

## 2011 DRAFTING REQUEST

### Senate Amendment (SA-SB472)

Received: 02/20/2012

Received By: mshovers

Wanted: As time permits

Companion to LRB:

For: Frank Lasee (608) 266-3512

By/Representing: Rob

May Contact: Tom Larson of Realtors Assoc. &

Drafter: mshovers

Subject: Local Gov't - zoning  
Nat. Res. - wet/shore/flood

Adtl. Drafters: rkite

Extra Copies: EVM

Submit via email: YES

Requester's email: Sen.Lasee@legis.wisconsin.gov

Carbon copy (CC:) to:

---

#### Pre Topic:

No specific pre topic given

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#### Topic:

Ordinances to comply with shoreland zoning rules; repair and expansion of nonconforming structures

---

#### Instructions:

See attached.

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#### Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?							
/1	mshovers 02/20/2012 rkite 02/20/2012 mshovers 02/27/2012	csicilia 02/21/2012 wjackson 02/27/2012	jfrantze 02/21/2012	_____	lparisi 02/21/2012	lparisi 02/21/2012	
/2			rschluet	_____	lparisi	lparisi	

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
			02/27/2012 _____		02/27/2012	02/27/2012	
/3	rkite 03/02/2012	csicilia 03/05/2012	jmurphy 03/05/2012 _____		lparisi 03/05/2012	lparisi 03/05/2012	

FE Sent For:

<END>

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/2		3/5 12	rschluet 3/5	_____	lparisi	lparisi	

3/5 SELF 3/5

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
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/?							
/1	mshovers 02/20/2012 rkite 02/20/2012	csicilia 02/21/2012 1/2 WLj 2/27	jfrantze 02/21/2012 <i>[Signature]</i>	_____ _____ <i>[Signature]</i> 2/27	lparisi 02/21/2012	lparisi 02/21/2012	

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1/1	mshovers	1/1	2/20/12	2/20/12	2/20/12		
1/1	MS	2/20/12	2/20/12	2/20/12	2/20/12		

FE Sent For:

<END>

**Shovers, Marc**

**From:** Kovach, Robert  
**Sent:** Monday, February 20, 2012 10:41 AM  
**To:** Shovers, Marc; Kite, Robin  
**Subject:** FW: revisions to Non-conformity bill

SB472 / AB2  
LRB-3146/4

Dear Marc and Robin,

Could you please draft an amendment for both the assembly version and the Senate version of our non-conforming structures bill (LRB-1707)

~~We would like all of the changes below in blue as~~ well as Rep. Tiffany's changes below that.

We are going to be having exec action on Wednesday. Can we have this ready today?

Thank you!

Rob Kovach  
Chief of Staff  
Office of State Senator Frank Lasee  
608-266-3512



Tom and Rob,

The only other changes were to:

60.61(5e)

Delete lines 2 and 3 (page 5)

On page 5, line 6, place a period after "structure" and delete "in existence on the effective date of an ordinance enacted under this section related to that structure."

62.23(7)(hb)

Delete lines 17 and 18 (page 5)

On page 5, line 21, place a period after "structure" and delete "in existence on the effective date of an ordinance enacted under this section related to that structure."

Tom – according to my notes, we also discussed the following issues, but I am not sure what you wanted to do about them:

Changing the term "dimensional requirements" to "development regulations" (this would make it more clear that regulations like impervious surface limits are covered)

Defining the term "nonconforming use" to better differentiate between "nonconforming uses" and "nonconforming structures" ("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 zoning ordinance.”) This would be added to Wis. Stat. 59.69(10), 60.61, and 62.23(7).

Add the words “or amended” after “enacted” on page 3 line 5, page 4 line 25, and page 5 line 15

Thank you.

---

**From:** Tiffany, Tom [<mailto:Tom.Tiffany@legis.wisconsin.gov>]

**Sent:** Friday, February 17, 2012 12:47 PM

**To:** Kovach, Robert

**Cc:** Larson, Tom

**Subject:** revisions to Non-conformity bill

Hi Rob—here are the changes I am suggesting to the non-conformity bill:

In 59.69 (10e)

~~Remove lines 7 and 8.~~

-On line 11 stop at structure and remove the rest of 11 and 12.

In 59.692 (2m) (a)

~~-Replace 2 through 6 with 1 through 6 from 59.69 (10e) (a)~~

~~-in (b) remove the word use on Line 8.~~

Tom Larson—be sure to review and make sure I am recommending what we discussed earlier this week.

If you have any questions or comments, Rob, please call me. Let's see if we can get this done!

Tom Tiffany

Representative for the 35th Assembly District

Phone: (608) 266-7695

Toll-Free: (888) 534-0035

[rep.tiffany@legis.wisconsin.gov](mailto:rep.tiffany@legis.wisconsin.gov)

State Capitol Room 208 North



## 2011 BILL

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

**BILL**

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:*

- 1           **SECTION 1.** 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:

**BILL**

*Developmental regulations*

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~~ *developmental regulations* 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.~~

**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.

*Keep here + move to p. 42*

*715*

*developmental regulations*

*developmental regulations*

**BILL**

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

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

(b) A county may not enact, and a county, city, or village may not enforce, a provision in a county shoreland zoning ordinance that regulates the use, 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.

(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 regulates the use, 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.

**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. <sup>Developmental regulations</sup> ~~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

**BILL**

*developmental regulations*

Ⓣ

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

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

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

9 62.23 (7) (hb) *Repair and maintenance of certain nonconforming structures.*

10 1. In this paragraph:

*Developmental regulations*

11 a. ~~Dimensional requirements~~ means the part of a zoning ordinance enacted  
12 under this subsection that applies to elements including setback, height, lot  
13 coverage, and side yard.

14 b. "Nonconforming structure" means a dwelling or other building that existed  
15 lawfully before the current zoning ordinance was enacted, but that does not conform  
16 with one or more of the ~~dimensional requirements~~ *developmental regulations* in the current zoning ordinance,  
17 enacted under this subsection that is applicable to a dwelling or other building that  
18 is constructed on or after the effective date of that zoning ordinance.

Ⓣ

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

23 (END)



*gjs*  
*KMR*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**  
**SENATE AMENDMENT,**  
**TO 2011 SENATE BILL 472**

*today*

*O-note*  
*inserts*

*full committee  
SAV*

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

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

X  
3  
4  
5

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

SECTION 1g. 59.69 (10) <sup>(ab)</sup> ~~(1e)~~ of the statutes is created to read:

59.69 (10) <sup>(ab)</sup> ~~(1e)~~ 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?

*(am)*  
*1*

*INS  
1-8*

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

10 **3.** Page 3, line 1: delete "Dimensional requirements" and substitute  
11 "Developmental regulations".

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

1           **5.** Page 3, line 6: delete "dimensional requirements" and substitute  
2 "developmental regulations". ✓

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

4           **7.** Page 3, line 7: delete lines 7 and 8.

5           **8.** Page 3, line 11: delete lines 11 and 12 and substitute "nonconforming  
6 structure." ✓

7           **9.** Page 4, line 2: delete lines 4 to 6 and substitute: "59.692 (2m) (a) In this  
8 subsection:

9           1. "Developmental regulations" means the part of a <sup>shoreland</sup> zoning ordinance enacted  
10 under this section that applies to elements including setback, height, lot coverage,  
11 and side yard.

12           2. "Nonconforming structure" means a dwelling or other building that existed  
13 lawfully before the current zoning ordinance was enacted or amended, but that does  
14 not conform with one or more of the developmental regulations in the current zoning  
15 ordinance. ✓

16           **10.** Page 4, line 8: <sup>on lines 8 and 14</sup> delete "use,". ✓

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

18           "**SECTION 30.** 60.61 (5) (a) of the statutes is renumbered 60.61 (5) <sup>(am)</sup> ~~30.61~~ ✓

19           **SECTION 30.** 60.61 (5) <sup>(ab)</sup> ~~30.61~~ of the statutes is created to read:

20           60.61 (5) <sup>(ab)</sup> ~~30.61~~ In this subsection "nonconforming use" means a use of land, a  
21 dwelling, or a building that existed lawfully before the current zoning ordinance was  
22 enacted or amended, but that does not conform with the use restrictions in the  
23 current ordinance." ✓

INS  
2-23  
→

1           **12.** Page 4, line 21: delete “Dimensional requirements” and substitute ✓  
2 “Developmental regulations”.

3           **13.** Page 4, line 25: after “enacted” insert “or amended”. ✓

4           **14.** Page 5, line 1: delete “dimensional requirements” and substitute  
5 “developmental regulations”.

6           **15.** Page 5, line 1: delete “ordinance” and substitute “ordinance.”.

7           **16.** Page 5, line 2: delete lines 2 and 3.

8           **17.** Page 5, line 6: delete lines 6 and 7 and substitute: “nonconforming  
9 structure. ✓ ⊙

Definition ⊙ I

(am)

⊙ ↑

X

10           **18.** Page 5, line 7: after that line insert:

11           “SECTION ~~4m.~~ <sup>(a)</sup> 62.23 (7) ~~(3)~~ of the statutes is renumbered 62.23 (7) ~~(3)~~.”

12           SECTION ~~4p.~~ <sup>(ab)</sup> 62.23 (7) ~~(3)~~ of the statutes is created to read:

13           62.23 (7) ~~(3)~~ <sup>(ab)</sup> In this subsection “nonconforming use” means a use of land, a  
14 dwelling, or a building that existed lawfully before the current zoning ordinance was  
15 enacted or amended, but that does not conform with the use restrictions in the  
16 current ordinance.”.

17           **19.** Page 5, line 11: delete “Dimensional requirements” and substitute  
18 “Developmental regulations”.

19           **20.** Page 5, line 15: after “enacted” insert “or amended”.

20           **21.** Page 5, line 16: delete “dimensional requirements” and substitute  
21 “developmental regulations”.

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

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

1           **24.** Page 5, line 21: delete lines 21 and 22 and substitute: "nonconforming  
2 structure. *V* *o*

3 *INS*  
*4-2*  
*A* *→* (END)

*INS*  
*4-2*  
*B*

*d-note*

2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa2404/lins  
MES&RNK.....

INS 1-8



SECTION 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) 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.

(am)

**History:** 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32.



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

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

end of ins 1-8

**History:** 1971 c. 40 s. 93; 1971 c. 86, 224; 1973 c. 274; 1977 c. 205; 1979 c. 233 ss. 2 to 5, 7 and 8; 1979 c. 323; 1981 c. 341, 354, 374; 1983 a. 192 s. 303 (1); 1983 a. 410; 1983 a. 532 s. 36; 1985 a. 29, 136, 196, 281, 316; 1987 a. 161, 395; 1989 a. 80, 201; 1991 a. 255, 269, 316; 1993 a. 16, 27, 246, 327, 400, 446, 491; 1995 a. 27 ss. 9130 (4), 9126 (19); 1995 a. 201 s. 475; Stats. 1995 s. 59.69; 1995 a. 225 s. 174; 1995 a. 227; 1997 a. 3, 35; 1999 a. 9, 148, 185; 2001 a. 16, 30, 50, 105; 2003 a. 214; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 11; 2007 a. 20 ss. 1852 to 1857, 9121 (6) (a); 2009 a. 28, 209, 351, 372, 405; 2011 a. 32.



SECTION 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) 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.

(am)

INS 2-23

**History:** 1983 a. 532, 538; 1985 a. 136, 316; 1991 a. 255; 1993 a. 246, 301, 400, 414, 491; 1995 a. 27 s. 9130 (4); 1995 a. 201; 1997 a. 3.; 2001 a. 50; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 97; 2009 a. 351.



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

3n

60.61 (5) (e) 2. Subject to par. ~~(a)~~ <sup>(am)</sup>, an ordinance enacted under this section may not require the removal of a nonconforming building, premises, structure, or fixture by an amortization ordinance. <sup>V/6</sup> end of ins 2-23

**History:** 1983 a. 532, 538; 1985 a. 136, 316; 1991 a. 255; 1993 a. 246, 301, 400, 414, 491; 1995 a. 27 ss. 9126 (4); 1995 a. 201; 1997 a. 3; 2001 a. 50; 2005 a. 26, 79, 81, 112, 171, 208; 2007 a. 97, 2009 a. 351.

**SECTION ??.** 61.351 (5) of the statutes is amended to read:

**61.351 (5) REPAIR AND EXPANSION OF EXISTING STRUCTURES PERMITTED.**

Notwithstanding s. 62.23 (7) ~~(h)~~ <sup>(hb)</sup>, an ordinance adopted under this section may not prohibit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of an ordinance adopted under this section or any environmental control facility in existence on the effective date of an ordinance adopted under this section related to that structure.

**History:** 1981 c. 330; 1995 a. 201, 227; 2005 a. 112.

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

62.23 (7) (hg) 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. ~~(h)~~ <sup>(hb)</sup>, 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.

**History:** 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32.

**SECTION ??.** 62.23 (7) (hg) 2. of the statutes is amended to read:

62.23 (7) (hg) 2. Subject to par. ~~(h)~~ <sup>(hb)</sup>, an ordinance enacted under this subsection may not require the removal of a nonconforming building, premises, structure, or fixture by an amortization ordinance.

**History:** 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32.

**SECTION ??.** 62.23 (7a) of the statutes is amended to read:

*(intro.)*



#. Page 5, line 22: after that <sup>line insert:</sup> -3-

INS  
4-2  
A

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

62.23 (7a) EXTRATERRITORIAL ZONING. 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) <sup>(am)</sup> (a), (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. end of ins 4-2A

end of ins 4-2A

(a) Extraterritorial zoning jurisdiction means the unincorporated area within 3 miles of the corporate limits of a first, second or third class city, or 1 1/2 miles of a fourth class city or a village. Wherever extraterritorial zoning jurisdictions overlap, the provisions of s. 66.0105 shall apply and any subsequent alteration of the corporate limits of the city by annexation, detachment or consolidation proceedings shall not affect the dividing line as initially determined under s. 66.0105. The governing body of the city shall specify by resolution the description of the area to be zoned within its extraterritorial zoning jurisdiction sufficiently accurate to determine its location and such area shall be contiguous to the city. The boundary line of such area shall follow government lot or survey section or fractional section lines or public roads, but need not extend to the limits of the extraterritorial zoning jurisdiction. Within 15 days of the adoption of the resolution the governing body shall declare its intention to prepare a comprehensive zoning ordinance for all or part of its extraterritorial zoning jurisdiction by the publication of the resolution in a newspaper having general circulation in the area proposed to be zoned, as a class 1 notice, under ch. 985. The city clerk shall mail a certified copy of the resolution and a scale map reasonably showing the boundaries of the extraterritorial jurisdiction to the clerk of the county in which the extraterritorial jurisdiction area is located and to the town clerk of each town, any part of which is included in such area.

(b) The governing body may enact, without referring the matter to the plan commission, an interim zoning ordinance to preserve existing zoning or uses in all or part of the extraterritorial zoning jurisdiction while the comprehensive zoning plan is being prepared. Such ordinance may be enacted as is an ordinary ordinance but shall be effective for no longer than 2 years after its enactment, unless extended as provided in this paragraph. Within 15 days of its passage, the governing body of the city shall publish the ordinance in a newspaper having general circulation in the area proposed to be zoned as a class 1 notice, under ch. 985, or as a notice, as described under s. 62.11 (4) (c) 2., and the city clerk shall mail a certified copy of the ordinance to the clerk of the county in which the extraterritorial jurisdiction is located and to the clerk of each town affected by the interim zoning ordinance and shall file a copy of the ordinance with the city plan commission. The governing body of the city may extend the interim zoning ordinance for no longer than one year, upon the recommendation of the joint extraterritorial zoning committee established under par. (c). No other interim zoning ordinance shall be enacted affecting the same area or part thereof until 2 years after the date of the expiration of the interim zoning ordinance or the one year extension thereof. While the interim zoning ordinance is in effect, the governing body of the city may amend the districts and regulations of the ordinance according to the procedure set forth in par. (f).

(c) If the governing body of the city adopts a resolution under par. (a), it shall direct the plan commission to formulate tentative recommendations for the district plan and regulations within all or a part of the extraterritorial zoning jurisdiction as described in the resolution adopted under par. (a). When the plan commission is engaged in the preparation of such district plan and regulations, or amendments thereto, a joint extraterritorial zoning committee shall be established. Such joint

committee shall consist of 3 citizen members of the plan commission, or 3 members of the plan commission designated by the mayor if there are no citizen members of the commission, and 3 town members from each town affected by the proposed plan and regulations, or amendments thereto. The 3 town members shall be appointed by the town board for 3 year terms and shall be residents of the town and persons of recognized experience and qualifications. Town board members are eligible to serve. If the town board fails to appoint the 3 members within 30 days following receipt of the certified resolution under par. (a), the board shall be subject to a mandamus proceeding which may be instituted by any resident of the area to be zoned or by the city adopting such resolution. The entire plan commission shall participate with the joint committee in the preparation of the plan and regulations, or amendments thereto. Only the members of the joint committee shall vote on matters relating to the extraterritorial plan and regulations, or amendments thereto. A separate vote shall be taken on the plan and regulations for each town and the town members of the joint committee shall vote only on matters affecting the particular town which they represent. The governing body shall not adopt the proposed plan and regulations, or amendments thereto, unless the proposed plan and regulations, or amendments thereto, receive a favorable vote of a majority of the 6 members of the joint committee. Such vote shall be deemed action taken by the entire plan commission.

(d) The joint committee shall formulate tentative recommendations for the district plan and regulations and shall hold a public hearing thereon. Notice of a hearing shall be given by publication in a newspaper having general circulation in the area to be zoned, as a class 2 notice, under ch. 985, during the preceding 30 days, and by mailing the notice to the town clerk of the town for which the plan and

regulations are proposed. The notice shall contain the layout of tentative districts either by maps or words of description, and may contain the street names and house lot numbers for purposes of identification if the joint committee or the governing body so determines. At a public hearing an opportunity to be heard shall be afforded to representatives of the town board of the town and to any person in the town for which the plan and regulations are proposed.

(e) The governing body of the city may adopt by ordinance the proposed district plan and regulations recommended by the joint committee after giving notice and holding a hearing as provided in par. (d), or the governing body may change the proposed districts and regulations after first submitting the proposed changes to the joint committee for recommendation and report. The joint committee and the governing body may hold a hearing on the proposed changes after giving notice as provided in par. (d). The joint committee recommendation on the proposed changes shall be submitted to the governing body in accordance with the voting requirements set forth in par. (c).

(f) The governing body of the city may amend the districts and regulations of the extraterritorial zoning ordinance after first submitting the proposed amendment to the joint committee for recommendation and report. The procedure set forth in pars. (c), (d) and (e) shall apply to amendments to the extraterritorial zoning ordinance. In the case of a protest against an amendment the applicable provisions under sub. (7) (d) shall be followed.

(g) Insofar as applicable the provisions of subs. (7) (e), (f), (8) and (9) shall apply. The governing body of a city which adopts an extraterritorial zoning ordinance under this subsection may specifically provide in the ordinance for the enforcement and administration of this subsection. A town which has been issuing building permits

may continue to do so, but the city building inspector shall approve such permits as to zoning prior to their issuance.

History: 1973 c. 60; 1975 c. 281; 1977 c. 205; 1979 c. 221, 355; 1981 c. 289, 341, 354, 374; 1983 a. 49, 410; 1985 a. 136 ss. 7 to 9, 10; 1985 a. 187, 225, 281, 316; 1987 a. 161, 395; 1989 a. 201; 1991 a. 255, 316; 1993 a. 27, 184, 301, 327, 400, 446, 471, 490, 491; 1995 a. 27 ss. 9126 (19), 9130 (4); 1995 a. 225; 1997 a. 3, 35, 246; 1999 a. 9, 148; 1999 a. 150 s. 672; 2001 a. 30 ss. 16, 17, 108; 2001 a. 50; 2005 a. 26, 34, 79, 81, 112, 171, 208; 2007 a. 20 ss. 1868 to 1873, 9121 (6) (a); 2007 a. 72; 2009 a. 28, 209, 276, 351, 372, 405; 2011 a. 32.

SECTION ?? 62.231 (5) of the statutes is amended to read:

62.231 (5) REPAIR AND EXPANSION OF EXISTING STRUCTURES PERMITTED.

Notwithstanding s. 62.23 (7) (h), <sup>AmB</sup> an ordinance adopted under this section may not prohibit the repair, reconstruction, renovation, remodeling or expansion of a nonconforming structure in existence on the effective date of an ordinance adopted under this section or any environmental control facility in existence on May 7, 1982 related to that structure.

History: 1981 c. 330, 391; 1995 a. 201; 1995 a. 227; 1999 a. 9; 2005 a. 112; 2011 a. 6.

SECTION ?? 91.42 (3) of the statutes is amended to read:

91.42 (3) Prior nonconforming uses, subject to s. 59.69 (10), 60.61 (5), or 62.23 (7) (h), <sup>(hb)</sup>

History: 2009 a. 28.

SECTION ?? 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) or 62.23 (7) (h) <sup>(hb)</sup> 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 nonconforming use under any zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7) on October 14, 1997.

History: 1997 a. 27; 1999 a. 9.

65

rNS 4-2B

(am)

Section #. 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)~~ 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 nonconforming use under any zoning ordinance enacted under s. 59.69, 60.61, 60.62, 61.35 or 62.23 (7) on October 14, 1997. V/O

History: 1997 a. 27; 1999 a. 9.

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2404/?dn  
MES&RNK.....

*gjs*

*- late -*

Senator Lasee:

This amendment is drafted according to your instructions, but we have a number of concerns.

1. The definition of "nonconforming structure" seems less precise to us, and somewhat ambiguous, with the elimination of lines 7 and 8 on page 3 (and in other locations of the amendment). The same comment relates to the elimination of lines 11 and 12 on page 3, (and in other locations of the amendment) along with the substitution of "nonconforming structure." ✓

2. We've <sup>(5)</sup> added your requested definition of "nonconforming use" in ss. 59.69 (10), 60.61, and 62.23 (7), but the definition seems inconsistent with the use of that phrase in current law in ss. 59.69 (10) (a) and (e), 60.61 (5) (a) and (e) 1., and 62.23 (7) (h) and (hg) 1. ✓

→ Please let us know if you'd like any changes made to the amendment.

Marc E. Shovers  
Managing Attorney  
Phone: (608) 266-0129  
E-mail: marc.shovers@legis.wisconsin.gov

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

③ Rep. Tiffany wanted the word "use" deleted from page 4, line 8. We also deleted it from page 4, line 14. Is this OK?

**DRAFTER'S NOTE**  
**FROM THE**  
**LEGISLATIVE REFERENCE BUREAU**

LRBa2404/1dn  
MES&RNK:cjs:jf

February 21, 2012

Senator Lasee:

This amendment is drafted according to your instructions, but we have a number of concerns.

1. The definition of "nonconforming structure" seems less precise to us, and somewhat ambiguous, with the elimination of lines 7 and 8 on page 3 (and in other locations of the amendment). The same comment relates to the elimination of lines 11 and 12 on page 3, (and in other locations of the amendment) along with the substitution of "nonconforming structure."

2. We've added your requested definition of "nonconforming use" in ss. 59.69 (10), 60.61 (5), and 62.23 (7), but the definition seems inconsistent with the use of that phrase in current law in ss. 59.69 (10) (a) and (e), 60.61 (5) (a) and (e) 1., and 62.23 (7) (h) and (hg) 1.

3. Rep. Tiffany wanted the word "use" deleted from page 4, line 8. We also deleted it from page 4, line 14. Is this OK?

Please let us know if you'd like any changes made to the amendment.

Marc E. Shovers  
Managing Attorney  
Phone: (608) 266-0129  
E-mail: marc.shovers@legis.wisconsin.gov

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

**Kite, Robin**

---

**From:** Shovers, Marc  
**Sent:** Friday, February 24, 2012 3:36 PM  
**To:** Kite, Robin  
**Subject:** FW: Nonconforming Structures bill (SB 472)  
**Importance:** High

Hi Robin:

I have to leave now, but I wanted you to see this. I think item 2 is yours and the first thing is probably mine. I imagine we'll be able to finish this Monday.

Marc

---

**From:** Kovach, Robert  
**Sent:** Friday, February 24, 2012 3:21 PM  
**To:** Shovers, Marc  
**Cc:** Tiffany, Tom  
**Subject:** FW: Nonconforming Structures bill (SB 472)  
**Importance:** High

Dear Marc,

Can you make the ammendments below by Tuesday morning?

Rob Kovach  
Chief of Staff  
Office of State Senator Frank Lasee  
608-266-3512

NR 115 -

Hi Rob.

Please make the following changes to Senate Amendment 1 to SB 472 (and please ask the drafter to create a similar amendment for Tom Tiffany):

+ Change "Developmental regulations" to "Development regulations"

+ Section 2, lines 14 through 25 (of SB 472)– Replace lines 14 through 25 with "A county may not enact, and a county, city or village may not enforce a provision in a county shoreland zoning ordinance that 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."

Thank you.

2/27/12

Met w/ Rob Kovach & con call with  
Tom Larson

I explained that there is no definition  
in statutes of "substandard lot"  
Tom said he understands this &  
wants will rely on the definition  
in DNR rules -

I explained that DNR rules could  
change - Tom still does not  
want to include a definition of  
"substandard lot" in the statutes



+wij (MNR)

SENATE AMENDMENT ,  
TO 2011 SENATE BILL 472

D-Note

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

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.”.

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 “Developmental regulations”.

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

11 5. Page 3, line 6: delete “dimensional requirements” and substitute  
12 “developmental regulations”.

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

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

15 8. Page 3, line 11: delete lines 11 and 12 and substitute “nonconforming  
16 structure.”.

INS.  
2-16

17 9. Page 4, line 2: delete lines 2 to 6 and substitute:

18 “59.692 (2m) (a) In this subsection:

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

22 2. “Nonconforming structure” means a dwelling or other building that existed  
23 lawfully before the current zoning ordinance was enacted or amended, but that does

1 not conform with one or more of the developmental regulations in the current  
2 shoreland zoning ordinance.”

INS  
3-3

3 **10.** Page 4, line 8: on lines 8 and 14 delete “use,”

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

INS  
3-4

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

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

7 60.61 (5) (ab) In this subsection “nonconforming use” means a use of land, a  
8 dwelling, or a building that existed lawfully before the current zoning ordinance was  
9 enacted or amended, but that does not conform with the use restrictions in the  
10 current ordinance.

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

12 60.61 (5) (e) 1. In this paragraph, “amortization ordinance” means an  
13 ordinance that allows the continuance of the lawful use of a nonconforming building,  
14 premises, structure, or fixture that may be lawfully used as described under par. (a)  
15 (am), but only for a specified period of time, after which the lawful use of such  
16 building, premises, structure, or fixture must be discontinued without the payment  
17 of just compensation.

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

19 60.61 (5) (e) 2. Subject to par. (a) (am), an ordinance enacted under this section  
20 may not require the removal of a nonconforming building, premises, structure, or  
21 fixture by an amortization ordinance.”

22 **12.** Page 4, line 21: delete “Dimensional requirements” and substitute  
23 “Developmental regulations”.

24 **13.** Page 4, line 25: after “enacted” insert “or amended”.

1           **14.** Page 5, line 1: delete “dimensional requirements” and substitute  
2 “developmental regulations”.

3           **15.** Page 5, line 1: delete “ordinance” and substitute “ordinance.”.

4           **16.** Page 5, line 2: delete lines 2 and 3.

5           **17.** Page 5, line 6: delete lines 6 and 7 and substitute: “nonconforming  
6 structure.”.

7           **18.** Page 5, line 7: after that line insert:

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

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

10           62.23 (7) (ab) *Definition.* In this subsection “nonconforming use” means a use  
11 of land, a dwelling, or a building that existed lawfully before the current zoning  
12 ordinance was enacted or amended, but that does not conform with the use  
13 restrictions in the current ordinance.”.

14           **19.** Page 5, line 11: delete “Dimensional requirements” and substitute  
15 “Developmental regulations”.

16           **20.** Page 5, line 15: after “enacted” insert “or amended”.

17           **21.** Page 5, line 16: delete “dimensional requirements” and substitute  
18 “developmental regulations”.

19           **22.** Page 5, line 16: delete “ordinance” and substitute “ordinance.”.

20           **23.** Page 5, line 17: delete lines 17 and 18.

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

23           **25.** Page 5, line 22: after that line insert:



2011-2012 DRAFTING INSERT  
FROM THE  
LEGISLATIVE REFERENCE BUREAU

LRBa2404/2insRK  
RNK:.....

INSERT 2-16

1        ✖ Page 3, line 13: delete lines 13 to 25.

INSERT 3-3

2        ✖ Page 4, line 8: delete “regulates the use,” and substitute “does any of the  
3 following:”.

4        ✖ Page 4, line 8: before “location” insert:

5        “1. Regulates the”.

6        ↓ ✖ Page 4, line 11: after that line insert:

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

10       ✖ Page 4, line 14: delete “regulates the use” and substitute “does any of the  
11 following:”.

12       ✖ Page 4, line 14: before “~~the use~~” insert: <sup>location</sup>

13       “1. Regulates the”.

INSERT 3-4

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

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2404/2dn

RNK:f:....

Wlj

Date

SEN. Lasee (1)

I drafted the part of this amendment that concerns shoreland zoning. Please note that, consistent with the language created in Senate Bill 472 under s. 59.692 (2m) (c), the language in this version of this amendment restricts not only ordinances enacted by counties, but also ~~restricts~~ ordinances enacted by an annexed or incorporated city or village. Please let me know if you have any questions.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: robin.kite@legis.wisconsin.gov

**DRAFTER'S NOTE  
FROM THE  
LEGISLATIVE REFERENCE BUREAU**

LRBa2404/2dn  
RNK:wlj:rs

February 27, 2012

Sen. Lasee:

I drafted the part of this amendment that concerns shoreland zoning. Please note that, consistent with the language created in Senate Bill 472 under s. 59.692 (2m) (c), the language in this version of this amendment restricts not only ordinances enacted by counties, but also ordinances enacted by an annexed or incorporated city or village. Please let me know if you have any questions.

Robin N. Kite  
Senior Legislative Attorney  
Phone: (608) 266-7291  
E-mail: [robin.kite@legis.wisconsin.gov](mailto:robin.kite@legis.wisconsin.gov)

**Kite, Robin**

**From:** Kovach, Robert  
**Sent:** Thursday, March 01, 2012 12:16 PM  
**To:** Kite, Robin; Shovers, Marc  
**Cc:** Tiffany, Tom  
**Subject:** FW: AB 597/SB 472

See below, I would you please amend the existing ammendment 2522/1 as well as the assy version (see note from Rep Tiffany below)

I will bring back the stripes later.

Thank you!

Rob Kovach  
Chief of Staff  
Office of State Senator Frank Lasee  
608-266-3512

---

**From:** Larson, Tom [mailto:tlarson@wra.org]  
**Sent:** Thursday, March 01, 2012 9:32 AM  
**To:** Kovach, Robert  
**Subject:** FW: AB 597/SB 472

Hi Rob.

Here is the additional amendment to SB 472 – Page 3, line 10 (page 5, line 5) and (page 5, line 20) – delete “reconstruction”

Thanks.

Tom

\*\*\*\*\*

*Thomas D. Larson - Vice President of Legal and Public Affairs*

Wisconsin REALTORS Association

4801 Forest Run Road Suite 201

Madison, WI 53704-7337

Phone 608-240-8254

Cell 608-212-0066

Fax 608-241-2901

<<<<http://www.wra.org/>>>>

\*\*\*\*\*

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**From:** [tomtiffany@newnorth.net](mailto:tomtiffany@newnorth.net) [<mailto:tomtiffany@newnorth.net>]

**Sent:** Wednesday, February 29, 2012 11:22 AM

**To:** Larson, Tom

**Subject:** Re: AB 597/SB 472

Ok with me. Tt

*Sent from my Verizon Wireless 4G LTE DROID*

-----Original message-----

**From:** "Larson, Tom" <[tlarson@wra.org](mailto:tlarson@wra.org)>

**To:** [Rep.Tiffany@legis.wisconsin.gov](mailto:Rep.Tiffany@legis.wisconsin.gov), [tomtiffany@newnorth.net](mailto:tomtiffany@newnorth.net), [Robert.Kovach@legis.wisconsin.gov](mailto:Robert.Kovach@legis.wisconsin.gov)

**Sent:** Wed, Feb 29, 2012 09:28:49 CST

**Subject:** AB 597/SB 472

Tom and Rob,

Curt Witynski (w/ the League) is requesting one small change to the nonconforming structures bill in order to remain neutral on the bill. He wants word "reconstruction" deleted from Page 3, line 10 of the bill. This change would still allow property owners to repair and maintain their nonconforming structures, but it wouldn't allow them to tear it down and rebuild to the exact same dimensions. If they wanted to rebuild it, they would have to bring it into conformity with the ordinance.

I think the change is worth making in order to keep the League neutral. Please let me know your thoughts. Thanks.

Tom

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**From:** Curt Witynski [<mailto:witynski@lwm-info.org>]

**Sent:** Tuesday, February 28, 2012 5:05 PM

**To:** Larson, Tom

**Subject:** RE: Aerials

We are still neutral. But if you don't take it out, we'd have to move to oppose. Thanks.

Curt

**From:** Larson, Tom [<mailto:tlarson@wra.org>]

3/1/2012

Sent: Tuesday, February 28, 2012 5:03 PM  
To: Curt Witynski  
Subject: RE: Aerials

If we take it out, will you change your position to "support?"

\*\*\*\*\*  
Thomas D. Larson - Vice President of Legal and Public Affairs  
Wisconsin REALTORS Association  
4801 Forest Run Road Suite 201  
Madison, WI 53704-7337  
Phone 608-240-8254  
Cell 608-212-0066  
<<<<<http://www.wra.org/>>>>>

Fax 608-241-2901

\*\*\*\*\*  
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From: Curt Witynski [<mailto:witynski@lwm-info.org>]  
Sent: Tuesday, February 28, 2012 4:28 PM  
To: Larson, Tom  
Subject: FW: Aerials

Tom: I'm forwarding to you examples of why Oshkosh is concerned about the "reconstruction" language in SB 472. Oshkosh staff points out that there are good reasons why the city does not want certain nonconforming structures to be rebuilt precisely on the same footprint. Would you be willing to amend by removing the work "reconstruction" from the changes to ch. 61 and 62?

\*\*\*\*\*

Curt Witynski  
Assistant Director  
League of Wisconsin Municipalities  
122 West Washington Ave.  
Madison, WI 53703

(608) 267-2380

From: Burich, Darryn [<mailto:dburich@ci.oshkosh.wi.us>]  
Sent: Tuesday, February 28, 2012 2:22 PM  
To: Curt Witynski  
Subject: Aerials

Curt, here are some aerials that show nonconforming buildings and why we wouldn't want them to just rebuild in place. If I had more time I could have came up with many more and will find some more examples.

Darryn Burich

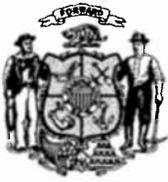
Planning Director

City of Oshkosh

920-236-5055

[http://www.ci.oshkosh.wi.us/Community\\_Development/Planning.htm](http://www.ci.oshkosh.wi.us/Community_Development/Planning.htm)





Mon. (A.M.)  
State of Wisconsin  
2011 - 2012 LEGISLATURE



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Stays

**SENATE AMENDMENT ,  
TO 2011 SENATE BILL 472**

*Submitted*

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

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.”.

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”.

10 **4.** Page 3, line 5: after “enacted” insert “or amended”.

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

13 **6.** Page 3, line 6: delete “ordinance” and substitute “ordinance.”.

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

15 **8.** Page 3, line 11: delete lines 11 and 12 and substitute “nonconforming  
16 structure.”.

17 **9.** Page 3, line 13: delete lines 13 to 25.

18 **10.** Page 4, line 2: delete lines 2 to 6 and substitute:

19 “59.692 (2m) (a) In this subsection:

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

④ # . Page 3, line 10: delete “reconstruction”.

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

5           **11.** Page 4, line 8: delete “regulates the use,” and substitute “does any of the  
6 following:”.

7           **12.** Page 4, line 8: before “location” insert:

8           “1. Regulates the”.

9           **13.** Page 4, line 11: after that line insert:

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

13           **14.** Page 4, line 14: delete “regulates the use,” and substitute “does any of the  
14 following:”.

15           **15.** Page 4, line 14: before “location” insert:

16           “1. Regulates the”.

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

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

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

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

23           60.61 (5) (ab) In this subsection “nonconforming use” means a use of land, a  
24 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 **17.** Page 4, line 21: delete "Dimensional requirements" and substitute  
15 "Development regulations".

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

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

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

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

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

23 **23.** Page 5, line 7: after that line insert:

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

④ #. Page 5, line 5: delete "reconstruction" ✓

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

2           62.23 (7) (ab) *Definition.* In this subsection “nonconforming use” means a use  
3 of land, a dwelling, or a building that existed lawfully before the current zoning  
4 ordinance was enacted or amended, but that does not conform with the use  
5 restrictions in the current ordinance.”.

6           **24.** Page 5, line 11: delete “Dimensional requirements” and substitute  
7 “Development regulations”.

8           **25.** Page 5, line 15: after “enacted” insert “or amended”.

9           **26.** Page 5, line 16: delete “dimensional requirements” and substitute  
10 “development regulations”.

11           **27.** Page 5, line 16: delete “ordinance” and substitute “ordinance.”.

12           **28.** Page 5, line 17: delete lines 17 and 18.

13           **29.** Page 5, line 21: delete lines 21 and 22 and substitute: “nonconforming  
14 structure.”.

15           **30.** Page 5, line 22: after that line insert:

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

17           62.23 (7a) EXTRATERRITORIAL ZONING. (intro.) The governing body of any city  
18 which has created a city plan commission under sub. (1) and has adopted a zoning  
19 ordinance under sub. (7) may exercise extraterritorial zoning power as set forth in  
20 this subsection. Insofar as applicable sub. (7) ~~(a)~~ (am), (b), (c), (ea), (h) and (i) shall  
21 apply to extraterritorial zoning ordinances enacted under this subsection. This  
22 subsection shall also apply to the governing body of any village.

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

⑨ #. Page 5, line 20: delete  $\frac{1}{2}$  reconstruction,  $\frac{1}{2}$   $\frac{1}{2}$

