
January 17, 2024**

Thank you, Chair Novak and members of the committee, for hearing this legislation regarding county and town zoning.

Currently, counties and towns share general zoning authority in unincorporated areas. Some of these unincorporated areas are under county zoning, others have town-specific zoning and others are unzoned. However, local communities should be able to determine which type of zoning works best for them.

Under current law, a town must opt-in to a county general zoning ordinance for it to apply for a town. Current law allows a town to opt-out of a county zoning ordinance after the county adopts a comprehensive rezoning ordinance. While this process is well-intentioned to provide an option for the town to opt-out and to ensure consistency so towns do not opt-in and opt-out on a whim, it does not work well practically. Counties rarely undertake comprehensive rezoning because it is a large, time-consuming project, therefore the town effectively does not have an option to opt-out.

The goal of Assembly Bill 881 is to foster communication and collaboration between counties and towns and create the opportunity for appropriate zoning ordinances that are a good fit for property owners and residents of a particular community. Under the bill, beginning five years after enactment of this legislation, a town that opted to be subject to a county zoning ordinance may withdraw from coverage under that ordinance and from coverage under a county land division ordinance after providing a two-year notice to the county. If a town exercises this option, they must also adopt their own zoning ordinance. This process ensures that towns have a viable option if they believe they are better situated to manage their own zoning authority as well as balances the need to provide advanced notice for a thoughtful transition. Lastly, the bill specifies that any preexisting zoning approvals and nonconforming uses are preserved when there is a transfer of zoning authority between a county and a town.

The Wisconsin Towns Association and the Wisconsin Counties Association have worked together on this bill because it will promote counties and towns working closer together to manage this regulatory authority. The senate companion bill, SB 826, received a public hearing in the Senate Committee on Transportation and Local Government last week.

Thank you for your consideration of Assembly Bill 881.



**WISCONSIN TOWNS  
ASSOCIATION**

**Empowering Town Officials**

W7686 County Road MMM  
Shawano, WI 54166  
715-526-3157  
wtowns@wisctowns.com  
www.wisctowns.com

**MEMO TO: Assembly Committee on Local Government**  
**FROM: Wisconsin Towns Association**  
**RE: Assembly Bill 881**  
**DATE: 1/17/2024**

Chair Novak, members of the Committee, thank you for the opportunity to provide testimony in support of Assembly Bill 881 on behalf of the Wisconsin Towns Association.

Counties and towns in Wisconsin share general zoning authority in unincorporated areas. Some towns are subject to county zoning regulation, others are subject to a town-specific zoning ordinance, and others have no zoning. The best approach to zoning regulation differs from place to place.

Under current law, towns must “opt in” to a county general zoning ordinance for that ordinance to apply in the town. Once in, a town can generally only opt out of a county zoning ordinance if the county agrees or after the applicable county adopts a comprehensive rezoning ordinance. Counties rarely undertake comprehensive rezoning efforts because these are large and time-consuming projects for counties to undertake. It is also difficult to determine what level of modification constitutes a “comprehensive” rezone. Additionally, if towns elect to opt out after a county comprehensive rezone, they may be left with no zoning ordinance in place.

Under this bill, beginning five years after enactment of this legislation, a town that opted to be subject to a county zoning ordinance may withdraw from coverage under that ordinance and from coverage under a county land division ordinance after providing a two-year notice to the county. Towns that exercise this option must adopt their own zoning ordinance and related regulations and plans. With these changes, towns will not only have the option to opt out of county zoning more effectively, they will also have more incentive to *opt in* under county zoning knowing that they will have a more meaningful option to exit if there comes a time when they believe they are better situated to manage their own zoning authority.

This legislation will promote counties and towns working more closely with each other to manage this regulatory authority and will allow larger towns to shift to their own

regulatory structure at a point in time when such a move is appropriate for their constituents.

The bill also clarifies an important aspect of current law by specifying that preexisting zoning approvals and nonconforming uses are preserved when there is a transfer of zoning authority between local governments and makes other changes to related statutes for consistency.

AB 881 continues the trend in recent years of legislative changes that update the way that zoning authority is managed across the state. Most recently, counties and towns worked together to change the law to allow a town to opt in under county zoning for only a portion of the town, in response to requests from town citizens and county administrators. This bill is the logical next step to continue to strengthen the relationship between towns and counties and to provide the regulatory structure best suited to the needs of a particular area.

The Wisconsin Towns Association and the Wisconsin Counties Association have worked together on this bill. The goal is to foster communication and collaboration between counties and towns and create opportunity for appropriate zoning ordinances that are a good fit for property owners and residents of towns.

Thank you again for your consideration of this bill and the opportunity to testify before you today.





## Assembly Committee on Local Government

### *2023 Assembly Bill 881*

### *Town Withdrawals from County Zoning and the Effect of a Jurisdiction Change on Zoning Provisions*

*January 17, 2024*

The Wisconsin Department of Natural Resources (DNR) welcomes the opportunity to provide written testimony on Assembly Bill 881 (AB 881), related to town withdrawals from county zoning and the effect of a jurisdiction change on zoning provisions.

The department is concerned that this bill may inadvertently allow for towns to withdraw from a county floodplain zoning ordinance. Currently, S. 87.30, Wis. Stats. requires counties, cities, or villages to adopt a reasonable and effective floodplain zoning ordinance. Towns are not mentioned. If towns took responsibility for floodplain zoning and were interested in having subsidized flood insurance available to their residents, they would have several additional duties: joining the NFIP under their community's name; getting a new Community Identification Number; and enforcing the requirements to continue to participate. They would also need to have legal land use authority throughout the town's jurisdiction. In turn, the increased number of communities with floodplain zoning ordinances would mean additional oversight, education, and outreach responsibilities on the part of the department's Floodplain Management Program.

In Section 7 of this bill, s. 30.23(35)(b) is created to read, "Nothing in this subsection authorizes a town to withdraw from a county shoreland zoning ordinance under s. 59.692". A similar section indicating that it does not authorize a town to withdraw from a county floodplain zoning ordinance under s. 87.30 may provide straightforward language-

Thank you for the opportunity to provide this written testimony. If you have questions or if there is any further information the department can provide, please contact Calvin Boldebeck, DNR Legislative Director, at [Calvin.Boldebeck@Wisconsin.gov](mailto:Calvin.Boldebeck@Wisconsin.gov).