

# Town Considerations for “Opting out” of Dane County Zoning

## Better, Faster and More Responsive Zoning

### New Zoning Authority Empowers Town Residents

Thanks to legislation adopted early in 2016, town residents in Dane County will have the same authority over local land use which city and village residents have always had. The County, dominated by urban interests, will no longer control general zoning in towns which withdraw from the County’s ordinance. Instead, the towns will be adopting a new ordinance to replace the County’s 66-year old ordinance. Funds formerly sent to the County to pay for administration will be used to create a local system which will be less expensive, faster, better and more responsive.

For decades the County zoning process has been controlled by the urban majority of the County. The current 5-member committee has just one member whose district is composed of a majority of town residents. The current system operates so that rural residents have no control over zoning decisions that affect them. People from downtown Madison have been controlling farm policies in Dane County for years. That’s changing.

### Property Owners Will Not Lose Anything From Withdrawal

The new zoning ordinance will maintain the existing zoning for all properties in towns which withdraw. Everything you currently can do with your property, you will be able to do after withdrawal. You may need to update the zoning to the new ordinance if you propose a new use – such as adding a home business. But the new ordinance will easily permit the Towns to approve modifications which make sense for property owners and their communities.

### Services Will Improve

Instead of having to drive into downtown Madison to apply for zoning permits, rezoning or other land use approvals, towns will administer their own zoning. The towns which are pursuing withdrawal plan to hire a professional zoning administration firm with decades of experience handling rural zoning and planning. We intend to make it possible to apply for most routine approvals over the internet.

The hearings and meetings will be at your town hall. There will be no more meetings with a zoning committee in the City County Building in Madison.

## What 2015 Act 178 Does

It allows towns in Dane County to withdraw from coverage of the county zoning ordinance. Town residents gain control over land use planning and zoning.

Towns interested in opting out were required to send notice, via a resolution to Dane County, by October 20, 2016. Thirteen towns took advantage of this option and filed notice.

The law provides that the towns withdrawing from county zoning prepare and adopt a modern zoning ordinance. If a town prefers the county ordinance drafted in 1950, the town can decide to continue using that zoning ordinance.

## **History**

Every town in Dane County is subject to county zoning, but not because the County has the power to force towns to do so, or because state law mandated that towns do so.

Actually, at one time or another, every town made the choice to accept County zoning. Because of a 1951 Supreme Court interpretation of the county zoning statute, however, towns cannot repeal the approval of the County ordinance. They could get out of County zoning only if the County agreed to let Towns do so. Dane County's urban majority has refused multiple requests to do so.

Act 178 corrects that by giving towns the same ability to repeal County zoning which towns had in adopting it. It does not allow towns to have no zoning. Towns which withdraw will have to have zoning. It also leaves shoreland and floodplain zoning with the County.

## **There's Nothing To Fear From Town Zoning**

Town residents are just as smart as city and village residents, and care just as much about their communities. Town residents are perfectly capable of making good land use decisions without county control.

During debate over the legislation which became Act 178, opponents claimed that the towns need supervision from the County to assure that towns don't make bad choices. Yet none of these opponents advocate giving the County control over city or village zoning decisions.

Town residents deserve the same freedom of self-government which city and village residents enjoy. In the past 15 years, towns have responded to the new comprehensive planning law by adopting excellent plans which call for farmland preservation, maintaining open spaces and promoting sustainable development. There is no reason to expect towns will suddenly stop caring about the environment. Our natural resources have been and always will be at the center of policy making.

Why was there opposition? No one likes losing control. Dane County is a large, powerful organization. The County Board is a group of 37 active individuals who care very deeply about issues. We do not begrudge them their ideas. We simply do not agree that they should have the power to force their beliefs on local towns.

## How Will Town Zoning Work?

Each town will administer their own zoning and follow their Comprehensive Plans. They will decide which zoning district to apply to individual parcels.

### Ordinance

Towns that are planning to opt out have been meeting for several months and drafting a new zoning ordinance. The ordinance is currently out for comment and can be found on the DCTA website at [www.danecotowns.net](http://www.danecotowns.net)

### Zoning Administration

Towns that withdraw will work together to amend the zoning ordinance when appropriate, consider zoning appeals, and contract with a zoning administrator (initial 3 year term).

Towns are currently negotiating with General Engineering (GE), a consulting firm which administers zoning for communities across Wisconsin. GE will process applications, prepare zoning reports, advising plan commissions / town boards, provide mapping, and assist with enforcement and other issues.

### Fees

GE estimates that if towns continue the fees currently charged by Dane County for rezone petitions, CUP permits, etc. those fees will easily cover the expense of administering zoning.

## **BENEFITS FOR EVERY TOWN**

Act 178 was written to allow every town in Dane County – whether it decides to withdraw or not – to be able to have their comprehensive plans and official maps adopted by the County as written by the town, without change. This is consistent with how city and village comprehensive plans are adopted.

In the past, the County has pressured towns to change draft plans. In some cases, the County has refused to adopt portions of town plans the County did not like. That all changes with Act 178.

DCTA has recently been made aware of a Dane County Corp Counsel opinion that this benefit only applies to towns that opt out of County Zoning. DCTA disagrees with that interpretation. We will work with towns that choose to remain with County Zoning to make sure this benefit applies, as intended, to all towns.

## **Economy**

Dane County currently spends \$2.7 million per year on zoning and planning. There are fewer than 350 formal applications for approvals of land use changes. We are certain we can do it for much less. We know that one level of approval has to be less expensive than two.

## Timeline

The law allows towns to opt out beginning in 2017 (if notice of intent was filed by 10/20/16). It then allows opt out in future 3 year intervals (2020, 2023, 2026, etc.)

The law has very specific document adoption requirements in preparation of opting out. Not less than 60 days before the Town Board approves a withdrawal ordinance, towns must re-adopt their Comprehensive Plans, adopt a town map and adopt a zoning code.

Finally, the withdrawal ordinance needs to be **approved at the town Annual Meeting (April 2017)** or by referendum.

### **Towns that filed Opt Out Notice**

Albion  
Berry  
Blue Mounds  
Bristol  
Black Earth  
Dunkirk  
Medina  
Middleton  
Springfield  
Sun Prairie  
Vermont  
Verona  
Westport

## **Hundreds of Towns Already Handle Zoning in Wisconsin**

Dane County towns certainly can handle zoning. How do we know this? One Dane County town, Westport, already has done so for more than a decade. Hundreds of towns around Wisconsin, including all the towns in Rock County, Brown County, Washington County and Sheboygan County, have done so for decades. Dane County towns are no less capable. In fact, there are considerable resources available to handle the zoning task. The DCTA already is working with a professional services consultant (General Engineering) to create zoning administration which will be up and running by the time town zoning will take effect, on January 1, 2018.

It is condescending and insulting to suggest that towns need the tutelage of the County. Somehow, one third of the towns in Wisconsin manage zoning on their own, including towns in urban counties such as Brown, Sheboygan, Fond du Lac, Winnebago and Rock.

**THIS DOCUMENT PREPARED BY THE DANE COUNTY TOWNS ASSOCIATION (DCTA), a voluntary association of the towns in Dane County. Nothing herein is an endorsement of any candidate or position on any referendum.**