



**WISCONSIN LEGISLATIVE COUNCIL
AMENDMENT MEMO**

2011 Assembly Bill 597	Assembly Amendment 2
<i>Memo published:</i> March 14, 2012	<i>Contact:</i> Melissa Schmidt, Staff Attorney (266-2298) Larry Konopacki, Senior Staff Attorney (267-0683)

2011 ASSEMBLY BILL 597 AND ASSEMBLY AMENDMENT 2

2011 Assembly Bill 597 (the bill) and Assembly Amendment 2 (AA 2) to the bill make the following changes to current law:

Definition of “Nonconforming Structure”

The bill creates a definition of “*nonconforming structure*” for various county and municipal zoning laws to mean:

[A] dwelling or other building that existed lawfully before the current zoning ordinance was enacted, but that does not conform with one or more of the dimensional requirements in the current zoning ordinance...that is applicable to a dwelling or building that is constructed on or after the effective date of the zoning ordinance.

AA 2 makes the following changes applicable to the definition of nonconforming structure:

- Clarifies that a “*current zoning ordinance*” includes current ordinance provisions that are in effect as a result of either the *enactment* or the *amendment* of the ordinance.
- Renames the term “*dimensional requirements*,” created under the bill, as “*development regulations*.”¹

¹ Under the bill, these terms mean the part of a zoning ordinance...that applies to elements including setback, height, lot coverage, and side yard.

- Removes repetitive language contained elsewhere in this definition and makes the definition consistent throughout the bill.

Definition of “Nonconforming Use”

The bill does not create a definition of “*nonconforming use*.”

AA 2 defines this term and makes it applicable to various county and municipal zoning laws. Under AA 2, “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 restrictions in the current ordinance.

Zoning Ordinances Prohibiting Various Construction Activities Based on Cost

The bill directs that a county, town, city, or village’s zoning ordinance may not prohibit or limit, based on cost of the repair, maintenance, reconstruction, renovation, or remodeling of a nonconforming structure that existed on the effective date of a zoning ordinance.

AA 2 deletes “*reconstruction*” from this list of activities.

Shoreland Zoning Ordinances More Restrictive Than Department of Natural Resources Standards

Specific to shoreland zoning areas, *the bill* prohibits a county from enacting, or a county, city, or village, from enforcing any provision in a county shoreland zoning ordinance that is *more restrictive* than the Department of Natural Resource’s (DNR) shoreland zoning standards for nonconforming structures if the ordinance regulates the use, location, maintenance, expansion, replacement, or relocation of a nonconforming structure.

AA 2 deletes regulations related to the “*use*” of nonconforming structures from this list.

Construction on a Substandard Shoreland Zoning Area Lot, Parcel, or Tract

The bill allows construction of a structure or building on a lot, parcel, or tract that does not meet minimum area or width requirements in areas zoned as shoreland. The bill does so by prohibiting either DNR from establishing a shoreland zoning standard or a county from enacting or enforcing a shoreland zoning ordinance prohibiting such construction if either of the following applies:

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

AA 2 removes these provisions and replaces them with the requirement that a county, city, or village's regulations, with respect to substandard lots, may not be more restrictive than ch. NR 115, Wis. Adm. Code.

LEGISLATIVE HISTORY

On March 6, 2012, Representative Tiffany offered AA 2. On March 7, 2012, the Assembly Committee on Housing voted to recommend adoption of AA 2 by a vote of Ayes, 8; Noes, 0; and voted to recommend passage of the bill, as amended, by a vote of Ayes, 7; Noes, 0.

MS:LAK:jb;ksm