

# State of Wisconsin



2017 Assembly Bill 770

Date of enactment: April 3, 2018  
Date of publication\*: April 4, 2018

## 2017 WISCONSIN ACT 243

AN ACT *to repeal* 62.23 (7) (d) 2m. a., 66.0617 (9) (b), 66.0617 (9) (c), 66.0617 (9) (d) and 66.10015 (2) (d); *to renumber* 62.23 (7) (d) 2m. b., 66.1102 (1) (a) and 66.1102 (1) (b); *to renumber and amend* 32.09 (1m), 66.0617 (9) (a), 236.13 (2) (a) 1. and 236.13 (2) (a) 2.; *to amend* 32.19 (4m) (a) (intro.), 32.19 (4m) (b) 1., 32.20, 66.0617 (6) (g), 66.0628 (4) (a), 66.0821 (4) (c), 66.1009 (1), 66.1015 (title), 66.1102 (title), 101.65 (1) (a), 236.34 (1) (ar) 1., 236.45 (6) (am) and 281.33 (6) (a) 1.; and *to create* 32.09 (1m) (b), 32.19 (2) (hm), 32.19 (4m) (a) 4., 66.0602 (3) (m), 66.0617 (6) (am), 66.0617 (6) (fm), 66.0617 (7r), 66.10013, 66.10014, 66.10015 (1) (f), 66.10015 (5), 66.10015 (6), 66.1015 (3), 66.1102 (1) (ae), 66.1102 (5), 66.1108, 101.65 (1c), 236.13 (2) (ad), 236.13 (2) (am) 1d., 236.13 (2) (am) 1m., 236.13 (2) (am) 3. and 236.45 (6) (c) of the statutes; **relating to:** local fees and charges; local levy limits; subdivision approval conditions; plat approval conditions; expiration of certain project approvals; division of land by certified survey map; erosion control and storm water management; limiting certain local regulatory authority; relocation benefits in condemnation proceedings; and zoning ordinance amendments.

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

**SECTION 1.** 32.09 (1m) of the statutes is renumbered 32.09 (1m) (a) and amended to read:

32.09 (1m) (a) As a basis for determining value, a commission in condemnation or a court ~~may~~ shall consider the price and other terms and circumstances of any good faith sale or contract to sell and purchase comparable property. A sale or contract is comparable within the meaning of this subsection ~~paragraph~~ if it was made within a reasonable time before or after the date of evaluation and the property is sufficiently similar in the relevant market, with respect to situation, usability, improvements, and other characteristics, to warrant a reasonable belief that it is comparable to the property being valued.

**SECTION 2.** 32.09 (1m) (b) of the statutes is created to read:

32.09 (1m) (b) As a basis for determining value, a commission in condemnation or a court shall consider, if provided by the condemnor or condemnee, an appraisal based on the income approach and an appraisal based on the cost approach.

**SECTION 3.** 32.19 (2) (hm) of the statutes is created to read:

32.19 (2) (hm) “Reasonable project costs” means the total of all of the following costs that an owner displaced person of an owner-occupied business or farm operation or tenant displaced person of a tenant-occupied business or farm operation must reasonably incur to make a business or farm operation to which the owner or tenant moves a comparable replacement business or farm operation under sub. (4m):

1. Capital costs, including the actual costs of the construction of improvements, new buildings, structures,

\* Section 991.11, WISCONSIN STATUTES: Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication.”

and fixtures; the demolition, alteration, remodeling, repair or reconstruction of existing buildings, structures, and fixtures; the removal or containment of, or the restoration of soil or groundwater affected by, environmental pollution; and the clearing and grading of land.

2. Financing costs, including all interest paid to holders of evidences of indebtedness issued to pay for project costs and any premium paid over the principal amount of the obligations because of the redemption of the obligations prior to maturity.

3. Professional service costs, including costs incurred for architectural, planning, engineering, and legal advice and services.

4. Imputed administrative costs, including reasonable charges for the time spent by the owner or tenant in connection with the implementation of the project.

5. Costs related to the construction or alteration of sewerage treatment plants, water treatment plants or other environmental protection devices, storm or sanitary sewer lines, water lines, or amenities on streets; the relocation of utility lines or other utility infrastructure, including any lines or infrastructure related to an electric utility, natural gas utility, or telecommunications utility; the installation of infrastructure necessary to provide utility service to the property, including any service from an electric utility, natural gas utility, or telecommunications utility; or the rebuilding or expansion of streets if such costs are required by the applicable municipality and are not paid for by the municipality.

**SECTION 4.** 32.19 (4m) (a) (intro.) of the statutes is amended to read:

32.19 (4m) (a) *Owner-occupied business or farm operation.* (intro.) In addition to amounts otherwise authorized by this subchapter, the condemnor shall make a payment, ~~not to exceed \$50,000,~~ to any owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies, and who actually purchases a comparable replacement business or farm operation for the acquired property within 2 years after the date the person vacates the acquired property or receives payment from the condemnor, whichever is later. An owner displaced person who has owned and occupied the business operation, or owned the farm operation, for not less than one year prior to the initiation of negotiations for the acquisition of the real property on which the business or farm operation lies may elect to receive the payment under par. (b) 1. in lieu of the payment under this paragraph, but the amount of payment under par. (b) 1. to such an owner displaced person may not exceed the amount the owner displaced person is eligible to receive under this paragraph. If the condemnor is a village, town, or city, the payment by the condemnor under this paragraph may not exceed

\$100,000. The additional payment under this paragraph shall include the following amounts:

**SECTION 5.** 32.19 (4m) (a) 4. of the statutes is created to read:

32.19 (4m) (a) 4. Any reasonable project costs incurred or to be incurred by the displaced person.

**SECTION 6.** 32.19 (4m) (b) 1. of the statutes is amended to read:

32.19 (4m) (b) 1. The amount, ~~not to exceed \$30,000, which that~~ is necessary to lease or rent a comparable replacement business or farm operation for a period of 4 years, plus any reasonable project costs incurred or to be incurred by the tenant displaced person. If the condemnor is a village, town, or city, the amount paid under this subdivision may not exceed \$80,000. The rental payment shall be computed by determining the average monthly rent paid for the property from which the person was displaced for the 12 months prior to the initiation of negotiations or, if displacement is not a direct result of acquisition, such other event as determined by the department of administration and the monthly rent of a comparable replacement business or farm operation, and multiplying the difference by 48; or

**SECTION 7.** 32.20 of the statutes is amended to read:

**32.20 Procedure for collection of itemized items of compensation.** Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the condemnor carrying on the project through which condemnee's or claimant's claims arise. All such claims must be filed after the damages upon which they are based have fully materialized but not later than 2 years after the condemnor takes physical possession of the entire property acquired or such other event as determined by the department of administration by rule. If such claim is not allowed within 90 days after the filing thereof, the claimant has a right of action against the condemnor carrying on the project through which the claim arises. Such action shall be commenced in a court of record in the county wherein the damages occurred. In causes of action, involving any state commission, board or other agency, excluding counties, the sum recovered by the claimant shall be paid out of any funds appropriated to such condemning agency. Any judgment shall be appealable by either party and any amount recovered by the body against which the claim was filed, arising from costs, counterclaims, punitive damages or otherwise may be used as an offset to any amount owed by it to the claimant, or may be collected in the same manner and form as any other judgment. The court shall award litigation expenses, as defined in s. 32.28 (1), to a claimant if the amount of the judgment for the claimant exceeds the amount of damages allowed by the condemnor by 15 percent in an action under this section.

**SECTION 7m.** 32.20 of the statutes, as affected by 2017 Wisconsin Act ... (this act), is amended to read:

**32.20 Procedure for collection of itemized items of compensation.** Claims for damages itemized in ss. 32.19 and 32.195 shall be filed with the condemnor carrying on the project through which condemnee's or claimant's claims arise. All such claims must be filed after the damages upon which they are based have fully materialized but not later than 2 years after the condemnor takes physical possession of the entire property acquired or such other event as determined by the department of administration by rule. If such claim is not allowed within 90 days after the filing thereof, the claimant has a right of action against the condemnor carrying on the project through which the claim arises. Such action shall be commenced in a court of record in the county wherein the damages occurred. In causes of action, involving any state commission, board or other agency, excluding counties, the sum recovered by the claimant shall be paid out of any funds appropriated to such condemning agency. Any judgment shall be appealable by either party and any amount recovered by the body against which the claim was filed, arising from costs, counterclaims, punitive damages or otherwise may be used as an offset to any amount owed by it to the claimant, or may be collected in the same manner and form as any other judgment. ~~The court shall award litigation expenses, as defined in s. 32.28 (1), to a claimant if the amount of the judgment for the claimant exceeds the amount of damages allowed by the condemnor by 15 percent in an action under this section.~~

**SECTION 8.** 62.23 (7) (d) 2m. a. of the statutes is repealed.

**SECTION 9.** 62.23 (7) (d) 2m. b. of the statutes is renumbered 62.23 (7) (d) 2m.

**SECTION 10.** 66.0602 (3) (m) of the statutes is created to read:

66.0602 (3) (m) 1. The levy increase limit otherwise applicable under this section to a city, village, or town in the current year is increased by \$1,000 for each new single-family residential dwelling unit for which a city, village, or town issues an occupancy permit in the preceding year and that is all of the following:

a. Located on a parcel of no more than 0.25 acre in a city or village, or on a parcel of no more than one acre in a town.

b. Sold in the preceding year for not more than 80 percent of the median price of a new residential dwelling unit in the city, village, or town in the preceding year.

2. Amounts levied under this paragraph may be used only for police protective services, fire protective service, or emergency medical services.

3. If a city, village, or town levies an amount under this paragraph, the city, village, or town may not decrease the amount it spends for police protective services, fire protective services, or emergency medical services below the amount the city, village, or town spent in the preceding year.

**SECTION 10s.** 66.0617 (6) (am) of the statutes is created to read:

66.0617 (6) (am) May not include amounts for an increase in service capacity greater than the capacity necessary to serve the development for which the fee is imposed.

**SECTION 10u.** 66.0617 (6) (fm) of the statutes is created to read:

66.0617 (6) (fm) May not include expenses for operation or maintenance of a public facility.

**SECTION 11.** 66.0617 (6) (g) of the statutes is amended to read:

66.0617 (6) (g) ~~Shall~~ Except as provided under this paragraph, shall be payable by the developer or the property owner to the municipality in full upon the issuance of a building permit by the municipality. Except as provided in this paragraph, if the total amount of impact fees due for a development will be more than \$75,000, a developer may defer payment of the impact fees for a period of 4 years from the date of the issuance of the building permit or until 6 months before the municipality incurs the costs to construct, expand, or improve the public facilities related to the development for which the fee was imposed, whichever is earlier. If the developer elects to defer payment under this paragraph, the developer shall maintain in force a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality. A developer may not defer payment of impact fees for projects that have been previously approved.

**SECTION 13.** 66.0617 (7r) of the statutes is created to read:

66.0617 (7r) **IMPACT FEE REPORTS.** At the time that the municipality collects an impact fee, it shall provide to the developer from which it received the fee an accounting of how the fee will be spent.

**SECTION 14.** 66.0617 (9) (a) of the statutes is renumbered 66.0617 (9) and amended to read:

66.0617 (9) **REFUND OF IMPACT FEES.** ~~Subject to pars. (b), (c), and (d), and with regard to an impact fee that is collected after April 10, 2006, an ordinance enacted under this section shall specify that impact~~ Except as provided in this subsection, impact fees that are collected by a municipality within 7 years of the effective date of the ordinance, but are not used within 10 8 years after the effective date of the ordinance they are collected to pay the capital costs for which they were imposed, shall be refunded to the ~~current owner of~~ payer of fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8). ~~The ordinance shall specify, by type of public facility, reasonable time periods within which impact fees must be spent or refunded under this subsection, subject to the 10-year limit in this paragraph and the extended time period specified in par. (b). In determining the length of the time periods under the ordinance, a~~

~~municipality shall consider what are appropriate planning and financing periods for the particular types of public facilities for which the impact fees are imposed. Impact fees that are collected for capital costs related to lift stations or collecting and treating sewage that are not used within 10 years after they are collected to pay the capital costs for which they were imposed, shall be refunded to the payer of fees for the property with respect to which the impact fees were imposed, along with any interest that has accumulated, as described in sub. (8). The 10-year time limit for using impact fees that is specified under this subsection may be extended for 3 years if the municipality adopts a resolution stating that, due to extenuating circumstances or hardship in meeting the 10-year limit, it needs an additional 3 years to use the impact fees that were collected. The resolution shall include detailed written findings that specify the extenuating circumstances or hardship that led to the need to adopt a resolution under this subsection. For purposes of the time limits in this subsection, an impact fee is paid on the date a developer obtains a bond or irrevocable letter of credit in the amount of the unpaid fees executed in the name of the municipality under sub. (6) (g).~~

**SECTION 15.** 66.0617 (9) (b) of the statutes is repealed.

**SECTION 16.** 66.0617 (9) (c) of the statutes is repealed.

**SECTION 17.** 66.0617 (9) (d) of the statutes is repealed.

**SECTION 18.** 66.0628 (4) (a) of the statutes is amended to read:

66.0628 (4) (a) Any person aggrieved by a fee imposed by a political subdivision because the person does not believe that the fee bears a reasonable relationship to the service for which the fee is imposed may appeal the reasonableness of the fee to the tax appeals commission by filing a petition with the commission within ~~60~~ 90 days after the fee's imposition, as provided under s. 73.01 (5) with respect to income or franchise tax cases, and the fee is due and payable. The commission's decision may be reviewed under s. 73.015. For appeals brought under this subsection, the filing fee required under s. 73.01 (5) (a) does not apply.

**SECTION 19.** 66.0821 (4) (c) of the statutes is amended to read:

66.0821 (4) (c) For the purpose of making equitable charges for all services rendered by a storm water and surface water sewerage system to users, the property served may be classified, taking into consideration the volume or peaking of storm water or surface water discharge that is caused by the area of impervious surfaces, topography, impervious surfaces and other surface characteristics, extent and reliability of mitigation or treatment measures available to service the property, apart from measures provided by the storm water and surface water sewerage system, and any other considerations that

are reasonably relevant to a use made of the storm water and surface water sewerage system. The charges may also include standby charges to property not yet developed with significant impervious surfaces for which capacity has been made available in the storm water and surface water sewerage system. No additional charges, beyond those charged to similar properties, may be charged to a property for services rendered by a storm and surface water system for a property that continually retains 90 percent of the difference between the post-development and predevelopment runoff on site.

**SECTION 20.** 66.10013 of the statutes is created to read:

**66.10013 Housing affordability report. (1)** In this section, "municipality" means a city or village with a population of 10,000 or more.

(2) Not later than January 1, 2020, a municipality shall prepare a report of the municipality's implementation of the housing element of the municipality's comprehensive plan under s. 66.1001. The municipality shall update the report annually, not later than January 31. The report shall contain all of the following:

(a) The number of subdivision plats, certified survey maps, condominium plats, and building permit applications approved in the prior year.

(b) The total number of new residential dwelling units proposed in all subdivision plats, certified survey maps, condominium plats, and building permit applications that were approved by the municipality in the prior year.

(c) A list and map of undeveloped parcels in the municipality that are zoned for residential development.

(d) A list of all undeveloped parcels in the municipality that are suitable for, but not zoned for, residential development, including vacant sites and sites that have potential for redevelopment, and a description of the zoning requirements and availability of public facilities and services for each property.

(e) An analysis of the municipality's residential development regulations, such as land use controls, site improvement requirements, fees and land dedication requirements, and permit procedures. The analysis shall calculate the financial impact that each regulation has on the cost of each new subdivision. The analysis shall identify ways in which the municipality can modify its construction and development regulations, lot sizes, approval processes, and related fees to do each of the following:

1. Meet existing and forecasted housing demand.

2. Reduce the time and cost necessary to approve and develop a new residential subdivision in the municipality by 20 percent.

(3) A municipality shall post the report under sub. (2) on the municipality's Internet site on a web page dedicated solely to the report and titled "Housing Affordability Analysis."

**SECTION 21.** 66.10014 of the statutes is created to read:

**66.10014 New housing fee report.** (1) In this section, “municipality” means a city or village with a population of 10,000 or more.

(2) Not later than January 1, 2020, a municipality shall prepare a report of the municipality’s residential development fees. The report shall contain all of the following:

(a) Whether the municipality imposes any of the following fees or other requirements for purposes related to residential construction, remodeling, or development and, if so, the amount of each fee:

1. Building permit fee.
2. Impact fee.
3. Park fee.
4. Land dedication or fee in lieu of land dedication requirement.
5. Plat approval fee.
6. Storm water management fee.
7. Water or sewer hook-up fee.

(b) The total amount of fees under par. (a) that the municipality imposed for purposes related to residential construction, remodeling, or development in the prior year and an amount calculated by dividing the total amount of fees under this paragraph by the number of new residential dwelling units approved in the municipality in the prior year.

(3) (a) A municipality shall post the report under sub. (2) on the municipality’s Internet site on a web page dedicated solely to the report and titled “New Housing Fee Report.” If a municipality does not have an Internet site, the county in which the municipality is located shall post the information under this paragraph on its Internet site on a web page dedicated solely to development fee information for the municipality.

(b) A municipality shall provide a copy of the report under sub. (2) to each member of the governing body of the municipality.

(4) If a fee or the amount of a fee under sub. (2) (a) is not properly posted as required under sub. (3) (a), the municipality may not charge the fee.

**SECTION 22.** 66.10015 (1) (f) of the statutes is created to read:

66.10015 (1) (f) “Zoning ordinance” means an ordinance enacted by a political subdivision under s. 59.69, 60.61, 60.62, 61.35, or 62.23.

**SECTION 23.** 66.10015 (2) (d) of the statutes is repealed.

**SECTION 24.** 66.10015 (5) of the statutes is created to read:

66.10015 (5) EXPIRATION DATES. A political subdivision may not establish an expiration date for an approval related to a planned development district of less than 5 years after the date of the last approval required for completion of the project. This section does not prohibit a

political subdivision from establishing timelines for completion of work related to an approval.

**SECTION 25.** 66.10015 (6) of the statutes is created to read:

66.10015 (6) ZONING LIMITATIONS, INSPECTIONS. (a) If a political subdivision or a utility district requires the installation of a water meter station for a political subdivision, neither the political subdivision nor the utility district may require a developer to install a water meter that is larger than a utility-type box, and may not require a developer to include heating, air conditioning, or a restroom in the water meter station. Any requirements for such a project that go beyond the limitations specified in this paragraph must be funded entirely by the political subdivision or utility district.

(b) 1. If a political subdivision employs a building inspector to enforce its zoning ordinance or other ordinances related to building, and a developer requests the building inspector to perform an inspection that is part of the inspector’s duties, the inspector shall complete the inspection not later than 14 business days after the building inspector receives the request for an inspection.

2. If a building inspector does not complete a requested inspection as required under subd. 1., the developer may request a state building inspector to provide the requested inspection, provided that the state inspector has a comparable level of zoning and building inspection qualification as the local building inspector.

3. If a developer provides a political subdivision with a certificate of inspection from a state building inspector from an inspection described under subd. 2., which meets the requirements of the inspection that was supposed to be provided by the local building inspector, the political subdivision must accept the certificate provided by the state building inspector as if it had been provided by the political subdivision’s building inspector.

**SECTION 26.** 66.1009 (1) of the statutes is amended to read:

66.1009 (1) The area which will be subject to ss. 59.69 (4g) and (5) (e) 2. and 5m., 60.61 (2) (e) and (4) (c) 1. and 3. and 62.23 (7) (d) 2. and 2m.-b., respectively, except that no part of the area may be more than 3 miles from the boundaries of the airport.

**SECTION 27.** 66.1015 (title) of the statutes is amended to read:

**66.1015 (title) Municipal rent control, inclusionary zoning, prohibited.**

**SECTION 28.** 66.1015 (3) of the statutes is created to read:

66.1015 (3) INCLUSIONARY ZONING PROHIBITED. (a) In this subsection:

1. “Inclusionary zoning” means a zoning ordinance, as defined in s. 66.10015 (1) (e), regulation, or policy that prescribes that a certain number or percentage of new or existing residential dwelling units in a land development be made available for rent or sale to an individual or

family with a family income at or below a certain percentage of the median income.

2. "Median income" has the meaning given in s. 234.49 (1) (g).

(b) No city, village, town, or county may enact, impose, or enforce an inclusionary zoning requirement.

**SECTION 29.** 66.1102 (title) of the statutes is amended to read:

**66.1102 (title) Land development; notification; records requests; construction site development.**

**SECTION 30.** 66.1102 (1) (a) of the statutes is renumbered 66.1102 (1) (bm).

**SECTION 31.** 66.1102 (1) (ae) of the statutes is created to read:

66.1102 (1) (ae) "Construction site" means the site of the construction, alteration, painting, or repair of a building, structure, or other work.

**SECTION 32.** 66.1102 (1) (b) of the statutes is renumbered 66.1102 (1) (bs).

**SECTION 33.** 66.1102 (5) of the statutes is created to read:

66.1102 (5) CONSTRUCTION SITE FENCES. (a) Except for an ordinance that is related to health or safety concerns, no political subdivision may enact an ordinance or adopt a resolution that limits the ability of any person who is the owner, or other person in lawful possession or control, of a construction site to install a banner over the entire height and length of a fence surrounding the construction site.

(b) If a political subdivision has enacted an ordinance or adopted a resolution before the effective date of this paragraph ... [LRB inserts date], that is inconsistent with par. (a), that portion of the ordinance or resolution does not apply and may not be enforced.

**SECTION 49.** 66.1108 of the statutes is created to read:

**66.1108 Limitation on weekend work. (1) DEFINITIONS.** In this section:

(a) "Construction project" means a project involving the erection, construction, repair, remodeling, or demolition, including any alteration, painting, decorating, or grading, of a private facility, including land, a building, or other infrastructure that is directly related to onsite work of a residential or commercial real estate development project.

(b) "Political subdivision" means a city, village, town, or county.

(2) CONSTRUCTION PROJECTS; WEEKEND WORK. (a) A political subdivision may not prohibit a private person from working on the job site of a construction project on a Saturday. A political subdivision may not impose conditions that apply to a private person who works on a construction project on a Saturday that are inapplicable to, or more restrictive than the conditions that apply to, such a person who works on a construction project during weekdays.

(b) If a political subdivision has enacted an ordinance or adopted a resolution before the effective date of this paragraph ... [LRB inserts date], that is inconsistent with par. (a), that portion of the ordinance or resolution does not apply and may not be enforced.

**SECTION 50.** 101.65 (1) (a) of the statutes is amended to read:

101.65 (1) (a) ~~Exercise Subject to sub. (1c), exercise jurisdiction over the construction and inspection of new dwellings by passage of ordinances, provided such ordinances meet the requirements of the one- and two-family dwelling code adopted in accordance with this subchapter.~~ Except as provided by s. 101.651, a county ordinance shall apply in any city, village, or town which that has not enacted such ordinance those ordinances.

**SECTION 51.** 101.65 (1c) of the statutes is created to read:

101.65 (1c) May not make or enforce an ordinance under sub. (1) that is applied to a dwelling and that does not conform to this subchapter and the uniform dwelling code adopted by the department under this subchapter or is contrary to an order of the department under this subchapter. If any provision of a contract between a city, village, town, or county and an owner requires the owner to comply with an ordinance that does not conform to this subchapter or the uniform dwelling code adopted by the department under this subchapter or is contrary to an order of the department under this subchapter, the owner may waive the provision, and the provision, if waived, is void and unenforceable.

**SECTION 52.** 236.13 (2) (a) 1. of the statutes is renumbered 236.13 (2) (am) 1. a. and amended to read:

236.13 (2) (am) 1. a. As a further condition of approval, the governing body of the town or municipality within which the subdivision lies may require that the subdivider make and install any public improvements reasonably necessary or that the subdivider provide security to ensure that ~~he or she~~ the subdivider will make those improvements within a reasonable time. The governing body may not require the subdivider to provide security at the commencement of a project in an amount that is more than 120 percent of the estimated total cost to complete the required public improvements. ~~It is the subdivider's option whether to execute a performance bond or whether to provide a letter of credit to satisfy the governing body's requirement that the subdivider provide security to ensure that the public improvements are made within a reasonable time, as determined under subd. 1d.~~

b. The subdivider may construct the project in such phases as the governing body of the town or municipality approves, which approval may not be unreasonably withheld. If the subdivider's project will be constructed in phases, the amount of security required by the governing body ~~shall be under subd. 1. a.~~ is limited to the phase of the project that is currently being constructed. The gov-

erning body may not require that the subdivider provide any security for improvements sooner than is reasonably necessary before the commencement of the installation of the improvements.

c. If the governing body of the town or municipality requires a subdivider to provide security under ~~this paragraph subd. 1. a.~~, the governing body may not require the subdivider to provide the security for more than 14 months after the date the public improvements for which the security is provided are substantially completed and upon substantial completion of the public improvements, the amount of the security the subdivider is required to provide may be no more than an amount equal to the total cost to complete any uncompleted public improvements plus 10 percent of the total cost of the completed public improvements.

d. This paragraph applies to all preliminary and final plats, regardless of whether submitted for approval before, on, or after August 1, 2014.

**SECTION 53.** 236.13 (2) (a) 2. of the statutes is renumbered 236.13 (2) (am) 2. and amended to read:

236.13 (2) (am) 2. For purposes of subd. 1., public improvements reasonably necessary for a project or a phase of a project are considered to be substantially completed ~~at the time upon the installation of the asphalt or concrete binder coat is installed~~ course on roads to be dedicated or, if the required public improvements do not include a road to be dedicated, at the time that 90 percent of the public improvements by cost are completed.

**SECTION 54.** 236.13 (2) (ad) of the statutes is created to read:

236.13 (2) (ad) In this subsection:

1. "Binder course" means the non-surface-level course that is attached to the packed-level gravel course.

2. "Land disturbing activity" means any man-made alteration of the land surface resulting in a change in the topography or existing vegetative or nonvegetative soil cover, that may result in runoff and lead to an increase in soil erosion and movement of sediment into waters of this state. "Land disturbing activity" includes clearing and grubbing, demolition, excavating, pit trench dewatering, filling, and grading activities.

3. "Total cost to complete a public improvement" includes the cost to make and install storm water facilities. "Total cost to complete a public improvement" does not include any of the following:

a. Any fees charged by the governing body of the town or municipality.

b. Land disturbing activities that are necessary to achieve the desired subgrade for public improvements.

**SECTION 55.** 236.13 (2) (am) 1d. of the statutes is created to read:

236.13 (2) (am) 1d. The estimated total cost to complete the required public improvements under subd. 1. shall be determined as follows:

a. A governing body of the town or municipality may provide an initial estimate to the subdivider of the estimated total cost to complete the required public improvements. If the subdivider accepts the initial estimate, then the initial estimate is the estimated total cost to complete the required public improvements.

b. If the governing body of the town or municipality does not provide an initial estimate to the subdivider or the subdivider rejects the initial estimate, the subdivider shall provide the governing body with a bona fide bid from the subdivider's contractor to complete the required public improvements in the event of a default. If the governing body accepts the subdivider's bona fide bid, the bona fide bid is the estimated total cost to complete the required public improvements.

c. If the governing body of the town or municipality rejects the subdivider's bona fide bid, the governing body shall provide the subdivider with an estimate for the cost to complete the public improvements in the event of a default. If the governing body's estimate does not exceed the subdivider's bona fide bid by more than 10 percent, the governing body's estimate is the estimated total cost to complete the required public improvements. If the governing body's estimate exceeds the subdivider's bona fide bid by 10 percent or more, the estimated total cost to complete the required public improvements is the amount agreed upon by the subdivider's engineer and the governing body's engineer.

**SECTION 56.** 236.13 (2) (am) 1m. of the statutes is created to read:

236.13 (2) (am) 1m. a. If the governing body of the town or municipality requires a subdivider to provide security under subd. 1. a., the governing body shall accept a performance bond or a letter of credit, or any combination thereof, at the subdivider's option, to satisfy the requirement.

b. The subdivider and the governing body of the town or municipality may agree that all or part of the requirement to provide security under subd. 1. a. may be satisfied by a performance bond provided by the subdivider's contractor that names the town or municipality as an additional obligee provided that the form of the contractor's performance bond is acceptable to the governing body of the town or municipality.

c. Unless the governing body of a town or municipality demonstrates that a bond form does not sufficiently ensure performance in the event of default, the governing body of the town or municipality shall accept a performance bond under this subdivision if the person submitting the performance bond demonstrates that the performance bond is consistent with a standard surety bond form used by a company that, on the date the bond is obtained, is listed as an acceptable surety on federal bonds in the most recent circular 570 published by the federal department of the treasury, as required under 31

CFR 223.16, and the performance bond is issued by a surety company licensed to do business in this state.

**SECTION 57.** 236.13 (2) (am) 3. of the statutes is created to read:

236.13 (2) (am) 3. a. With regard to public improvements to which subd. 1. applies, no town or municipality may enact an ordinance relating to the substantial completion of such a public improvement that is inconsistent with subd. 2.

b. Upon such substantial completion, any outstanding local building permits that are related to, and dependent upon, substantial completion shall be released.

c. The governing body of a town or municipality shall, upon a subdivider's request, issue a permit to commence construction of a foundation or any other noncombustible structure before substantial completion of a public improvement if all public improvements related to public safety are complete and the security requirement under subd. 1. a. has been met. The subdivider may not commence work on a building until the governing body of the town or municipality approves or issues a permit for the construction of the building.

**SECTION 58.** 236.34 (1) (ar) 1. of the statutes is amended to read:

236.34 (1) (ar) 1. Notwithstanding s. 236.45 (2) (ac) and (am), a municipality, town, or county that has established a planning agency may enact an ordinance or adopt a resolution that specifies a maximum number of parcels that is greater than 4 into which land that is situated in the municipality, town, or county and zoned for commercial, multifamily dwelling, as defined in s. 101.971 (2), industrial, or mixed-use development may be divided by certified survey map.

**SECTION 59.** 236.45 (6) (am) of the statutes is amended to read:

236.45 (6) (am) Notwithstanding subs. (1) and (2) (ac), a municipality, town, or county may not, as a condition of approval under this chapter, impose any fees or other charges to fund the acquisition or improvement of land, infrastructure, or other real or personal property, except that a municipality or town may impose a fee or other charge to fund the acquisition or initial improvement of land for public parks if the fee or other charge is imposed under a subdivision ordinance enacted or amended in accordance with the procedures under s. 66.0617 (3) to (5) and meets the requirements under s. 66.0617 (6) to (10).

**SECTION 60.** 236.45 (6) (c) of the statutes is created to read:

236.45 (6) (c) If a subdivision ordinance of a municipality, town, or county requires, as a condition of approval under this chapter, that a subdivider dedicate land for a public park, the municipality, town, or county may offer the subdivider the option of either dedicating land consistent with the municipality's, town's, or county's park plan and comprehensive plan or paying a fee or

other charge under par. (am) in lieu of the dedication. If the subdivider elects to pay a fee or other charge under this paragraph, the fee or other charge is payable by the landowner to the municipality, town, or county upon the issuance of a building permit by the municipality, town, or county. If the subdivider elects to dedicate land under this paragraph, unless the municipality, town, or county agrees otherwise, the subdivider only may dedicate land that is consistent with the municipality's, town's, or county's park plan and comprehensive plan.

**SECTION 61.** 281.33 (6) (a) 1. of the statutes is amended to read:

281.33 (6) (a) 1. Control storm water quantity or ~~control flooding peak flow to address existing flooding problems or prevent future flooding problems, except that an ordinance under this subdivision may not require more than 90 percent of the difference between the pre-development annual runoff volume at a site and the post-development annual runoff volume at that site to be retained on site.~~

#### **SECTION 62. Nonstatutory provisions.**

(1) Notwithstanding the period for filing a claim under section 32.20 of the statutes, a claimant who previously submitted a claim under section 32.20 of the statutes no earlier than the date that precedes the effective date of this subsection by 2 years, including a claimant whose claim has been paid or whose claim is still pending or may be appealed, as of the effective date of this subsection may, no later than 45 days after the effective date of this subsection, submit a revised claim under section 32.20 of the statutes to the condemnor that includes expenses permitted under section 32.19 (4m) (a) or (b) of the statutes, as affected by this act, whichever is applicable.

#### **SECTION 63. Initial applicability.**

(1) LOCAL PROJECT APPROVALS. The treatment of section 66.10015 (2) (d) and (5) of the statutes first applies to an approval made on the effective date of this subsection.

(2) SUBDIVISION APPROVAL CONDITIONS RELATED TO PUBLIC PARK IMPROVEMENTS. The treatment of section 236.45 (6) (am) and (c) of the statutes first applies to a subdivision or other division of land submitted for approval to a municipality, town, or county on the effective date of this subsection.

(3) JUST COMPENSATION. The treatment of section 32.09 (1m) (a) and (b) of the statutes first applies to an action for the determination of fair market value in a condemnation proceeding for which title to the subject property has not vested in the condemnor on the effective date of this subsection.

(4) RELOCATION BENEFITS. The treatment of sections 32.19 (2) (hm) and (4m) (a) (intro.) and 4. and (b) 1. and 32.20 (by SECTION 7) of the statutes first applies to a claim for expenses filed under section 32.20 of the statutes for the determination of additional items payable, including



a claim paid before the effective date of this subsection, on the date that precedes the effective date of this subsection by 2 years.

(4m) **LITIGATION EXPENSES.** The treatment of section 32.20 (by SECTION 7m) of the statutes first applies to a claim for expenses filed under section 32.20 of the statutes for the determination of additional items payable on the effective date of this subsection.

(5) **IMPACT FEE REFUNDS.** The treatment of section 66.0617 (9) (a), (b), (c), and (d) of the statutes first applies to an impact fee imposed on the effective date of this subsection.

(6) **UNIFORM DWELLING CODE; LIMITATION ON LOCAL**

**AUTHORITY.** The treatment of section 101.65 (1c) of the statutes first applies to a contract that is entered into on the effective date of this subsection.

(7) **LEVY LIMIT EXCEPTION.** The treatment of section 66.0602 (3) (m) of the statutes first applies to a levy that is imposed in December 2019.

**SECTION 64. Effective dates.** This act takes effect on the day after publication, except as follows:

(1) The treatment of sections 32.20 (by SECTION 7m), 62.23 (7) (d) 2m. a. and b., and 66.10013 of the statutes and SECTION 63 (4m) of this act take effect on January 1, 2019.

