

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), 85.02 (3) and 560.9802 (2) (h) of the statutes; **relating**  
 3       **to:** traditional neighborhood development ordinances, mixed–use zoning, department  
 4       of transportation planning for bicycle and pedestrian ways, and the state housing  
 5       strategy plan.

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

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

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.

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 draft 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 draft also requires 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 adopted a model traditional neighborhood development ordinance.

The draft 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, and counties to enact zoning ordinances. A town may also enact a zoning ordinance if a town meeting authorizes a town board to exercise powers relating to villages and conferred on village boards by statute.

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

#### Department of Transportation (DOT) Planning for Bicycle and Pedestrian Facilities

This draft requires the DOT to ensure that bicycle and pedestrian ways are established in all new construction and reconstruction projects that utilize state or federal transportation funds, unless DOT finds that certain circumstances exist.

This draft requires DOT to promulgate rules that specify the circumstances under which the requirement to include bicycle and pedestrian ways does not apply. These circumstances may include only situations in which one or more of the following apply:

1. Bicyclists or pedestrians are prohibited by law from using the roadway.
2. The cost of establishing bikeways or walkways would be excessively disproportionate to the need or probable use.
3. Establishing bikeways or walkways would have excessive negative impacts in a constrained environment.
4. Sparsity of population, traffic volume, or other factors indicate an absence of need.

5. Refusal of a community to accept an agreement for maintenance of sidewalks.

The provisions of the draft first apply to construction and reconstruction projects for which the initial planning begins after the enactment of the draft.

#### 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.
- 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 draft adds another required element to the state housing strategy plan. The draft requires Commerce to include in the plan strategies and specific recommendations for public and private action that will facilitate the inclusion of bicycle and pedestrian-oriented design in residential 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 health,  
3 safety and general welfare the board may by ordinance effective within the areas within such  
4 county outside the limits of incorporated villages and cities establish districts of such number,  
5 shape and area, and adopt such regulations for each such district as the board considers best  
6 suited to carry out the purposes of this section. The board may establish mixed-use districts  
7 that contain any combination of uses, such as industrial, commercial, public, or residential  
8 uses, in a compact urban form. The powers granted by this section shall be exercised through  
9 an ordinance which may, subject to sub. (4e), determine, establish, regulate and restrict:

**NOTE:** Grants authority to counties to establish mixed-use districts.

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

11           60.61 (2) (b) Establish districts of such number, shape and area necessary to carry out  
12 the purposes under par. (a). The town board may establish mixed-use districts that contain  
13 any combination of uses, such as industrial, commercial, public, or residential uses, in a  
14 compact urban form.

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

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

2           62.23 (7) (b) *Districts.* For any and all of said purposes the council may divide the city  
3 into districts of such number, shape, and area as may be deemed best suited to carry out the  
4 purposes of this section; and within such districts it may regulate and restrict the erection,  
5 construction, reconstruction, alteration or use of buildings, structures or land. All such  
6 regulations shall be uniform for each class or kind of buildings and for the use of land  
7 throughout each district, but the regulations in one district may differ from those in other  
8 districts. No ordinance enacted or regulation adopted under this subsection may prohibit  
9 forestry operations that are in accordance with generally accepted forestry management  
10 practices, as defined under s. 823.075 (1) (d). The council may establish mixed-use districts  
11 that contain any combination of uses, such as industrial, commercial, public, or residential  
12 uses, in a compact urban form. The council may with the consent of the owners establish  
13 special districts, to be called planned development districts, with regulations in each, which  
14 in addition to those provided in par. (c), will over a period of time tend to promote the  
15 maximum benefit from coordinated area site planning, diversified location of structures and  
16 mixed compatible uses. Such regulations shall provide for a safe and efficient system for  
17 pedestrian and vehicular traffic, attractive recreation and landscaped open spaces, economic  
18 design and location of public and private utilities and community facilities and insure adequate  
19 standards of construction and planning. Such regulations may also provide for the  
20 development of the land in such districts with one or more principal structures and related  
21 accessory uses, and in such planned development districts and mixed-use districts the  
22 regulations need not be uniform.

**NOTE:** Grants authority to cities and villages to establish mixed-use districts.

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

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

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

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

8           66.1027 (3) (c) Not later than January 1, 2011, every city and village with a population  
9 of at least 12,500 shall report to the department of administration whether it has adopted an  
10 ordinance under par. (a). Any city or village whose population reaches at least 12,500, after  
11 January 1, 2011, shall report to the department of administration whether it has adopted an  
12 ordinance under par. (b) not later than the first day of the 18th month beginning after the city's  
13 or village's 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 adopted a traditional  
neighborhood ordinance.

14           **SECTION 6.** 85.02 (3) of the statutes is created to read:

15           85.02 (3) (a) Except as provided under par. (b), the department shall ensure that bicycle  
16 and pedestrian ways are established in all new construction and reconstruction projects in this  
17 state which utilize state or federal transportation funds.

18           (b) The department shall, by rule, specify circumstances under which the requirement  
19 under par. (a) does not apply. These exceptions may include only situations in which one or  
20 more of the following apply:

21           1. Bicyclists or pedestrians are prohibited by law from using the roadway.

