

# State of Wisconsin



2005 Assembly Bill 155

Date of enactment: **December 21, 2005**

Date of publication\*: **January 6, 2006**

## 2005 WISCONSIN ACT 81

AN ACT to amend 59.69 (10) (a), 60.61 (5) (a) and 62.23 (7) (h); and to create 59.69 (10) (e), 60.61 (5) (e) and 62.23 (7) (hg) of the statutes; relating to: a municipality's and county's ability to eliminate certain nonconforming buildings or premises.

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

**SECTION 1.** 59.69 (10) (a) of the statutes is amended to read:

59.69 (10) (a) An ordinance enacted under this section may not prohibit the continuance of the lawful use of any building ~~or premises, structure, or fixture~~ for any trade or industry for which such building ~~or premises, structure, or fixture~~ is used at the time that the ordinances take effect, but the alteration of, or addition to, or repair in excess of 50% 50 percent of its assessed value of any existing building ~~or premises, structure, or fixture~~ for the purpose of carrying on any prohibited trade or new industry within the district where such buildings ~~or premises, structures, or fixtures~~ are located, may be prohibited. The continuance of the nonconforming use of a temporary structure may be prohibited. If the nonconforming use is discontinued for a period of 12 months, any future use of the building ~~and premises, structure, or fixture~~ shall conform to the ordinance.

**SECTION 2.** 59.69 (10) (e) of the statutes is created 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.

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.

**SECTION 3.** 60.61 (5) (a) of the statutes is amended to read:

60.61 (5) (a) An ordinance adopted under this section may not prohibit the continued use of any building ~~or premises, structure, or fixture~~ for any trade or industry for which the building ~~or premises, structure, or fixture~~ is used when the ordinance takes effect. An ordinance adopted under this section may prohibit the alteration of, or addition to, any existing building ~~or premises, structure, or fixture~~ used to carry on an otherwise prohibited trade or industry within the district. If a use that does not conform to an ordinance adopted under this section is discontinued for a period of 12 months, any future use of the land, building ~~or premises, structure, or fixture~~ shall conform to the ordinance.

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

\* Section 991.11, WISCONSIN STATUTES 2003-04 : 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].

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.

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.

**SECTION 5.** 62.23 (7) (h) of the statutes is amended to read:

62.23 (7) (h) *Nonconforming uses.* The continued lawful use of a building ~~or~~, premises, structure, or fixture existing at the time of the adoption or amendment of a zoning ordinance may not be ~~continued~~ prohibited although ~~such~~ the use does not conform with the provisions of the ordinance. ~~Such~~ The nonconforming use may not be extended. The total structural repairs or alterations in such a nonconforming building, premises,

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structure, or fixture shall not during its life exceed 50 ~~per cent~~ percent of the assessed value of the building, premises, structure, or fixture unless permanently changed to a conforming use. If ~~such~~ the nonconforming use is discontinued for a period of 12 months, any future use of the building ~~and~~, premises, structure, or fixture shall conform to the ordinance.

**SECTION 6.** 62.23 (7) (hg) of the statutes is created to read:

62.23 (7) (hg) *Amortization prohibited.* 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), 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.

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