



State of Wisconsin
2009 - 2010 LEGISLATURE

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2009 SENATE BILL 314

September 30, 2009 - Introduced by JOINT LEGISLATIVE COUNCIL. Referred to Committee on Commerce, Utilities, Energy, and Rail.

1 **AN ACT to amend** 59.69 (4) (intro.), 60.61 (2) (b), 62.23 (7) (b) and 66.1027 (3) (a);
2 **and to create** 66.1027 (3) (c) and 560.9802 (2) (h) of the statutes; **relating to:**
3 traditional neighborhood development ordinances, mixed-use zoning, and the
4 state housing strategy plan.

Analysis by the Legislative Reference Bureau

This bill is explained in the NOTES provided by the Joint Legislative Council in the bill.

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

JOINT LEGISLATIVE COUNCIL PREFATORY NOTE: This bill was prepared for the Joint Legislative Council's Special Committee on Performance-Based Disease Management Programs for Large Populations.

Subsequent to the committee's approval of preliminary drafts upon which this bill is based, the 2009-11 biennial budget bill (2009 Wisconsin Act 28) was enacted. This bill reconciles the provisions of the committee's bill drafts with current law as affected by the biennial budget.

Traditional Neighborhood Development Ordinances

A traditional neighborhood development is a compact, mixed-use neighborhood where residential, commercial, and civic buildings are within close proximity to each other.

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A conservation subdivision is a housing development in a rural setting that is characterized by compact lots and common open space, and where the natural features of land are maintained to the greatest extent possible.

Current law (s. 66.1027, stats.) requires the University of Wisconsin (UW)-Extension to develop a model ordinance for a traditional neighborhood development and an ordinance for a conservation subdivision. The model ordinance was completed on January 1, 2001.

Current law also requires every city and village with a population of at least 12,500 to enact an ordinance that is similar to the model traditional neighborhood development ordinance by January 1, 2002. A city or village whose population reaches at least 12,500, after January 1, 2002, must enact an ordinance that is similar to the model traditional neighborhood development within one year.

This bill requires all communities with a population of 12,500 or more to report to the Department of Administration (DOA), by January 1, 2011, whether they are in compliance with the statutory requirement to enact an ordinance that is similar to the model traditional neighborhood development ordinance.

The bill also encourages a city or village whose population reaches 12,500 after January 1, 2011, to report to DOA, within 18 months after reaching that population size, whether it has enacted a model traditional neighborhood development ordinance.

The bill also encourages communities with populations smaller than 12,500 to enact ordinances similar to the model traditional neighborhood development ordinance.

Mixed-Use Zoning

Current law authorizes cities, villages, counties, and, to a limited extent, towns, to enact zoning ordinances. A town may enact a more robust zoning ordinance if a town meeting authorizes the town board to exercise powers relating to villages and conferred on village boards by statute.

This bill clarifies that a municipality that is authorized to enact a zoning ordinance may establish mixed-use districts that allow any combination of uses such as industrial, commercial, public, or residential uses, in a compact urban form.

State Housing Strategy Plan

Current law requires the Department of Commerce (Commerce) to prepare a comprehensive 5-year state housing strategy plan and to update it every year. Commerce must submit the plan to the federal Department of Housing and Urban Development.

The state housing strategy plan must include all of the following:

- A statement of housing policies and recommendations.
- An evaluation and summary of housing conditions and trends in the state, including housing stock and housing cost analyses, general population and household composition demographic analyses, and housing and demographic forecasts.
- An evaluation of housing assistance needs.
- A discussion of major housing issues, including housing production, housing and neighborhood conservation, housing for persons with special needs, fair housing and accessibility, and housing affordability.
- Housing policies that set the general framework for the state's housing efforts.
- Strategies for utilizing federal funding and for coordinating federal and state housing efforts.

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- Specific recommendations for public and private action that contribute to the attainment of housing policies under the plan.

Under current law (s. 234.034, stats.), the Wisconsin Housing and Economic Development Authority (WHEDA) must exercise its powers and perform its duties related to housing consistent with the state housing strategy plan created by Commerce.

Under current law (s. 227.115, stats.), Commerce must prepare a report on every proposed administrative rule that directly or substantially affects the development, construction, cost, or availability of housing in Wisconsin before the legislature acts on it. Among other things, the report must discuss the proposed rule's effect on the policies, strategies, and recommendations of the state housing strategy plan.

Under current law (s. 13.099 (3), stats.), Commerce must prepare a report on any bill that is introduced in the legislature that directly or substantially affects the development, construction, cost, or availability of housing in Wisconsin. The report must discuss the bill's effects on housing, including its effect on the policies, strategies, and recommendations of the state housing strategy plan.

This bill adds another required element to the state housing strategy plan. The bill requires Commerce to include in the plan strategies and specific recommendations for public and private action that will facilitate the inclusion of bicycle-oriented and pedestrian-oriented design in residential developments and mixed-use developments that include residential elements.

1 **SECTION 1.** 59.69 (4) (intro.) of the statutes is amended to read:

2 59.69 (4) EXTENT OF POWER. (intro.) For the purpose of promoting the public
3 health, safety and general welfare the board may by ordinance effective within the
4 areas within such county outside the limits of incorporated villages and cities
5 establish districts of such number, shape and area, and adopt such regulations for
6 each such district as the board considers best suited to carry out the purposes of this
7 section. The board may establish mixed-use districts that contain any combination
8 of uses, such as industrial, commercial, public, or residential uses, in a compact
9 urban form. The powers granted by this section shall be exercised through an
10 ordinance which may, subject to sub. (4e), determine, establish, regulate and restrict:

NOTE: Specifies county authority to establish mixed-use districts.

11 **SECTION 2.** 60.61 (2) (b) of the statutes is amended to read:

12 60.61 (2) (b) Establish districts of such number, shape and area necessary to
13 carry out the purposes under par. (a). The town board may establish mixed-use

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1 districts that contain any combination of uses, such as industrial, commercial,
2 public, or residential uses, in a compact urban form.

NOTE: Specifies town authority to establish mixed-use districts if the town is located in a county which has not enacted a county zoning ordinance.

3 **SECTION 3.** 62.23 (7) (b) of the statutes is amended to read:

4 62.23 (7) (b) *Districts.* For any and all of said purposes the council may divide
5 the city into districts of such number, shape, and area as may be deemed best suited
6 to carry out the purposes of this section; and within such districts it may regulate and
7 restrict the erection, construction, reconstruction, alteration or use of buildings,
8 structures or land. All such regulations shall be uniform for each class or kind of
9 buildings and for the use of land throughout each district, but the regulations in one
10 district may differ from those in other districts. No ordinance enacted or regulation
11 adopted under this subsection may prohibit forestry operations that are in
12 accordance with generally accepted forestry management practices, as defined
13 under s. 823.075 (1) (d). The council may establish mixed-use districts that contain
14 any combination of uses, such as industrial, commercial, public, or residential uses,
15 in a compact urban form. The council may with the consent of the owners establish
16 special districts, to be called planned development districts, with regulations in each,
17 which in addition to those provided in par. (c), will over a period of time tend to
18 promote the maximum benefit from coordinated area site planning, diversified
19 location of structures and mixed compatible uses. Such regulations shall provide for
20 a safe and efficient system for pedestrian and vehicular traffic, attractive recreation
21 and landscaped open spaces, economic design and location of public and private
22 utilities and community facilities and insure adequate standards of construction and
23 planning. Such regulations may also provide for the development of the land in such

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1 districts with one or more principal structures and related accessory uses, and in
2 such planned development districts and mixed-use districts the regulations need
3 not be uniform.

NOTE: Specifies city and village authority to establish mixed-use districts.

4 **SECTION 4.** 66.1027 (3) (a) of the statutes is amended to read:

5 66.1027 (3) (a) Not later than January 1, 2002, every city and village with a
6 population of at least 12,500 shall, and every city and village with a population of less
7 than 12,500 is encouraged to, enact an ordinance that is similar to the model
8 traditional neighborhood development ordinance that is developed under sub. (2) (a)
9 if the ordinance is approved under sub. (2) (b), although the ordinance is not required
10 to be mapped.

NOTE: Encourages cities and villages with populations less than 12,500 to enact traditional neighborhood development ordinances.

11 **SECTION 5.** 66.1027 (3) (c) of the statutes is created to read:

12 66.1027 (3) (c) Not later than January 1, 2011, every city and village with a
13 population of at least 12,500 shall report to the department of administration
14 whether it has enacted an ordinance under par. (a). A city or village whose
15 population reaches at least 12,500, after January 1, 2011, shall report to the
16 department of administration whether it has enacted an ordinance under par. (b) not
17 later than the first day of the 18th month beginning after the city's or village's
18 population reaches at least 12,500.

NOTE: Requires cities and villages with a population of 12,500 or more to report to the DOA whether they have enacted a traditional neighborhood ordinance.

19 **SECTION 6.** 560.9802 (2) (h) of the statutes is created to read:

20 560.9802 (2) (h) Strategies and specific recommendations for public and
21 private action that will facilitate the inclusion of bicycle-oriented and

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1 pedestrian-oriented design in residential developments and mixed-use
2 developments that include residential elements.

NOTE: Requires the state housing strategy plan to include elements related to
bicycle and pedestrian-oriented design.

3 (END)