

The extent of the government's power to seize property was a subject of debate in the writing of the U.S. Constitution. The takings clause of the Fifth Amendment, which prohibits the taking of private property "for public use without just compensation," was a compromise approach authored by James Madison. The Wisconsin Constitution, ratified in 1848, similarly provides that "[t]he property of no person shall be taken for public use without just compensation therefor." [Wis. Const., art. I, s. 13.]

There is a Wisconsin State Statute that specifically states that a community may not prohibit the continuance of the lawful use of any building, premises, structure, or fixture for any trade or industry for which such building, premises, structure, or fixture is used at the time that the ordinances take effect. See Wis. Stat. 59.69(15)

Wisconsin lawmakers have enacted several laws over the last several years that have transformed the way nonconforming structures are regulated in Wisconsin. In 2006, Wisconsin lawmakers passed a law that allows nonconforming homes and structures to be rebuilt if destroyed by natural disaster. See 2005 Wisconsin Act 112. In 2009, the Wisconsin Department of Natural Resources (DNR) updated the state's shoreland zoning regulations (Wis. Admin. Code Ch. NR 115) to allow for unlimited maintenance and repair of nonconforming principal structures and more flexibility regarding expansions depending on how close the structures are located from the water. Most recently, in 2012, Wisconsin lawmakers made two other changes to nonconforming structure regulations: (1) local ordinances may not prohibit or limit the value of maintenance, repairs, and remodeling of nonconforming homes and buildings (see 2011 Wisconsin Act 170); and (2) nonconforming wet boathouses may be repaired and maintained without limits on the value of such repairs and maintenance (see 2011 Wisconsin Act 167).

-Wisconsin Realtors Association