LRB-2421

2003 DRAFTING REQUEST

Bill

Received: **03/03/2003**

Received By: **mshovers**

Wanted: **As time permits**

Identical to LRB:

For: **Scott Gunderson (608) 266-3363**

By/Representing: **Mike**

This file may be shown to any legislator: **NO**

Drafter: **mshovers**

May Contact:

Addl. Drafters:

Subject: **Munis - zoning**
Counties - zoning

Extra Copies:

Submit via email: **YES**

Requester's email: **Rep.Gunderson@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Prohibit amortization of billboards; zoning ordinances

Instructions:

See Attached.

Drafting History:

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?				_____			Local
/1	mshovers 05/02/2003	jdyer 05/05/2003 jdyer 05/05/2003	chaskett 05/07/2003	_____ _____ _____ _____	sbasford 05/07/2003		Local

LRB-2421

Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/2	mshovers 07/02/2003	jdyer 07/07/2003 jdyer 07/16/2003	chaskett 07/16/2003	_____ _____ _____ _____	lemery 07/16/2003		Local
/3	mshovers 09/08/2003	jdyer 09/09/2003 jdyer 09/09/2003	pgreensl 09/10/2003	_____ _____ _____ _____	lemery 09/10/2003		Local
/4	mshovers 11/28/2003	jdyer 12/01/2003	pgreensl 12/01/2003	_____ _____ _____ _____	mbarman 12/01/2003	sbasford 12/15/2003 sbasford 12/15/2003	

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/4 12/1 jld 12/1 PG PS/PS

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Counties - zoning

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Pre Topic:

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Topic:

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		jdyer 05/05/2003	cph	_____			

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Vers.	Drafted	Reviewed	Typed	Proofed	Submitted	Jacketed	Required
/?	mshovers	1/5 jld	1/5/7 cph	rs/cph 5/7			

FE Sent For:

<END>

Scott Gunderson

STATE REPRESENTATIVE • 83RD DISTRICT

State Capitol:
P.O. Box 8952
Madison, WI 53708
(608) 266-3363

Toll-Free:
(888) 534-0083

Fax:
(608) 282-3683

E-Mail:
Rep.Gunderson@
legis.state.wi.us

83rd District:
P.O. Box 7
Waterford, WI
53185

(262) 895-6254

Marc,

Rep. Gunderson would like legislation drafted similar to Minnesota's law on amortization of Billboards. If you should have any questions, please contact me at 266-3363.

Thanks,

Mike Brown
Rep. Gunderson's office

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2421/1
MES...
jld
RMR

PRELIMINARY DRAFT – NOT READY FOR INTRODUCTION

D-Note

gm

AN ACT ...; **relating to:** limiting a municipality's and county's ability to eliminate certain nonconforming billboards.

check

Analysis by the Legislative Reference Bureau

Under current law, ~~a city~~ cities, village, or certain towns (~~municipality~~ municipalities) or ~~a county is~~ counties are authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land for various purposes.

Also under current law, a zoning ordinance adopted by a municipality or county may not prohibit the continued use of any building or premises for any trade or industry for which the building or premises is used when the ordinance takes effect, although in certain towns such an ordinance may prohibit the alteration of, or addition to, any existing building or structure that is used to carry on an otherwise prohibited trade or industry within the area that is subject to the ordinance (district). In cities, villages, towns exercising village powers, and counties, the alteration of, addition to, or repair in excess of 50% of the assessed value of any existing building or structure to carry on any prohibited trade or industry within the district may be prohibited. Generally, if such a nonconforming use of a building or premises is discontinued for 12 months, any future use of the building or premises must conform to the municipality's or county's zoning ordinance.

This bill ~~applies~~ adds billboards to the current statutes ~~which~~ that authorize the continued lawful use of nonconforming buildings or premises in municipalities and counties ~~to billboards~~ that enact zoning ordinances under which a lawful conforming use becomes a nonconforming use.

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 (4h) of the statutes is created to read:~~

2 59.69 **(4h)** NONCONFORMING USE LIMITATIONS. The board may not enact an
3 ordinance or adopt a resolution on or after the effective date of this subsection ....
4 [revisor inserts date], or continue to enforce an ordinance or resolution on or after the
5 effective date of this subsection .... [revisor inserts date], that requires the
6 elimination or termination of a nonconforming billboard after a period of time that
7 is specified in the ordinance or resolution if the billboard, at the time of its placement,
8 was lawful.

9 **SECTION 2.** 59.69 (10) (a) of the statutes is amended to read:

10 59.69 **(10)** (a) An ordinance enacted under this section may not prohibit the
11 continuance of the lawful use of any building ~~or~~, premises, or billboard for any trade
12 or industry for which such building ~~or~~, premises, or billboard is used at the time that
13 the ordinances take effect, but the alteration of, or addition to, or repair in excess of
14 50% of its assessed value of any existing building or structure for the purpose of
15 carrying on any prohibited trade or new industry within the district where such
16 buildings or structures are located, may be prohibited. The continuance of the
17 nonconforming use of a temporary structure may be prohibited. If the
18 nonconforming use is discontinued for a period of 12 months, any future use of the
19 building and premises shall conform to the ordinance.

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.

20 ~~**SECTION 3.** 60.61 (3e) of the statutes is created to read:~~

1 ~~60.61 **(3e)** NONCONFORMING USE LIMITATIONS. The town board may not enact an~~
2 ~~ordinance or adopt a resolution on or after the effective date of this subsection ....~~
3 ~~[revisor inserts date], or continue to enforce an ordinance or resolution on or after the~~
4 ~~effective date of this subsection .... [revisor inserts date], that requires the~~
5 ~~elimination or termination of a nonconforming billboard after a period of time that~~
6 ~~is specified in the ordinance or resolution if the billboard, at the time of its placement,~~
7 ~~was lawful.~~

8 **SECTION 4.** 60.61 (5) (a) of the statutes is amended to read:

9 60.61 **(5)** (a) An ordinance adopted under this section may not prohibit the
10 continued use of any building ~~or~~ plain, premises, or billboard for any trade or industry for
11 which the building ~~or~~, premises, or billboard is used when the ordinance takes effect.
12 An ordinance adopted under this section may prohibit the alteration of, or addition
13 to, any existing building or structure used to carry on an otherwise prohibited trade
14 or industry within the district. If a use that does not conform to an ordinance adopted
15 under this section is discontinued for a period of 12 months, any future use of the
16 land, building ~~or~~, premises, or billboard shall conform to the ordinance.

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

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

18 62.23 **(7)** (h) *Nonconforming uses.* The lawful use of a building ~~or~~, premises,
19 or billboard existing at the time of the adoption or amendment of a zoning ordinance
20 may be continued although such use does not conform with the provisions of the
21 ordinance. Such nonconforming use may not be extended. The total structural
22 repairs or alterations in such a nonconforming building or billboard shall not during
23 its life exceed 50 per cent of the assessed value of the building or billboard unless
24 permanently changed to a conforming use. If such nonconforming use is

discontinued for a period of 12 months, any future use of the building ~~and~~, premises, and billboard shall conform to the 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.

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

~~62.23 (7) (hg) *Nonconforming use limitations.* The governing body of a city may not enact an ordinance or adopt a resolution on or after the effective date of this paragraph .... [revisor inserts date], or continue to enforce an ordinance or resolution on or after the effective date of this paragraph .... [revisor inserts date], that requires the elimination or termination of a nonconforming billboard after a period of time that is specified in the ordinance or resolution if the billboard, at the time of its placement, was lawful.~~

(END)

D-note

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2421/1dn
MES...:...:...

Representative Gunderson:

Your instructions stated that you wanted to prohibit local governments from enacting or amending zoning ordinances ~~which~~ that would have the effect of "amortizing" billboards. The instructions defined "amortizing" in this context as a zoning ordinance ~~which~~ that would force a person to discontinue the use of a nonconforming billboard after a specified number of years.

Your instructions were based on a Minnesota statute. As far as I can tell, the concept of an "amortizing" zoning ordinance is not authorized under Wisconsin law. Consequently, the approach I took to achieve your intent in this bill is to add billboards to the statutes that prevent local governments from, under most circumstances, prohibiting the continued use of a nonconforming building or premises. I believe that this bill achieves your intent and is consistent with Wisconsin law governing nonconforming uses. Please let me know if you'd like me to make any changes in the bill.

move

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

Also, in the third sentence of s. 62.23 (7)(h), "building" is mentioned and I've added "billboard"; do you want to add "premises" also?

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB–2421/1dn
MES:jld:cph

May 5, 2003

Representative Gunderson:

Your instructions stated that you wanted to prohibit local governments from enacting or amending zoning ordinances that would have the effect of "amortizing" billboards. The instructions defined "amortizing" in this context as a zoning ordinance that would force a person to discontinue the use of a nonconforming billboard after a specified number of years.

Your instructions were based on a Minnesota statute. As far as I can tell, the concept of an "amortizing" zoning ordinance is not authorized under Wisconsin law. Consequently, the approach I took to achieve your intent in this bill is to add billboards to the statutes that prevent local governments from, under most circumstances, prohibiting the continued use of a nonconforming building or premises. I believe that this bill achieves your intent and is consistent with Wisconsin law governing nonconforming uses. Please let me know if you'd like me to make any changes in the bill.

Also, in the third sentence of s. 62.23 (7) (h), "building" is mentioned and I've added "billboard"; do you want to add "premises" also?

Marc E. Shovers
Senior Legislative Attorney
Phone: (608) 266–0129
E–mail: marc.shovers@legis.state.wi.us

Shovers, Marc

From: Swandby@aol.com
Sent: Friday, May 16, 2003 10:53 AM
To: marc.shovers@legis.state.wi.us
Cc: kilgore@swandby.com; rep.gunderson@legis.state.wi.us
Subject: Amortization Draft

Marc:

As promised, I have done some additional research. Please see the attached memo.

Thanks.

Janet Swandby
608.286.0764

define amortization & why they can't do it

Proposed Legislation Prohibiting Amortization

*****Use Minnesota Law as a Model – See in bold below*****

What is Amortization?

Amortization of a land use means that a local zoning ordinance sets a time limit on which the pre-existing, but nonconforming, use must cease.

Why is the use of amortization a problem?

A number of cities, towns, and villages have adopted ordinances which change the requirements for signs (both on premises business signs and billboards). Instead of paying fair market value for the signs which exist in the jurisdiction, and which will become nonconforming with the passage of the new ordinance, the municipality adopts "amortization" language. Usually, the municipality gives the sign owner 3 or 5 or 7 years to keep his nonconforming sign, but at the end of the specified number of years, the old sign must come down.

In these instances, on premises business sign owners are forced to purchase a new sign to comply with the new ordinance. Billboard owners lose their sign (and its income) without receiving just compensation for the taking of their property.

This kind of ordinance has been applied to other land uses such as cement plants and mobile home parks.

What has been done in other states?

The Fifth Amendment to the U.S. Constitution requires all levels of government to pay just compensation for the taking of private property for public use. Municipalities which use amortization ordinances are sidestepping the amendment.

In 1999, the State of Minnesota passed a law prohibiting the enactment of an amortization ordinance by any municipality in the state. The **Minnesota law** appears below:

"a municipality must not enact, amend, or enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception." (Minnesota Statutes 462.357, Subd. 1c.)

We anticipate that similar language would have to be inserted in Chapters 60, 61, and 62 of the Wisconsin Statutes which address Land Use and Zoning.

[redacted]

[redacted]

OAAW
OUTDOOR ADVERTISING ASSOCIATION OF WISCONSIN
44 EAST MIFFLIN STREET, SUITE 101
MADISON, WISCONSIN 53703
608-286-0764

May 15, 2003

MEMORANDUM

TO: Marc Shovers
Legislative Reference Bureau

FROM: Janet R. Swandby
Executive Director and Lobbyist

RE: **Drafting Instructions for Revision to LRB-2421/1dn**

I appreciated the chance to discuss the draft you prepared for Representative Gunderson regarding amortization.

After reviewing laws and legislation from other states, I realized that the problem may be one of emphasis. The legislation that OAAW and other business groups hope to see introduced would assure that amortization is not proposed, or accepted, as a form of just compensation. The emphasis in other state's laws is to define amortization and specify that it is not a substitute for just compensation in any eminent domain action. Your draft may, instead, focus on zoning and what can and cannot be done with a nonconforming use.

As promised, I have reviewed statutes from other states and bills which are currently pending in other states that prohibit the use of amortization as a means of paying just compensation for the removal of nonconforming uses.

The following are some examples:

Virginia

Va. Code 33.1, 351,370(E)

"nonconforming . . . structures shall not be removed or eliminated by amortization under state law or local ordinances without compensation . . ."

Nevada

Nev. Rev. Stat. 278.0215

3. A city or county shall not require the removal of a nonconforming . . . structure to occur pursuant to an amortization schedule, regardless of the length of the period set forth in the amortization schedule.

7. As used in this section: (a) "Amortization schedule" means an extended period over which a person is required to remove a nonconforming . . . structure.

Minnesota

462.357, Subd. 1c.)

A municipality must not enact, amend, or enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception.

Colorado Senate Bill 251 -3
(passed both houses, awaiting Governor's signature)

SECTION 2. 38-1-101, Colorado Revised Statutes, is amended to read:

38-1-101. Compensation - commission - jury - court - prohibition on elimination of nonconforming uses by amortization.

(3) (a) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A LOCAL GOVERNMENT SHALL NOT ENACT OR ENFORCE AN ORDINANCE, RESOLUTION, OR REGULATION THAT REQUIRES A NONCONFORMING PROPERTY USE THAT WAS LAWFUL AT THE TIME OF ITS INCEPTION TO BE TERMINATED OR ELIMINATED BY AMORTIZATION;
(b) FOR PURPOSES OF THIS SUBSECTION (3), "LOCAL GOVERNMENT" MEANS A COUNTY, CITY AND COUNTY, TOWN, OR HOME RULE OR STATUTORY CITY.

Conclusion

I hope you find this information useful. Please feel free to contact me with any questions.

JRS/
Cc: Representative Scott Gunderson

Meeting w/ Rep. Gunderson & Mike

Add lang for signs?
do premises incl attached signs?

☆ Signs in front of businesses! incl
– signs affixed to or assoc
w/ a bus' ☆

for / 2

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2421/1
MES:jld:cpb

Today at Thurs

PMR

2003 BILL

AN ACT *to amend* 59.69 (10) (a), 60.61 (5) (a) and 62.23 (7) (h) of the statutes; **relating to:** limiting a municipality's and county's ability to eliminate certain nonconforming billboards and signs.

Analysis by the Legislative Reference Bureau

Under current law, cities, villages, or certain towns (municipalities) or counties are authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land for various purposes.

Also under current law, a zoning ordinance adopted by a municipality or county may not prohibit the continued use of any building or premises for any trade or industry for which the building or premises is used when the ordinance takes effect, although in certain towns such an ordinance may prohibit the alteration of, or addition to, any existing building or structure that is used to carry on an otherwise prohibited trade or industry within the area that is subject to the ordinance (district). In cities, villages, towns exercising village powers, and counties, the alteration of, addition to, or repair in excess of 50% of the assessed value of any existing building or structure to carry on any prohibited trade or industry within the district may be prohibited. Generally, if such a nonconforming use of a building or premises is discontinued for 12 months, any future use of the building or premises must conform to the municipality's or county's zoning ordinance.

BILL

, and signs that are affixed to or associated with buildings or premises,

This bill adds billboards to the current statutes that authorize the continued lawful use of nonconforming buildings or premises in municipalities and counties that enact zoning ordinances under which a lawful, conforming use becomes a nonconforming use.

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:

including a sign that is affixed to or associated with a building or premises,

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 billboard, building, ~~or~~ plain premises, ~~or billboard~~ for any trade or industry for which ~~such~~ the billboard, building, ~~or~~ plain premises, ~~or billboard~~ is used at the time that the ordinances take effect, but the alteration of, or addition to, or repair in excess of 50% of its assessed value of any existing building or structure for the purpose of carrying on any prohibited trade or new industry within the district where such buildings or structures 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 shall conform to the ordinance.

SECTION 2. 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 billboard, building, ~~or~~ plain premises, ~~or billboard~~ for any trade or industry for which the billboard, building, ~~or~~ plain premises, ~~or billboard~~ 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 structure 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, or billboard shall conform to the ordinance.

SECTION 3. 62.23 (7) (h) of the statutes is amended to read:

62.23 **(7)** (h) *Nonconforming uses.* The lawful use of a building ~~or~~, premises, ~~or billboard~~ existing at the time of the adoption or amendment of a zoning ordinance may be ~~continued~~ although ~~such~~ use does not conform with the provisions of the ordinance. ~~Such~~ nonconforming use may not be extended. The total structural repairs or alterations in such a nonconforming building or billboard shall not during its life exceed 50 per cent of the assessed value of the building or billboard unless permanently changed to a conforming use. If ~~such~~ nonconforming use is discontinued for a period of 12 months, any future use of the building ~~and~~, premises, and billboard shall conform to the ordinance.

(END)

Shovers, Marc

From: Bruhn, Mike
Sent: Tuesday, August 19, 2003 9:20 AM
To: Shovers, Marc
Subject: LRB 2421/2

Marc,

After reviewing the latest draft, Rep. Gunderson would like to have LRB 2421/2 redrafted. He'd like to go back to the original instructions for something similar to Minnesota.

"A municipality must not enact, amend, or enforce an ordinance providing for the elimination or termination of a use by amortization which use was lawful at the time of its inception."

Because there is not a definition in state statute for amortization, if you need to add one, that would be acceptable.

If you have any questions, you may contact either Rep. Gunderson or myself at 266-3363.

Sincerely,

Mike Bruhn
Rep. Gunderson's office

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2421/2
MES:jld:cph

2003 BILL

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

Analysis by the Legislative Reference Bureau

Under current law, cities, villages, or certain towns (municipalities) or counties are authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land for various purposes.

Also under current law, a zoning ordinance adopted by a municipality or county may not prohibit the continued lawful use of any building or premises for any trade or industry for which the building or premises is used when the ordinance takes effect, although in certain towns such an ordinance may prohibit the alteration of, or addition to, any existing building or structure that is used to carry on an otherwise prohibited trade or industry within the area that is subject to the ordinance (district). In cities, villages, towns exercising village powers, and counties, the alteration of, addition to, or repair in excess of 50% of the assessed value of any existing building or structure to carry on any prohibited trade or industry within the district may be prohibited. Generally, if such a nonconforming use of a building or premises is discontinued for 12 months, any future use of the building or premises must conform to the municipality's or county's zoning ordinance.

This bill adds billboards, and signs that are affixed to or associated with buildings or premises, to the current statutes that authorize the continued lawful use of nonconforming buildings or premises in municipalities and counties that enact zoning ordinances under which a lawful, conforming use becomes a nonconforming use.

INS ANV

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 (10) (a) of the statutes is amended to read:

2 59.69 **(10)** (a) An ordinance enacted under this section may not prohibit the
3 continuance of the lawful use of any billboard, building, or premises, including a sign
4 that is affixed to or associated with a building or premises, for any trade or industry
5 for which ~~such~~ the billboard, building, or premises is used at the time that the
6 ordinances take effect, but the alteration of, or addition to, or repair in excess of 50%
7 of its assessed value of any existing building or structure for the purpose of carrying
8 on any prohibited trade or new industry within the district where such buildings or
9 structures are located, may be prohibited. The continuance of the nonconforming use
10 of a temporary structure may be prohibited. If the nonconforming use is
11 discontinued for a period of 12 months, any future use of the building and premises
12 shall conform to the ordinance.

13 **SECTION 2.** 60.61 (5) (a) of the statutes is amended to read:

14 60.61 **(5)** (a) An ordinance adopted under this section may not prohibit the
15 continued use of any billboard, building, or premises, including a sign that is affixed
16 to or associated with a building or premises, for any trade or industry for which the
17 billboard, building, or premises is used when the ordinance takes effect. An
18 ordinance adopted under this section may prohibit the alteration of, or addition to,

1 ~~any existing building~~ or structure used to carry on an otherwise prohibited trade or
2 industry within the district. If a use that ~~does not~~ conform to an ordinance adopted
3 under this section is ~~dis~~continued for a period of 12 months, any future use of the
4 land, building ~~or~~, premises, or billboard shall conform to the ordinance.

INS 3-4

5 **SECTION 3.** 62.23 (7) (h) of the statutes is amended to read:

6 62.23 **(7)** (h) *Nonconforming uses.* The continued lawful use of a ~~billboard~~
7 building, or premises ~~including a sign that is affixed to or associated with a building~~
8 ~~or premises~~ existing at the time of the adoption or amendment of a zoning ordinance
9 may not be ~~continued~~ prohibited although ~~such~~ the use does not conform with the
10 provisions of the ordinance. ~~Such~~ The nonconforming use may not be extended. The
11 total structural repairs or alterations in such a nonconforming building ~~or billboard~~
12 shall not during its life exceed 50 per cent of the assessed value of the building ~~or~~
13 ~~billboard~~ unless permanently changed to a conforming use. If ~~such~~ the
14 nonconforming use is discontinued for a period of 12 months, any future use of the
15 building ~~and~~, premises, ~~and billboard~~ shall conform to the ordinance.

INS 3-16

16 **(END)**

Plain

INS ANL

II ~~Under~~ this bill, explicitly specifies that no municipality or county may require the removal of a nonconforming building or premises, ~~that~~ which may be lawfully used under current law, under an amortization schedule. The bill defines "amortization schedule" as an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used.

INSERT 3–4

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

59.69 **(10)** (e) 1. In this paragraph, "amortization schedule" means an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used as described under par. (a).

2. Subject to par. (a), an ordinance enacted under this section may not require the removal of a nonconforming building or premises under an amortization schedule.

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

60.61 **(5)** (e) 1. In this paragraph, "amortization schedule" means an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used as described under par. (a).

2. Subject to par. (a), an ordinance enacted under this section may not require the removal of a nonconforming building or premises under an amortization schedule.

INS 3–16

Amortization prohibited. ← II

SECTION 3. 62.23 (7) (hg) of the statutes is created to read:

62.23 **(7)** (hg) 1. In this paragraph, "amortization schedule" means an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used as described under par. (h).

INS 3-16 cont

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

(end ins)

Shovers, Marc

From: Bruhn, Mike
Sent: Wednesday, October 01, 2003 9:13 AM
To: Shovers, Marc
Subject: Amortization bill

Marc,

Thanks for the last draft. We are getting a lot closer to what we are looking for. There are just two area that need to be refined.

1) We should define amortization, instead of amortization schedule. Something similar to: In this paragraph, "amortization" means permitting a nonconforming premises, structure, fixture or use to remain or continue for only a specified time upon the expiration of which such must end and any such premises, structure or fixture be removed or use discontinued without the payment of just compensation.
2) Expand "building or premises" to read "building, premises, structure, fixture or use"

Thanks again for your assistance. If you have any questions, please feel free to call me at 6-3363.

Mike Bruhn
Rep. Gunderson's office

State of Wisconsin
2003 – 2004 LEGISLATURE

LRB–2421/3
MES:jld:pg

RMR

2003 BILL

SOON

AN ACT *to amend* 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.

Analysis by the Legislative Reference Bureau

Under current law, cities, villages, or certain towns (municipalities) or counties are authorized to enact zoning ordinances that regulate and restrict the height, number of stories, and size of buildings and other structures, the percentage of lot that may be occupied, the size of yards and other open spaces, the density of population, and the location and use of buildings, structures, and land for various purposes.

Also under current law, a zoning ordinance adopted by a municipality or county may not prohibit the continued lawful use of any building or premises for any trade or industry for which the building or premises is used when the ordinance takes effect, although in certain towns such an ordinance may prohibit the alteration of, or addition to, any existing building or structure that is used to carry on an otherwise prohibited trade or industry within the area that is subject to the ordinance (district). In cities, villages, towns exercising village powers, and counties, the alteration of, addition to, or repair in excess of 50 percent of the assessed value of any existing building or structure to carry on any prohibited trade or industry within the district may be prohibited. Generally, if such a nonconforming use of a building or premises is discontinued for 12 months, any future use of the building or premises must conform to the municipality's or county's zoning ordinance.

BILL

This bill explicitly specifies that no municipality or county may require the removal of a nonconforming building or premises, which may be lawfully used under current law, under an amortization schedule. The bill defines "amortization schedule" as an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used.

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:

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

59.69 **(10)** (e) 1. In this paragraph, "amortization schedule" means an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used as described under par. (a).

2. Subject to par. (a), an ordinance enacted under this section may not require the removal of a nonconforming building or premises under an amortization schedule.

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

60.61 **(5)** (e) 1. In this paragraph, "amortization schedule" means an extended period over which a person is required to remove a nonconforming building or premises that may be lawfully used as described under par. (a).

2. Subject to par. (a), an ordinance enacted under this section may not require the removal of a nonconforming building or premises under an amortization schedule.

SECTION 3. 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 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, structure, or fixture shall not during its life exceed 50 percent of the assessed value of the building 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 4. 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 ~~schedule" means an extended period over which a person is required to remove~~ a nonconforming building, ~~or~~ premises, structure, or fixture that may be lawfully used as described under par. (h).

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

(END)

, but only for a specified period of time, after ~~upon the expiration~~ which the lawful use of such building, premises, structure, or fixture must be discontinued without the payment of just compensation

INSERT 2–1

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% 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.

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.

INSERT 2–7

SECTION 2. 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.

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

(end ins 2-7)

Barman, Mike

From: Bruhn, Mike
Sent: Friday, December 12, 2003 1:44 PM
To: LRB.Legal
Subject: Draft review: LRB 03-2421/4 Topic: Prohibit amortization of billboards; zoning ordinances

It has been requested by <Bruhn, Mike> that the following draft be jacketed for the ASSEMBLY:

Draft review: LRB 03-2421/4 Topic: Prohibit amortization of billboards; zoning ordinances