



## 1997 ASSEMBLY BILL 807

February 19, 1998 - Introduced by Representatives ALBERS, GRONEMUS, JENSEN, SYKORA, SERATTI, GREEN, MUSSER, SPILLNER, AINSWORTH, BRANDEMUEHL, JOHNSRUD, SCHAFER, HAHN, F. LASEE, GUNDERSON, OLSEN, HARSDFORF, OTTE, FREESE and PORTER, cosponsored by Senators WELCH, DRZEWIECKI and SCHULTZ. Referred to Committee on Land Use.

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 make a good faith effort to identify each person whose property is affected by the proposed zoning action in a way that changes the allowable use of the person's property.

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The political subdivision or subunit of the political subdivision is also required under the bill to mail a written notice to each person so identified, which shall contain a statement that the proposed zoning action may change the allowable use of the person's property and shall provide a comprehensive description of the opportunity for public testimony on the proposed zoning action and the procedures for participating in the development of the proposed action. Any person so identified who does not receive the required written notice is not required to comply with the proposed zoning action.

For further information see the *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 a statement to that effect and the zoning agency shall take the actions described in  
7 par. (f). After such hearing the agency may make such revisions in the draft as it  
8 considers necessary, or it may submit the draft without revision to the board with  
9 recommendations for adoption. Proof of publication of the notice of the public  
10 hearing held by such agency shall be attached to its report to the board.

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

12           59.69 (5) (e) 2. Upon receipt of the petition by the agency it shall call a public  
13 hearing on the petition. Notice of the time and place of the hearing shall be given  
14 by publication in the county of a class 2 notice, under ch. 985. If an amendment to  
15 an ordinance, as described in the petition, would have the effect of changing the  
16 allowable use of any property, the notice shall include a statement to that effect and  
17 the zoning agency shall take the actions described in par. (f). A copy of the notice shall

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

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

7 59.69 (5) (f) When the county zoning agency has completed a draft of a proposed  
8 zoning ordinance under par. (a) or when the agency receives a petition under par. (e)  
9 2., the agency shall make a good faith effort to identify each person whose property  
10 is affected by the proposed zoning ordinance or amendment in a way that changes  
11 the allowable use of the person's property. The agency shall mail a written notice to  
12 each person so identified, which shall contain a statement that the proposed zoning  
13 ordinance or amendment may change the allowable use of the person's property and  
14 shall provide a comprehensive description of the opportunity for public testimony on  
15 the proposed zoning ordinance or amendment and the procedures for participating  
16 in the development of the proposed zoning ordinance or amendment. Any person so  
17 identified who does not receive the written notice that is described in this paragraph  
18 is not required to comply with the proposed zoning ordinance or amendment.

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

20 60.61 (4) (b) Before the town board may adopt an ordinance under sub. (2), the  
21 town zoning committee shall recommend zoning district boundaries and appropriate  
22 regulations and restrictions for the districts. In carrying out its duties, the town  
23 zoning committee shall develop a preliminary report and hold a public hearing on the  
24 report before submitting a final report to the town board. The town zoning committee  
25 shall give notice of the public hearing on the preliminary report and of the time and

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1 place of the public hearing on the report by a class 2 notice under ch. 985. If the town  
2 zoning committee makes a substantial change in its report following the public  
3 hearing, it shall hold another public hearing on the report. After the final report of  
4 the town zoning committee is submitted to the town board, the board may adopt an  
5 ordinance under sub. (2) following a public hearing held by the board on the proposed  
6 ordinance. The town board shall give notice of the public hearing on the proposed  
7 ordinance and of the time and place of the public hearing on the ordinance by a class  
8 2 notice under ch. 985. If the proposed ordinance has the effect of changing the  
9 allowable use of any property, the notice shall include a statement to that effect and  
10 the town board shall take the actions described in par. (e).

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

12 60.61 (4) (c) 1. After the town board has adopted a town zoning ordinance, the  
13 board may alter, supplement or change the boundaries or regulations established in  
14 the ordinance if a public hearing is held on the revisions. The board shall give notice  
15 of any proposed revisions in the zoning ordinance and of the time and place of the  
16 public hearing on them by a class 2 notice under ch. 985. If the proposed amendment  
17 would have the effect of changing the allowable use of any property, the notice shall  
18 include a statement to that effect and the town board shall take the actions described  
19 in par. (e). The board shall allow any interested person to testify at the hearing. If  
20 any proposed revision under this subdivision would make any change in an airport  
21 affected area, as defined in s. 62.23 (6) (am) 1. b., the board shall mail a copy of such  
22 notice to the owner or operator of the airport bordered by the airport affected area.

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

24 60.61 (4) (e) When the town board receives the final report of the town zoning  
25 committee and is prepared to vote on the proposed ordinance under par. (b) or when

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1 the town board is prepared to vote on a proposed amendment under par. (c) 1., the  
2 town board shall make a good faith effort to identify each person whose property is  
3 affected by the proposed zoning ordinance or amendment in a way that changes the  
4 allowable use of the person's property. The town board shall mail a written notice  
5 to each person so identified, which shall contain a statement that the proposed  
6 zoning ordinance or amendment may change the allowable use of the person's  
7 property and shall provide a comprehensive description of the opportunity for public  
8 testimony on the proposed zoning ordinance or amendment and the procedures for  
9 participating in the development of the proposed zoning ordinance or amendment.  
10 Any person so identified who does not receive the written notice that is described in  
11 this paragraph is not required to comply with the proposed zoning ordinance or  
12 amendment.

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

14 62.23 (7) (d) 1. a. Upon the request of the city council, the city plan commission,  
15 the board of public land commissioners, or if the city has neither, the city plan  
16 committee of the city council shall prepare and recommend a district plan and  
17 regulations for the city. Following the formulation of tentative recommendations a  
18 public hearing shall be held by, at the council's option, the council, the plan  
19 commission, the board of public land commissioners or the plan committee. At least  
20 10 days' prior written notice of any such hearings shall be given to the clerk of any  
21 municipality whose boundaries are within 1,000 feet of any lands included in the  
22 proposed plan and regulations but failure to give such notice shall not invalidate  
23 such district plan or regulations. Publication of a class 2 notice, under ch. 985, of the  
24 tentative recommendations and hearings thereon must be made once during each of  
25 the 2 weeks prior to such hearing. If the proposed district plan and regulations have

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1 the effect of changing the allowable use of any property within the city, the notice  
2 shall include a statement to that effect and the council shall take the actions  
3 described in subd. 4.

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

5 62.23 (7) (d) 1. b. The council may make changes in the tentative  
6 recommendations after first submitting the proposed changes to the plan  
7 commission, board of public land commissioners or plan committee for  
8 recommendation and report and after publishing a class 2 notice, under ch. 985, of  
9 the proposed changes and hearings thereon as well as the notice to the clerk of any  
10 contiguous municipality as required in subd. 1. a. Hearings on the proposed changes  
11 may be held by, at the council's option, the council, the plan commission, the board  
12 of public land commissioners or the plan committee. If the proposed changes to the  
13 proposed district plan and regulations have the effect of changing the allowable use  
14 of any property within the city, the notice shall include a statement to that effect and  
15 the council shall take the actions described in subd. 4.

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

17 62.23 (7) (d) 2. The council may adopt amendments to an existing zoning  
18 ordinance after first submitting the proposed amendments to the city plan  
19 commission, board of public land commissioners or plan committee for  
20 recommendation and report and after providing the notices as required in subd. 1.  
21 b. of the proposed amendments and hearings thereon. In any city which is not located  
22 in whole or in part in a county with a population of 500,000 or more, if the proposed  
23 amendment would make any change in an airport affected area, as defined in sub.  
24 (6) (am) 1. b., the council shall mail a copy of such notice to the owner or operator of  
25 the airport bordered by the airport affected area. A hearing shall be held on the

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1 proposed amendments by, at the council's option, the council, the plan commission,  
2 the board of public land commissioners or the plan committee. If the proposed  
3 amendment has the effect of changing the allowable use of any property within the  
4 city, the notice shall include a statement to that effect and the council shall take the  
5 actions described in subd. 4. If the council does not receive recommendations and a  
6 report from the plan commission, board of public land commissioners or plan  
7 committee within 60 days of submitting the proposed amendments, the council may  
8 hold hearings without first receiving the recommendations and report.

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

10 62.23 (7) (d) 4. When the tentative recommendations are noticed under subd.  
11 1. a. or when the proposed changes to the proposed district plan and regulations  
12 described in subd. 1. b. are submitted or when the proposed amendments described  
13 in subd. 2. are submitted, the city council shall make a good faith effort to identify  
14 each person whose property is affected by the tentative recommendations, proposed  
15 changes to the district plan and regulations or proposed zoning ordinance  
16 amendment in a way that changes the allowable use of the person's property. The  
17 city council shall mail a written notice to each person so identified, which shall  
18 contain a statement that the tentative recommendations, proposed changes to the  
19 district plan and regulations or proposed zoning ordinance amendment may change  
20 the allowable use of the person's property and shall provide a comprehensive  
21 description of the opportunity for public testimony on such recommendations or  
22 proposals and the procedures for participating in the development of such  
23 recommendations or proposals. Any person so identified who does not receive the  
24 written notice that is described in this subdivision is not required to comply with the

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**SECTION 10**

1 tentative recommendations, proposed changes to the proposed district plan and  
2 regulations or proposed zoning ordinance amendment.

3 (END)