

2018 Legislative Update

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- VP – Chapter Affairs



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Act 67 – “Homeowner’s Bill of Rights”

- Blocks cities, villages, towns, and counties from prohibiting development on nonconforming lots
- Blocks cities, villages, towns, counties and state agencies from using merger provisions for nonconforming lots
- Blocks cities, villages, towns, and counties from requiring a variance to replace nonconforming structures
- Exempts small privately owned ponds from DNR permitting
- Codifies variance standards
- Requires issuance of a Conditional Use Permit if the applicant meets or agrees to meet all conditions imposed
- Requires CUP decisions to be based on substantial evidence, not public testimony

Significance of Act 67 on Conditional Use Permits

- Land use attorneys have a varying opinions
- What is “substantial evidence” and who constitutes a “reasonable person?”
- One take: Act 67 basically affirms existing case law and represents current best practices
 - See Perspectives on Planning by Brian Ohm – July 2018
- Another take: language compelling issuance of CUP represents significant shift in 75 years of zoning law
 - League: Act 67 shifts burden to municipalities and makes CUP’s almost permitted uses that will be very difficult to deny
 - See Legal Comment by Daniel Olson in Feb. 2018 issue of The Municipality Magazine

Act 243 – “Developer’s Bill” (Page 1/3)

- Changes methods used in calculating value in eminent domain actions
- Increases limits on payments to those displaced by eminent domain actions
- Allows optional reduction in City/Village/Town approval threshold of protested zoning amendments from $\frac{3}{4}$ to simple majority (effective 1/1/2019)
- Prohibits impact fees for utility service capacity above/beyond development and prohibits use of impact fees for operation expenses
- Allows levy limit exceptions up to \$1K per unit for cities and villages that issue occupancy to affordable single-family homes
- Allows deferment of impact fees >\$75K for 4 years or 6 months before expenditure
- Requires refunding of impact fees not used in 8 years and requires annual fee reporting
 - 10 years for lift stations or wastewater collection & treatment
- Increases fee appeal window for tax appeals commission from 60 to 90 days
- Prohibits new and additional stormwater service charges for properties that retain 90% of stormwater, “beyond those charged to similar properties”

Act 243 – “Developer’s Bill” (Page 2/3)

- Adds unfunded mandate - annual *Housing Affordability Report* by 1/1/2020
 - Requires quantitative analysis of implementation of Housing Element
 - Parcel-level analysis of zoning, fees, and utility availability
 - Requires recommendations to reduce time & cost to develop by 20%
 - Report must be posted on municipality’s website
 - Note: Only applies to cities & villages with population >10,000
- Requires another unfunded mandate – *New Housing Fee Report* by 1/1/2020
 - Annual report of all fees collected and new units approved
 - Must be provided to elected officials and posted on website
 - Note: Only applies to cities & villages with population > 10,000
- Stipulates that planned development district approvals are valid for 5 years from last approval
- Requires building inspections within 14 days of the request date or allows state substitution
- Prohibits inclusionary zoning ordinances
- Prohibits local regulation of banner signs on fences around construction sites

Act 243 – “Developer’s Bill” (Page 3/3)

- Prohibits Saturday-specific construction rules if more restrictive than weekdays
- Prohibits local building codes that don’t conform to the Uniform (1-2-family) Dwelling Code
- Changes the process and requirements for security instruments related to new infrastructure in subdivisions.
- Enables local governments to allow CSM’s including >4 lots for parcels zoned multifamily
- Specifies that fees in lieu of parkland dedication must be adopted into subdivision ordinances
- Allows parkland fees in lieu of parkland dedication in new subdivisions
 - Specifies that parkland dedications must be consistent with Parks Plan and Comp Plan
- Limits stormwater management ordinances that exceed state standards to those needed to control flooding

Act 317 – “Landlord’s Bill”

- Significant changes to and restrictions upon rental inspection programs
- Pre-empts local Landmarks/Preservation Commission authority with respect to construction materials
 - “In repair or replacement of historic structures...a city shall allow an owner to use materials that are similar in design, color, scale, architectural appearance, etc.”
 - See Wis. Stat. 62.23(7)(em)(2m) for full language

Act 68 – “Random Roundup”

- Requires DSPS review of state electrical code every 6 years
- Adds sewers to list of easements that need not be legally described to be recorded
- Re-words vested rights statute
- Allows homeowners to refuse assessor visits and still challenge assessed values
- Requires Housing Impact Analysis for proposed bills or rules affecting housing
- Gives illegal structures in shoreland setbacks legal nonconforming status after 10 years

Other Acts of Interest to Planners

- Act 183 exempts nonfederal wetlands from DNR permits and requests EPA authority
- Act 242 requires floodplain ordinances to be amended after each Letter of Map Amendment
- Act 223 relates to subtracting TIF territory
- Act 280 increases the historic rehab tax credit from \$500K (in state budget) to \$3.5M/project
- Act 353 allows 2nd and 3rd versions of Class II and III public notices to be summaries

Real Problems Ignored by Legislature

- Dark Store Appeals of Property Assessments
 - Massive shift of tax levy burden from big box properties to residential & small commercial
 - AB386/SB292 failed in the face of big business pressure on legislative leaders
- Transportation Infrastructure Funding
 - Legislature did not #JustFixItWI
 - Debt payments continue to skyrocket
 - Hot button issue in Governor's race

A Win For Common Decency

- Predator Dumping Prohibition (Act 184)
- Prohibits Dept. of Health Services from stockpiling out-of-area Ch. 980 sex offenders in low-income areas
- Environmental injustice pushed by NIMBY forces
- Requires each County in WI to house their own offenders upon release, and gives County planners a role in identifying suitable housing locations
- Thanks to all legislators from the Beloit area for pushing this bill, regardless of party affiliation

Questions/Comments/Discussion

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