

Proposed Changes to Wisconsin's Shoreland Zoning Standards- NR 115



Summary of the Rule Proposal

Wisconsin's minimum shoreland zoning standards, originally codified as NR 115, Wis. Adm. Code, were revised and officially promulgated in 2010. Since the 2010 rule revisions, counties have identified some provisions that are unclear or challenging to implement. The proposed rule revisions would simplify the impervious surfaces standards, allow more flexibility for nonconforming principal structures and clarify the reporting and vegetative management requirements for local governments.

What are the proposed changes?

The department is proposing some modifications to each of these four sections of NR 115: the vegetative management standards, the impervious surfaces standards, the nonconforming structure standards and the reporting standards.

Vegetative Management Standards

Within the vegetative buffer – 35 ft. wide from the OHWM- the department is clarifying that no permit is necessary for the removal of exotics, invasive, diseased or hazardous species as long as the area is re-vegetated.

Reporting Standards

Eliminates the requirement that counties provide copies of permits for nonconforming structures. The remaining reporting requirements reflect what has been required from counties since 1968.

Impervious Surface Standards

Application: standards only apply to riparian lots, or non-riparian lots entirely within 300 ft. of OHWM

Areas that do not directly drain to a waterway or drain to a treatment system do not need to be counted toward a property's impervious surface limits.

Counties may develop an ordinance, providing higher impervious surface standards, for highly developed shorelines

- Properties may have up to 30% impervious for residential land uses or 40% impervious for industrial, commercial, & business land use without a permit
- A permit with mitigation required for properties that expand and have between 30-40% impervious for residential land uses or 40-60% impervious for industrial, commercial & business zoning
- Highly developed shorelines are defined as
 - Land located within an Urbanized Area or Urbanized Cluster in 2010 US Census
 - Commercial, Industrial or Business land uses
 - Any additional areas the counties want to add if all of the following were met prior to Feb. 1, 2010
 - The shoreline is at least 500 feet in length and
 - Is sewered or smaller than minimum lot sizes in NR 115
 - And over 75% of the lots exceed 30% impervious surface

Nonconforming Structure Standards

Clarify that discontinuance language only applies to structures associated with a nonconforming use and that counties may regulate dry boathouses.

Additional flexibility for principal structures, at least 35 feet from OHWM but within the 75 foot setback, allowing a

- One time horizontal expansion of 200 sq. ft. within setback, no closer to OHWM with mitigation
- Eliminate requirement to remove non-conforming accessory structures when relocating/replacing a principal structure

What is the department not proposing to change?

The department is not proposing to change the current shoreland zoning standards establishing minimum lot sizes, building setbacks, filling and grading standards, shoreland-wetland zoning standards and height limitations within the setback.

Lot Size

- Unsewered lots– 20,000 ft² with an average width of 100 ft
- Sewered lots – 10,000 ft² with an average width of 65 feet
- Standards allow development on substandard lots and development of conservation subdivisions

Setbacks

- 75 feet from the ordinary high water mark with setback averaging allowed
- Exemptions for certain structures such as dry boathouses and walkways

Filling and Grading

- Allowed if it complies with shoreland-wetland provisions & minimizes erosion.

Height

- No structures within 75 feet of the ordinary high water mark may be taller than 35 feet

Vegetation Management

- Vegetative buffer- 35 ft. wide from the OHWM
- Vegetation removal requires a permit and must be replaced unless for the following purposes:
 - Routine maintenance- keep what you have
 - Access/Viewing corridor-30 % of the frontage may be clear cut but no more than 200 ft. total.
 - Forestry activities
 - Removal of exotics, invasive, diseased or hazardous species – subject to the revisions.

Impervious Surface Standards

- Existing impervious surfaces: Property owners can still maintain, repair, replace with a similar surface, or modify existing impervious surfaces without a permit or mitigation; this standard will not change from the previous rule.
- For properties, other than those located along the proposed highly developed shorelines:
 - Properties may have up to 15% impervious without a permit
 - A permit with mitigation required for properties that expand and have between 15-30% impervious

Non-conforming Structure Standards

- What is allowed?
 - A principal structure 0-35 ft. from OHWM
 - Unlimited maintenance & repair as defined by the county, within the building envelope
 - Relocation/reconstruction beyond setback
 - At least 35 feet from the OHWM but within the setback it would be allowed
 - Unlimited maintenance & repair as defined by the county, within the building envelope
 - Vertical expansion within setback with mitigation
 - Relocation/Reconstruction with mitigation
 - If structure extends to the setback
 - Unlimited maintenance & repair as defined by the county, within the building envelope
 - Lateral or vertical expansion within the setback as described above
 - Lateral or vertical expansion beyond the setback in compliance, without mitigation, but in compliance with other county ordinance requirements.

Counties must submit notices 10 days before the hearing and within 10 days after a decision for

- Variances
- Special exceptions or conditional use permits
- Administrative Appeals
- Map or text amendments
- Proposed land divisions in the shoreland zone