

SENATE BILL 472 (LRB -1707)

An Act to create 59.69 (10e), 59.692 (1p), 59.692 (2m), 60.61 (5e) 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. (FE)

2012

02-14.	S.	Introduced by Senators Lasee and King ; cosponsored by Representatives Tiffany , Steineke , Murtha , Litjens , Rivard and Jacque .	
02-14.	S.	Read first time and referred to committee on Insurance and Housing	700
02-22.	S.	Fiscal estimate received.	
02-22.	S.	Public hearing held.	
02-24.	S.	Representative Spanbauer added as a cosponsor	739
03-02.	S.	Report passage recommended by committee on Insurance and Housing, Ayes 4, Noes 2	752
03-02.	S.	Available for scheduling.	
03-05.	S.	Senate amendment 1 offered by Senator Lasee (LRB a2404)	754
03-12.	S.	Placed on calendar 3-13-2012 pursuant to Senate Rule 18(1)	788
03-13.	S.	Read a second time	0
03-13.	S.	Senate amendment 1 adopted	0
03-13.	S.	Senate amendment 2 offered by Senator Holperin (LRB a2825)	0
03-13.	S.	Senate amendment 2 adopted	0
03-13.	S.	Ordered to a third reading	0
03-13.	S.	Rules suspended	0
03-13.	S.	Read a third time and passed	0
03-13.	S.	Motion to reconsider vote by which bill was passed offered by Senator Lasee	0
03-13.	S.	Vote by which bill was passed reconsidered, Ayes 17, Noes 16	0
03-13.	S.	Motion to reconsider vote by which bill was ordered to a third reading offered by Senator Lasee	0
03-13.	S.	Vote by which bill was ordered to a third reading reconsidered	0
03-13.	S.	Motion to reconsider vote by which Senate amendment 2 was adopted offered by Senator Lasee	0
03-13.	S.	Vote by which Senate Amendment 2 was adopted reconsidered	0
03-13.	S.	Senate amendment 2 laid on table	0
03-13.	S.	Ordered to a third reading	0
03-13.	S.	Rules suspended	0
03-13.	S.	Read a third time and passed	0
03-13.	S.	Ordered immediately messaged	0
03-13.	A.	Received from Senate	911
03-13.	A.	Read first time and referred to committee on Rules	911
03-13.	A.	Made a special order of business at 9:19 A.M. on 3-14-2012 pursuant to Assembly Resolution 24	929
03-15.	A.	Read a second time.	
03-15.	A.	Ordered to a third reading.	
03-15.	A.	Rules suspended.	
03-15.	A.	Read a third time and concurred in , Ayes 53, Noes 28, Paired 6.	
03-15.	A.	Ordered immediately messaged.	
03-19.	S.	Received from Assembly concurred in.	

AMB

2011
ENROLLED BILL

11en SB-472

ADOPTED DOCUMENTS:

Orig Engr SubAmdt

11-1707/6

Amendments to above (if none, write "NONE"): SA1 - 22404/3

Corrections - show date (if none, write "NONE"):

None

Topic

Rel

3-21-12

Date

J. R. Miller

Enrolling Drafter



2011 SENATE BILL 472

February 14, 2012 - Introduced by Senators LASEE and KING, cosponsored by Representatives TIFFANY, STEINEKE, MURTHA, LITJENS, RIVARD and JACQUE. Referred to Committee on Insurance and Housing.

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

Analysis by the Legislative Reference Bureau

Under current law, a county must enact a shoreland zoning ordinance for all shorelands in its unincorporated area and the ordinance must meet shoreland zoning standards established by the Department of Natural Resources (DNR) by rule. Current law defines a shoreland to be an area within a certain distance from the edge of a navigable water. Current law also specifies that, if a shoreland area is annexed by a city or village (annexing municipality) or is part of a town that incorporates as a city or village (incorporated municipality), then, with certain exceptions, the county shoreland zoning ordinance continues in effect and must be enforced by the annexing or incorporated municipality. The exceptions in current law allow the annexing or incorporated municipality to enforce its own zoning ordinance with respect to shorelands if the ordinance complies with shoreland zoning standards that are at least as restrictive as the county shoreland zoning ordinance.

This bill prohibits a county from enacting, and prohibits a county, city, or village from enforcing, any provision in a county shoreland zoning ordinance that regulates the use, location, maintenance, expansion, replacement, or relocation of a nonconforming structure if that provision is more restrictive than the shoreland

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zoning standards for nonconforming structures promulgated by DNR. The prohibition under the bill also applies to a shoreland zoning ordinance enacted by an annexing or incorporated municipality. The bill defines a nonconforming structure as a dwelling or building that does not conform with a county shoreland zoning ordinance, other than an ordinance regulating a nonconforming use, but that lawfully existed before the county shoreland zoning ordinance was enacted.

The bill also provides that DNR may not establish a shoreland zoning standard, and a county may not enact or enforce a shoreland zoning ordinance, that prohibits the construction of a structure or building on certain lots, parcels, or tracts (lots). Under the bill, a shoreland zoning standard or ordinance may not prohibit the construction of a structure or a building on a lot that does not meet minimum area and width requirements if the lot met those requirements when the lot was originally created or if there was no shoreland zoning standard or ordinance in effect that established minimum area and width requirements when the lot was originally created.

Generally under current law, zoning restrictions that would otherwise apply to a damaged or destroyed nonconforming structure may not prohibit, subject to a number of conditions, the restoration of the structure if it will be restored to the size, location, and use it had before the damage or destruction occurred, unless the size must be larger to comply with state or federal requirements. In addition, and subject to the same conditions, the restrictions in the zoning ordinance may not impose limits on the costs of the repair, reconstruction, or improvement of the structure. The conditions that apply to the restrictions in the zoning ordinance are as follows:

1. The structure must have been damaged or destroyed after March 1, 2006.
2. The structure must have been damaged or destroyed by violent wind, vandalism, fire, flood, ice, snow, mold, or infestation.

Under this bill, a zoning ordinance may not prohibit, or limit based on cost, the repair, maintenance, reconstruction, renovation, or remodeling of a nonconforming structure in existence on the effective date of a zoning ordinance that relates to that structure.

For further information see the *local* fiscal estimate, which will be printed as an appendix to this bill.

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

INS. SA1-1

INS. SA1-2

1

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

2

59.69 (10e) REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES.

3

(a) In this subsection:

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INS, SAI-3

1. "Dimensional requirements" 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, but that does not conform with one or more of the dimensional requirements in the current zoning ordinance enacted under this section that is applicable to a dwelling or other building that is constructed on or after the effective date of that zoning ordinance.

INS
SAI-4

INS SAI-5

INS,
SAI-6

(b) An ordinance enacted under this section may not prohibit, or limit based on cost, the repair, maintenance, reconstruction, renovation, or remodeling of a nonconforming structure in existence on the effective date of an ordinance enacted under this section related to that structure.

INS SAI-9

SECTION 2. 59.692 (1p) of the statutes is created to read:

59.692 (1p) The department may not establish or enforce a shoreland zoning standard, and a county may not enact or enforce an ordinance under this section, that prohibits the construction of a structure or building on a lot, parcel, or tract that does not meet minimum area or width requirements under that standard or ordinance, if any of the following applies:

(a) The lot, parcel, or tract met the minimum area and width requirements for the construction of a structure or building when the lot, parcel, or tract was originally created.

(b) There was no shoreland zoning standard or ordinance in effect under this section that established a minimum area or width requirement for the construction of a structure or building on the lot, parcel, or tract when the lot, parcel, or tract was originally created.

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SECTION 3

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

2 59.692 (2m) (a) In this subsection, "nonconforming structure" means a
3 dwelling or building that does not conform with a county shoreland zoning
4 ordinance, other than a county shoreland ordinance regulating a nonconforming use,
5 enacted under this section but that existed lawfully before the county shoreland
6 zoning ordinance was enacted.

INS SAI-11

INS
SAI-12

7 (b) A county may not enact, and a county, city, or village may not enforce, a
8 provision in a county shoreland zoning ordinance that regulates the use, location,
9 maintenance, expansion, replacement, repair, or relocation of a nonconforming
10 structure if that provision is more restrictive than the shoreland zoning standards
11 for nonconforming structures promulgated by the department under this section.

INS,
SAI-13

INS SAI-1

12 (c) A city or village annexed as provided under sub. (7) (a) or incorporated as
13 provided under sub. (7) (ad) may not enact or enforce a provision in a city or village
14 shoreland zoning ordinance that regulates the use, location, maintenance,
15 expansion, replacement, repair, or relocation of a nonconforming structure if that
16 provision is more restrictive than the shoreland zoning standards for nonconforming
17 structures promulgated by the department under this section.

INS SAI-15

INS SAI-16

INS SAI-17

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

19 60.61 (5e) REPAIR AND MAINTENANCE OF CERTAIN NONCONFORMING STRUCTURES. (a)

20 In this subsection:

INS SAI-18

21 1. "Dimensional requirements" means the part of a zoning ordinance enacted
22 under this section that applies to elements including setback, height, lot coverage,
23 and side yard.

INS
SAI-19

24 2. "Nonconforming structure" means a dwelling or other building that existed
25 lawfully before the current zoning ordinance was enacted, but that does not conform

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SECTION 4

INS
SAI-21

INS SAI-20

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with one or more of the dimensional requirements in the current zoning ordinance enacted under this section that is applicable to a dwelling or other building that is constructed on or after the effective date of that zoning ordinance.

(b) An ordinance enacted under this section may not prohibit, or limit based on cost, the repair, maintenance, reconstruction, renovation, or remodeling of a nonconforming structure in existence on the effective date of an ordinance enacted under this section related to that structure.

INS. SAI-24

INS SAI-25

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:

INS. SAI-26

a. "Dimensional requirements" 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, but that does not conform with one or more of the dimensional requirements in the current zoning ordinance enacted under this subsection that is applicable to a dwelling or other building that is constructed on or after the effective date of that zoning ordinance.

INS
SAI-27

INS SAI-28

INS
SAI-29

2. An ordinance enacted under this subsection may not prohibit, or limit based on cost, the repair, maintenance, reconstruction, renovation, or remodeling of a nonconforming structure in existence on the effective date of an ordinance enacted under this subsection related to that structure.

INS SAI-32

INS SAI-33

(END)



SENATE AMENDMENT 1,
TO 2011 SENATE BILL 472

March 5, 2012 - Offered by Senator LASEE.

1 At the locations indicated, amend the bill as follows:

2 1. Page 2, line 1: before that line insert:

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

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

5 59.69 (10) (ab) In this subsection "nonconforming use" means a use of land, a
6 dwelling, or a building that existed lawfully before the current zoning ordinance was
7 enacted or amended, but that does not conform with the use restrictions in the
8 current ordinance.

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

10 59.69 (10) (e) 1. In this paragraph, "amortization ordinance" means an
11 ordinance that allows the continuance of the lawful use of a nonconforming building,
12 premises, structure, or fixture that may be lawfully used as described under par. (a)
13 (am) but only for a specified period of time, after which the lawful use of such

SAI-1

1 building, premises, structure, or fixture must be discontinued without the payment
2 of just compensation.

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

4 59.69 (10) (e) 2. Subject to par. (a) (am), an ordinance enacted under this section
5 may not require the removal of a nonconforming building, premises, structure, or
6 fixture by an amortization ordinance.

SAI-2

7 2. Page 2, line 1: delete "SECTION 1" and substitute "SECTION 1j".

8 3. Page 3, line 1: delete "Dimensional requirements" and substitute
9 "Development regulations".

SAI-3

10 4. Page 3, line 5: after "enacted" insert "or amended".

SAI-4

11 5. Page 3, line 6: delete "dimensional requirements" and substitute
12 "development regulations".

SAI-5

13 6. Page 3, line 6: delete "ordinance" and substitute "ordinance".

SAI-6

14 7. Page 3, line 7: delete lines 7 and 8.

15 8. Page 3, line 10: delete "reconstruction,".

SAI-9

16 9. Page 3, line 11: delete lines 11 and 12 and substitute "nonconforming
17 structure."

18 10. Page 3, line 13: delete lines 13 to 25.

19 11. Page 4, line 2: delete lines 2 to 6 and substitute:

SAI-11

20 59.692 (2m) (a) In this subsection:

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

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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.".

SAI-12

12. Page 4, line 8: delete "regulates the use," and substitute "does any of the following:".

13. Page 4, line 8: before "location" insert:

"1. Regulates the".

SAI-13

14. Page 4, line 11: after that line insert:

"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:".

SAI-14

15. Page 4, line 14: delete "regulates the use," and substitute "does any of the following:".

SAI-15

16. Page 4, line 14: before "location" insert:

"1. Regulates the".

SAI-16

17. Page 4, line 17: after that line insert:

"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.

SAI-17

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

1 enacted or amended, but that does not conform with the use restrictions in the
2 current ordinance.

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

4 60.61 (5) (e) 1. In this paragraph, "amortization ordinance" means an
5 ordinance that allows the continuance of the lawful use of a nonconforming building,
6 premises, structure, or fixture that may be lawfully used as described under par. (a)
7 (am), but only for a specified period of time, after which the lawful use of such
8 building, premises, structure, or fixture must be discontinued without the payment
9 of just compensation.

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

11 60.61 (5) (e) 2. Subject to par. (a) (am), an ordinance enacted under this section
12 may not require the removal of a nonconforming building, premises, structure, or
13 fixture by an amortization ordinance.".

14 18. Page 4, line 21: delete "Dimensional requirements" and substitute
15 "Development regulations".

SAI-18

SAI-19

16 19. Page 4, line 25: after "enacted" insert "or amended".

17 20. Page 5, line 1: delete "dimensional requirements" and substitute
18 "development regulations".

SAI-20

SAI-21

19 21. Page 5, line 1: delete "ordinance" and substitute "ordinance".

20 22. Page 5, line 2: delete lines 2 and 3.

21 23. Page 5, line 5: delete "reconstruction,".

SAI-24

22 24. Page 5, line 6: delete lines 6 and 7 and substitute: "nonconforming
23 structure".

SA 1-25

1 **25.** Page 5, line 7: after that line insert:

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

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

4 62.23 (7) (ab) *Definition.* In this subsection “nonconforming use” means a use
5 of land, a dwelling, or a building that existed lawfully before the current zoning
6 ordinance was enacted or amended, but that does not conform with the use
7 restrictions in the current ordinance”.

8 **26.** Page 5, line 11: delete “Dimensional requirements” and substitute
9 “Development regulations”.

SA 1-26

SA 1-27

10 **27.** Page 5, line 15: after “enacted” insert “or amended”.

11 **28.** Page 5, line 16: delete “dimensional requirements” and substitute
12 “development regulations”.

SA 1-28

SA 1-29

13 **29.** Page 5, line 16: delete “ordinance” and substitute “ordinance”.

14 **30.** Page 5, line 17: delete lines 17 and 18.

15 **31.** Page 5, line 20: delete “reconstruction”.

SA 1-32

16 **32.** Page 5, line 21: delete lines 21 and 22 and substitute: “nonconforming
17 structure”.

18 **33.** Page 5, line 22: after that line insert:

SA 1-33

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

20 62.23 (7a) EXTRATERRITORIAL ZONING. (intro.) The governing body of any city
21 which has created a city plan commission under sub. (1) and has adopted a zoning
22 ordinance under sub. (7) may exercise extraterritorial zoning power as set forth in
23 this subsection. Insofar as applicable sub. (7) (a) (am), (b), (c), (ea), (h) and (i) shall

1 apply to extraterritorial zoning ordinances enacted under this subsection. This
2 subsection shall also apply to the governing body of any village.

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

4 92.15 (5) Any livestock operation that exists on October 14, 1997, and that is
5 required to obtain a permit under s. 283.31 or that receives a notice of discharge
6 under ch. 283 may continue to operate as a livestock operation at the same location
7 notwithstanding s. 59.69 (10) ~~(a)~~ (am) or 62.23 (7) (h) or any zoning ordinance enacted
8 under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7), if the livestock operation is a lawful
9 use or a legal nonconforming use under any zoning ordinance enacted under s. 59.69,
10 60.61, 60.62, 61.35 or 62.23 (7) on October 14, 1997.”

11 (END)