

2005 DRAFTING REQUEST

Bill

Received: **10/26/2004**

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: **Local Gov't - 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:

The ability of counties and municipalities to eliminate nonconforming buildings or premises

Instructions:

See Attached. Redraft 2003 AB 858 (LRB 2421/4)

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>
/?	mshovers 10/27/2004	lkunkel 11/12/2004 lkunkel 11/15/2004		_____			Local
/1			rschluet 11/15/2004	_____	lnorthro 11/15/2004	sbasford 11/29/2004	

LRB-0603

11/29/2004 08:54:57 AM

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Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

sbasford
11/29/2004

FE Sent For:

<END>

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/? mshovers /1 m/c 11/2

/1 MES 10/27/04

FE Sent For:

1 jld 11/15

[Handwritten signature]
11 15 <END> 4

Shovers, Marc

From: Bruhn, Mike
Sent: Wednesday, October 20, 2004 2:14 PM
To: Shovers, Marc
Subject: FW: drafting

Marc,

Can you also re-draft Assembly Bill 858 (LRB-2421/4).

Thanks again,

Mike Bruhn
Rep. Gunderson's office

-----Original Message-----

From: Bruhn, Mike
Sent: Wednesday, October 20, 2004 2:12 PM
To: Shovers, Marc
Subject: drafting

Marc,

Can you begin re-drafting Assembly Bills 28 (LRB-0965/1) and 189 (LRB-0964/1) for the 2005-2007 Legislative Session. Please call me at 266-3363 with any questions.

Thanks,

Mike Bruhn
Rep. Gunderson's office

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MK

2005 2003 ASSEMBLY BILL 858

LPS-
PWF
PLEASE

February 19, 2004 - Introduced by Representatives GUNDERSON, AINSWORTH, ALBERS, HAHN, HINES, KESTELL, KRAWCZYK, LOTHIAN, MCCORMICK, MUSSER, NISCHKE, PETROWSKI, VAN ROY and SUDER, cosponsored by Senators WELCH and BRESKE. Referred to Committee on Property Rights and Land Management.

Re-
gen

1 AN ACT to amend 59.69 (10) (a), 60.61 (5) (a) and 62.23 (7) (h); and to create
2 59.69 (10) (e), 60.61 (5) (e) and 62.23 (7) (hg) of the statutes; relating to: a
3 municipality's and county's ability to eliminate certain nonconforming
4 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

ASSEMBLY BILL 858

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 extends current law to also apply to structures and fixtures, and explicitly specifies that no municipality or county may require the removal of a nonconforming building, premises, structure, or fixture, which may be lawfully used under current law, by an amortization ordinance. The bill defines "amortization ordinance" as an ordinance that allows the continuance of the lawful use of a nonconforming building, premises, structure, or fixture that may be lawfully used, but only for a specified period of time, after which such lawful nonconforming use must be discontinued without the payment of just compensation.

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) (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 percent} ~~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.

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,

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1 premises, structure, or fixture that may be lawfully used as described under par. (a),
2 but only for a specified period of time, after which the lawful use of such building,
3 premises, structure, or fixture must be discontinued without the payment of just
4 compensation.

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

8 **SECTION 3.** 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~~, premises, structure, or fixture for any trade or
11 industry for which the building ~~or~~, premises, structure, or fixture is used when the
12 ordinance takes effect. An ordinance adopted under this section may prohibit the
13 alteration of, or addition to, any existing building ~~or~~, premises, structure, or fixture
14 used to carry on an otherwise prohibited trade or industry within the district. If a
15 use that does not conform to an ordinance adopted under this section is discontinued
16 for a period of 12 months, any future use of the land, building ~~or~~, premises, structure,
17 or fixture shall conform to the ordinance.

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

19 60.61 (5) (e) 1. In this paragraph, "amortization ordinance" means an
20 ordinance that allows the continuance of the lawful use of a nonconforming building,
21 premises, structure, or fixture that may be lawfully used as described under par. (a),
22 but only for a specified period of time, after which the lawful use of such building,
23 premises, structure, or fixture must be discontinued without the payment of just
24 compensation.

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

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

5 62.23 (7) (h) *Nonconforming uses.* The continued lawful use of a building or,
6 premises, structure, or fixture existing at the time of the adoption or amendment of
7 a zoning ordinance may not be continued prohibited although such the use does not
8 conform with the provisions of the ordinance. Such The nonconforming use may not
9 be extended. The total structural repairs or alterations in such a nonconforming
10 building, premises, structure, or fixture shall not during its life exceed 50 ~~percent~~ ^{percent} of
11 the assessed value of the building, premises, structure, or fixture unless
12 permanently changed to a conforming use. If such the nonconforming use is
13 discontinued for a period of 12 months, any future use of the building and, premises,
14 structure, or fixture shall conform to the ordinance.

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

16 62.23 (7) (hg) *Amortization prohibited.* 1. In this paragraph, "amortization
17 ordinance" means an ordinance that allows the continuance of the lawful use of a
18 nonconforming building, premises, structure, or fixture that may be lawfully used
19 as described under par. (h), but only for a specified period of time, ^{comma} after which the
20 lawful use of such building, premises, structure, or fixture must be discontinued
21 without the payment of just compensation.

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

25 (END)

Basford, Sarah

From: Bruhn, Mike
Sent: Monday, November 29, 2004 8:37 AM
To: LRB.Legal
Subject: Draft review: LRB 05-0603/1 Topic: The ability of counties and municipalities to eliminate nonconforming buildings or premises

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

Draft review: LRB 05-0603/1 Topic: The ability of counties and municipalities to eliminate nonconforming buildings or premises