



## 2013 ASSEMBLY BILL 661

January 24, 2014 - Introduced by Representatives JACQUE, BERNIER, CRAIG, KERKMAN, KRUG, MURPHY, SCHRAA, SPIROS, THIESFELDT and TITTL, cosponsored by Senator MOULTON. Referred to Committee on Urban and Local Affairs.

1     **AN ACT** *to repeal* 60.62 (3); *to amend* 59.69 (3) (a), 59.69 (3) (b), 59.69 (3) (e),  
2             59.69 (5) (c), 60.62 (1) and 66.0307 (7m); and *to create* 59.69 (5m), 60.23 (34)  
3             and 60.62 (5) of the statutes; **relating to:** authorizing towns to withdraw from  
4             county zoning and requiring certain towns to enact a zoning ordinance and a  
5             comprehensive plan.

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### *Analysis by the Legislative Reference Bureau*

Under current law, if a town board has been granted the authority to exercise village powers, the town board may enact zoning ordinances using the zoning statutes that are used by cities and villages, subject to a number of conditions. If the county in which the town is located has enacted a county zoning ordinance, town zoning ordinances may not take effect until such ordinances are approved either by a town meeting or by a referendum vote of the electors of the town and are approved by the county board. In addition, in counties having a zoning ordinance, no town zoning ordinance, or amendment of a zoning ordinance, may be adopted by the town unless approved by the county board; the bill repeals this provision.

Also under current law, a county zoning ordinance may not take effect in a town unless it has been approved by the town board. Once a town board has approved a county zoning ordinance, the town may not withdraw its approval.

Under this bill, a town board may enact an ordinance withdrawing from coverage of a county zoning ordinance and a county development plan. A town board may enact the ordinance during 2015, or during the one-year period every three

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years after January 1, 2015. Such an ordinance may not take effect unless the town clerk notifies the county clerk of the proposed ordinance and the town enacts, and sends copies to the county clerk, a town zoning ordinance, a comprehensive plan, and an official map. County board approval of a town zoning ordinance is not required if the town has withdrawn from county zoning. The town zoning ordinance and comprehensive plan must be consistent with each other.

If a county clerk receives notice from a town clerk before July 1 that the town intends to withdraw from county zoning, the bill authorizes a county board to enact an ordinance, before October 1, to repeal all of its zoning ordinances, other than shoreland and floodplain zoning ordinances. The county must notify all of the towns that are subject to its zoning ordinances that it intends to enact an ordinance to repeal those ordinances. The county ordinance to repeal its zoning ordinances must have a delayed effective date of one year. If a town is so notified, it must enact a zoning ordinance, comprehensive plan, and official map to take effect on the effective date of the county's repeal of its zoning ordinance. The town ordinance and comprehensive plan must be consistent with each other.

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 (3) (a) of the statutes is amended to read:

2           59.69 (3) (a) The Subject to s. 60.23 (34), the county zoning agency may direct  
3 the preparation of a county development plan or parts of the plan for the physical  
4 development of the unincorporated territory within the county and areas within  
5 incorporated jurisdictions whose governing bodies by resolution agree to having  
6 their areas included in the county's development plan. The plan may be adopted in  
7 whole or in part and may be amended by the board and endorsed by the governing  
8 bodies of incorporated jurisdictions included in the plan. The county development  
9 plan, in whole or in part, in its original form or as amended, is hereafter referred to  
10 as the development plan. Beginning on January 1, 2010, or, if the county is exempt  
11 under s. 66.1001 (3m), the date under s. 66.1001 (3m) (b), if the county engages in

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1 any program or action described in s. 66.1001 (3), the development plan shall contain  
2 at least all of the elements specified in s. 66.1001 (2).

3 **SECTION 2.** 59.69 (3) (b) of the statutes is amended to read:

4 59.69 (3) (b) The development plan shall include the master plan, if any, of any  
5 city or village, that was adopted under s. 62.23 (2) or (3) and the official map, if any,  
6 of such city or village, that was adopted under s. 62.23 (6) in the county, without  
7 change. The development plan shall also include, and integrate, the master plan and  
8 the official map of a town that was adopted under s. 60.62 (5) (a) or (c), without  
9 change.

10 **SECTION 3.** 59.69 (3) (e) of the statutes is amended to read:

11 59.69 (3) (e) ~~A~~ Except for a town that has adopted a master plan and official  
12 map as described in par. (b), a master plan adopted under s. 62.23 (2) and (3) and an  
13 official map that is established under s. 62.23 (6) shall control in unincorporated  
14 territory in a county affected thereby, whether or not such action occurs before the  
15 adoption of a development plan.

16 **SECTION 4.** 59.69 (5) (c) of the statutes is amended to read:

17 59.69 (5) (c) A county ordinance enacted under this section shall not be effective  
18 in any town until it has been approved by the town board. If the town board approves  
19 an ordinance enacted by the county board, under this section, a certified copy of the  
20 approving resolution attached to one of the copies of such ordinance submitted to the  
21 town board shall promptly be filed with the county clerk by the town clerk. The  
22 ordinance shall become effective in the town as of the date of the filing, which filing  
23 shall be recorded by the county clerk in the clerk's office, reported to the town board  
24 and the county board, and printed in the proceedings of the county board. The  
25 ordinance shall supersede any prior town ordinance in conflict therewith or which

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1 is concerned with zoning, except as provided by s. 60.62. A town board may withdraw  
2 from coverage of a county zoning ordinance as provided under s. 60.23 (34).

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

4 59.69 (5m) TERMINATION OF COUNTY ZONING. (a) Subject to par. (b), if a county  
5 clerk receives a notice from a town clerk under s. 60.23 (34) (b) 1. before July 1 of the  
6 year before a year in which a town may withdraw from county zoning under s. 60.23  
7 (34), a county board may enact an ordinance, before October 1 of the year in which  
8 the county clerk receives the notice, to repeal all of its zoning ordinances enacted  
9 under this section if it so notifies, in writing, all of the towns that are subject to its  
10 zoning ordinances.

11 (b) An ordinance enacted under par. (a) shall have a delayed effective date of  
12 one year. No county board may repeal under this subsection a county shoreland  
13 zoning or floodplain zoning ordinance.

14 **SECTION 6.** 60.23 (34) of the statutes is created to read:

15 60.23 (34) TOWN WITHDRAWAL FROM COUNTY ZONING. (a) Subject to pars. (b) and  
16 (c), after December 31, 2014, and before January 1, 2016, and during the one-year  
17 period every 3 years after January 1, 2015, enact an ordinance withdrawing the town  
18 from coverage of a county zoning ordinance that had previously been approved under  
19 s. 59.69 (5) (c) and from coverage by a county development plan that has been enacted  
20 under s. 59.69 (3) (a).

21 (b) Subject to par. (c), an ordinance enacted under par. (a) may not take effect  
22 until all of the following occur:

23 1. Not later than 180 days before enacting an ordinance under par. (a), the town  
24 clerk notifies the county clerk, in writing, of the town's intent to enact an ordinance  
25 under par. (a).

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1           2. The town enacts a zoning ordinance under s. 60.62, a comprehensive plan  
2           under s. 66.1001, and an official map under s. 62.23 (6), and the town clerk sends  
3           certified copies of such documents to the county clerk.

4           (c) A zoning ordinance enacted under s. 60.62, a comprehensive plan enacted  
5           under s. 66.1001, and an official map established under s. 62.23 (6), that are enacted  
6           in conjunction with an ordinance enacted under par. (a), shall all take effect on the  
7           first day of the 3rd month beginning after certified copies of the documents are sent  
8           to the county clerk under par. (b) 2.

9           **SECTION 7.** 60.62 (1) of the statutes is amended to read:

10          60.62 (1) Except as provided in s. 60.23 (33) and subject to subs. (2), ~~(3)~~ and (4),  
11          if a town board has been granted authority to exercise village powers under s. 60.10  
12          (2) (c), the board may adopt zoning ordinances under s. 61.35.

13          **SECTION 8.** 60.62 (3) of the statutes is repealed.

14          **SECTION 9.** 60.62 (5) of the statutes is created to read:

15          60.62 (5) (a) Subject to par. (b), not later than 60 days before a town board that  
16          wishes to withdraw from county zoning and the county development plan may enact  
17          an ordinance under s. 60.23 (34), the town board shall enact a zoning ordinance  
18          under this section, an official map under s. 62.23 (6), and a comprehensive plan under  
19          s. 66.1001.

20          (b) The zoning ordinance and comprehensive plan enacted under par. (a) shall  
21          be consistent with each other.

22          (c) If a town receives notification under s. 59.69 (5m) that the county board has  
23          repealed its zoning ordinances and development plan, the town board shall enact a  
24          zoning ordinance under this section, an official map under s. 62.23 (6), and a  
25          comprehensive plan under s. 66.1001, all of which take effect on the effective date

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1 of the county's repeal of its zoning ordinance and development plan. An ordinance  
2 and comprehensive plan enacted under this paragraph shall be consistent with each  
3 other.

4 **SECTION 10.** 66.0307 (7m) of the statutes is amended to read:

5 66.0307 (**7m**) ZONING IN TOWN TERRITORY. If a town is a party to a cooperative  
6 plan with a city or village, the town and city or village may agree, as part of the  
7 cooperative plan, to authorize the town, city or village to adopt a zoning ordinance  
8 under s. 60.61, 61.35 or 62.23 for all or a portion of the town territory covered by the  
9 plan. The exercise of zoning authority by a town under this subsection is not subject  
10 to s. 60.61 (3) ~~or 60.62 (3)~~. If a county zoning ordinance applies to the town territory  
11 covered by the plan, that ordinance and amendments to it continue until a zoning  
12 ordinance is adopted under this subsection. If a zoning ordinance is adopted under  
13 this subsection, that zoning ordinance continues in effect after the planning period  
14 ceases until a different zoning ordinance for the territory is adopted under other  
15 applicable law. This subsection does not affect zoning ordinances adopted under s.  
16 59.692 or 87.30 or ch. 91.

17 (END)