

2011 WI Act 170 & Shoreland Zoning

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2011 WI ACT 170



- Intent
- What it actually said.
- What it actually did.
- Unforeseen issues
- What are we doing about it.

2011 WI ACT 170

What was the intent of the legislation?



- Standardize how communities regulate nonconforming structures, particularly in shoreland zone.
- If every community has the same regulations for nonconforming structures , then
 - People will know how property will be regulated.
 - Realtors, banks, assessors, etc... will know how to place a value on the property because all of the structures will be regulated in the same manner.

2011 WI ACT 170

What did it actually say?



- Counties, cities, villages and towns, may not prohibit or limit, based on cost, the repair, maintenance, renovation or remodeling of a nonconforming structure.
- Counties, cities and villages may not regulate nonconforming structures and substandard lots more restrictively than NR 115.

2011 WI ACT 170

What did it actually do?



- Counties, cities, villages and towns, may not prohibit or limit, based on cost, the repair, maintenance, renovation or remodeling of a nonconforming structures.
 - Applies to all nonconforming structures, not shoreland zone.
 - What about expansion?
 - Can you regulate based upon something other than cost?
 - What if it is a nonconforming use?

2011 WI ACT 170

What did it actually do?



- Counties, cities and villages may not regulate nonconforming structures and substandard lots more restrictively than NR 115.
 - What is a maximum?
 - Nonconforming structure standards
 - Substandard lot standards.
 - N/A for other standards in NR 115
 - Lot sizes, setbacks, height limitations, vegetative management standards, impervious surface limits.

2011 WI ACT 170

Unforeseen issues



- Chaos

- Communities unable to amend ordinances in time for construction season
 - Communities with 50% rule- no clear path for how to regulate NC structures.
 - Differences between county shoreland ordinance & NR 115 = conflicts w/property owners.

- Confusion

- What did Act 170 do?
 - Miss information in media, news releases, word of mouth, etc...
- Shoreland regulations vs. other general zoning & police powers



Issues

- Intent of NR 115 = minimum standards (NR 115.01)
- Language in rule never meant to be maximums
- Rule is purposefully vague
 - To allow counties to fill in the blanks
- Conflicts
 - Other shoreland zoning standards that are not maximums
 - Most common = lot sizes & setback
 - What is a nonconforming structure or a substandard lot?
 - Counties, cities and villages often regulate many things not mentioned in NR 115
 - Other statutory authority to create ordinances
 - What is shoreland zoning and what is not?

What have we been doing?

- **Memos**
 - DNR's legal interpretation of Act 170
 - Answers to questions from counties
- **We're here to help**
 - Trouble-shooting
 - Ordinance review
- **Rulemaking**
 - Thinking about implications if language became maximums
 - If language is/becomes maximums = balance interests of all counties



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What else has been going on?



- **DNR**

- Meetings with counties & legislative members who raised concerns with new code in 2010 and 2011
- Executive order -counties more time to revise ordinance
- Rulemaking process started again in March 2012

- **Legislation**

- 2011 WI Act 32- ATF economic impact analysis
- 2011 WI Act 170
- 2013 AB 75 – introduced and would remove requirement that cities and villages keep shoreland zoning for annexed or incorporated areas

- **Counties**

- 13 counties have adopted ordinances compliant w/ NR 115
- 3 more counties currently revising ordinances & plan to adopt current NR 115

Status of NR 115 Rulemaking

- Draft rule language finished
 - Met with partners for initial comments
 - Proposed modifications are to address county concerns re: implementation and administration
- Economic Impact Analysis for current rulemaking process
 - Solicitation of comments in April
 - Public hearings slated for August

