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Frequently Asked Questions about Proposed Changes to Shoreland Protection Rules (NR 115)

Do the lot sizes, setbacks and other requirements in NR 115 constitute a new law?

No. Counties have been following a state law requiring minimum development standards along shorelines since 1968, new annexations to municipalities since 1982, and newly incorporated cities and villages since 1994. By law the DNR must keep NR 115 current and help enforce it. When the revised NR 115 passes, counties must:

- Incorporate the most current NR 115 laws into their local ordinances within two years;
- Shift responsibilities from implementing some old to some new laws and;
- Continue to inspect waterfront properties and enforce the law when broken.

My property is smaller than the new lot size rules. Can I still build on it?

In most cases yes, but it depends on individual county standards. If your property has already been created, is a lot of record and you can meet the other dimensional standards in the rule, you will be able to build. Requirements that new lots be divided to be 20,000 square feet and 100 feet wide apply only to lots divided after the law is passed.

What do I, a waterfront property owner, have to do when this law changes?

After the law passes, you won't have to do anything unless and until you want to make certain changes to your property, such as building an addition or paving a gravel driveway that exceed a certain size. If your planned improvements conflict with the law, you will be required to take actions to offset the impacts of your projects. For example, building a rain garden or removing hard surfaces from another area of your lot.

What is an impervious surface?

NR 115 defines impervious surfaces as any hard surface that prevents water from soaking into the soil or that lets water flow off it. Examples are given in the definition—such as rooftops, driveways and parking lots—but this list is not meant to be complete. Counties have the flexibility to specify which surfaces are impervious for their specific jurisdiction because physical land characteristics vary around Wisconsin, such as soil types.

What is mitigation?

Mitigation can be thought of as methods to offset potential development impacts to water quality and habitat and is only required when proposed changes to a property trip a trigger. Some triggers include exceeding impervious surface standards or requesting a reduced setback. No mitigation is needed for maintenance and repair of current structures. Overall, more options for development in the shoreland zone than the current law permits will be available with this system.

Counties have the flexibility to tailor mitigation methods to their area, such as rain gardens, restored vegetation buffers, removal of structures from setback, erosion control or use of inconspicuous building materials. Although mitigation is a familiar concept for some counties, the DNR is creating a tool to support its implementation. This tool will be user-friendly for the property owner and save counties time in trying to decide what types of mitigation to use case-by-case.

Will this law make me build farther away from the water than right now?

No, the shortest distance or “setback” that structures—with some exceptions—need to be from the water is still 75 feet. This has not changed from the existing NR 115; you can still build houses and other structures as close as 75 feet to the water. However, people have confused the setback requirement with the fact that *some* of the new rules have a reduced area of jurisdiction (or shoreland zone). For example the impervious surface rules apply only for the first 300 feet from the OHWM rather than the full 1,000 foot zone otherwise required for lakes.

Do I have to stop mowing my lawn?

No. However, giving yourself and your lawn mower a rest may be one of the best things you can do for your lake. It also may be the easiest thing for you to do if you want to make changes to your property that trigger the need to take offsetting actions. Unmowed areas or those restored to a natural condition can help keep rainwater runoff from entering the lake and harming water quality. It can attract songbirds and other wildlife to your property, and it may boost populations of beneficial, native predators such as dragonflies, waterfowl, and frogs that reduce mosquito larvae and other nuisance bugs.

Will I be required to get a separate permit for land disturbing construction activities?

No. The land disturbance permitting system proposed in the draft rules that were the subject of public hearings in summer 2007 has been dropped. The DNR determined the same goals could be achieved without a new permitting system and that the erosion control goals are adequately covered by other DNR and Department of Commerce permits. Therefore, no additional permit will be required by NR 115; however, counties may still choose to be more protective by having a specific land disturbing permit system for shoreland areas.

There are many other sources of pollutants to lakes. Is NR 115 the only law that controls impacts to water quality?

No. Shoreland property owners in unincorporated areas are not the only ones regulated to reduce impacts on water quality. Many other laws regulate non-waterfront activities and development in incorporated areas that contribute to water quality problems. Construction sites, agriculture, fertilizer use, and municipal and urban storm sewer systems are regulated by a variety of local, state and federal laws to reduce their impacts on water quality. However, the Legislature intentionally created shoreland zoning to protect this sensitive area adjacent to water bodies.

How will revised shoreland protection rules affect my property values?

The main purpose of zoning is to protect property values. Property values are expected to increase with the changes, based on studies in Wisconsin and Minnesota of what happens when more protective zoning is enacted. Home size, improvements and views of the water are factors people often consider primary to property value, but the studies show that clear water for fishing and swimming and the natural beauty associated with shoreland areas are also keys to enhancing a waterfront property’s value. And that the increased property values tied to clean water exceed the slight loss in value due to limitations on how a property can be developed. Realtors and builders remind us that the primary source of value in real estate is “location”. In the case of waterfront property *the water is the location*.

How does shoreland zoning assist in the control of invasive species?

The revised rules for shoreland zoning, such as buffers and mitigation, can help waterfront property owners fortify habitat and water quality for native species, enabling them to better compete against invasives. Otherwise, disturbed shoreline habitat and poor water quality make it more difficult for native plants and animals to be healthy. Wisconsinites have discovered how difficult and expensive it is to get rid of or control invasive species, so NR 115 offers proactive steps to help. For more information visit our website: www.dnr.state.wi.us/invasives