

State of Wisconsin



2011 Senate Bill 472

Date of enactment: April 2, 2012
Date of publication*: April 16, 2012

2011 WISCONSIN ACT 170

AN ACT *to renumber* 59.69 (10) (a), 60.61 (5) (a) and 62.23 (7) (a); *to amend* 59.69 (10) (e) 1., 59.69 (10) (e) 2., 60.61 (5) (e) 1., 60.61 (5) (e) 2., 62.23 (7a) (intro.) and 92.15 (5); and *to create* 59.69 (10) (ab), 59.69 (10e), 59.692 (2m), 60.61 (5) (ab), 60.61 (5e), 62.23 (7) (ab) and 62.23 (7) (hb) of the statutes; **relating to**: certain shoreland zoning standards and ordinances that regulate the repair and expansion of nonconforming structures.

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

SECTION 1e. 59.69 (10) (a) of the statutes is renumbered 59.69 (10) (am).

SECTION 1g. 59.69 (10) (ab) of the statutes is created to read:

59.69 (10) (ab) In this subsection “nonconforming use” means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance.

SECTION 1h. 59.69 (10) (e) 1. of the statutes is amended to read:

59.69 (10) (e) 1. In this paragraph, “amortization ordinance” means an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used as described under par. (a) (am) but only for a specified period of time, after which the lawful use of such building, premises, structure, or fixture must be discontinued without the payment of just compensation.

SECTION 1i. 59.69 (10) (e) 2. of the statutes is amended to read:

59.69 (10) (e) 2. Subject to par. (a) (am), an ordinance enacted under this section may not require the removal of

a nonconforming building, premises, structure, or fixture by an amortization ordinance.

SECTION 1j. 59.69 (10e) of the statutes is created to read:

59.69 (10e) REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES. (a) In this subsection:

1. “Development regulations” means the part of a zoning ordinance enacted under this section that applies to elements including setback, height, lot coverage, and side yard.

2. “Nonconforming structure” means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.

(b) An ordinance enacted under this section may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

SECTION 3. 59.692 (2m) of the statutes is created to read:

59.692 (2m) (a) In this subsection:

1. “Development regulations” means the part of a shoreland zoning ordinance enacted under this section that applies to elements including setback, height, lot coverage, and side yard.

* Section 991.11, WISCONSIN STATUTES 2009–10: 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 as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

2. “Nonconforming structure” means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current shoreland zoning ordinance.

(b) A county may not enact, and a county, city, or village may not enforce, a provision in a county shoreland zoning ordinance that does any of the following:

1. Regulates the location, maintenance, expansion, replacement, repair, or relocation of a nonconforming structure if that provision is more restrictive than the shoreland zoning standards for nonconforming structures promulgated by the department under this section.

2. Regulates the construction of a structure or building on a substandard lot if that provision is more restrictive than the shoreland zoning standards for substandard lots promulgated by the department under this section.

(c) A city or village annexed as provided under sub. (7) (a) or incorporated as provided under sub. (7) (ad) may not enact or enforce a provision in a city or village shoreland zoning ordinance that does any of the following:

1. Regulates the location, maintenance, expansion, replacement, repair, or relocation of a nonconforming structure if that provision is more restrictive than the shoreland zoning standards for nonconforming structures promulgated by the department under this section.

2. Regulates the construction of a structure or building on a substandard lot if that provision is more restrictive than the shoreland zoning standards for substandard lots promulgated by the department by rule under this section.

SECTION 3e. 60.61 (5) (a) of the statutes is renumbered 60.61 (5) (am).

SECTION 3k. 60.61 (5) (ab) of the statutes is created to read:

60.61 (5) (ab) In this subsection “nonconforming use” means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance.

SECTION 3m. 60.61 (5) (e) 1. of the statutes is amended to read:

60.61 (5) (e) 1. In this paragraph, “amortization ordinance” means an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used as described under par. (a) (am), but only for a specified period of time, after which the lawful use of such building, premises, structure, or fixture must be discontinued without the payment of just compensation.

SECTION 3n. 60.61 (5) (e) 2. of the statutes is amended to read:

60.61 (5) (e) 2. Subject to par. (a) (am), an ordinance enacted under this section may not require the removal of

a nonconforming building, premises, structure, or fixture by an amortization ordinance.

SECTION 4. 60.61 (5e) of the statutes is created to read:

60.61 (5e) REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES. (a) In this subsection:

1. “Development regulations” means the part of a zoning ordinance enacted under this section that applies to elements including setback, height, lot coverage, and side yard.

2. “Nonconforming structure” means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.

(b) An ordinance enacted under this section may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

SECTION 4m. 62.23 (7) (a) of the statutes is renumbered 62.23 (7) (am).

SECTION 4p. 62.23 (7) (ab) of the statutes is created to read:

62.23 (7) (ab) *Definition.* In this subsection “nonconforming use” means a use of land, a dwelling, or a building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with the use restrictions in the current ordinance.

SECTION 5. 62.23 (7) (hb) of the statutes is created to read:

62.23 (7) (hb) *Repair and maintenance of certain nonconforming structures.* 1. In this paragraph:

a. “Development regulations” means the part of a zoning ordinance enacted under this subsection that applies to elements including setback, height, lot coverage, and side yard.

b. “Nonconforming structure” means a dwelling or other building that existed lawfully before the current zoning ordinance was enacted or amended, but that does not conform with one or more of the development regulations in the current zoning ordinance.

2. An ordinance enacted under this subsection may not prohibit, or limit based on cost, the repair, maintenance, renovation, or remodeling of a nonconforming structure.

SECTION 6m. 62.23 (7a) (intro.) of the statutes is amended to read:

62.23 (7a) EXTRATERRITORIAL ZONING. (intro.) The governing body of any city which has created a city plan commission under sub. (1) and has adopted a zoning ordinance under sub. (7) may exercise extraterritorial zoning power as set forth in this subsection. Insofar as applicable sub. (7) (a) (am), (b), (c), (ea), (h) and (i) shall apply to extraterritorial zoning ordinances enacted under this subsection. This subsection shall also apply to the governing body of any village.

SECTION 6s. 92.15 (5) of the statutes is amended to read:

92.15 (5) Any livestock operation that exists on October 14, 1997, and that is required to obtain a permit under s. 283.31 or that receives a notice of discharge under ch. 283 may continue to operate as a livestock operation at the same location notwithstanding s. 59.69

(10) ~~(a)~~ (am) or 62.23 (7) (h) or any zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7), if the livestock operation is a lawful use or a legal non-conforming use under any zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7) on October 14, 1997.
