



*Using Shoreland Zoning to
Protect Waterfront Property*



Center for Land Use Education
College of Natural Resources
University of Wisconsin - Stevens Point

UW
Extension
University of Wisconsin-Extension

Lynn Markham
WI Lakes Convention
April 24, 2014

Enjoying healthy lakes & rivers: Part of who we are in WI

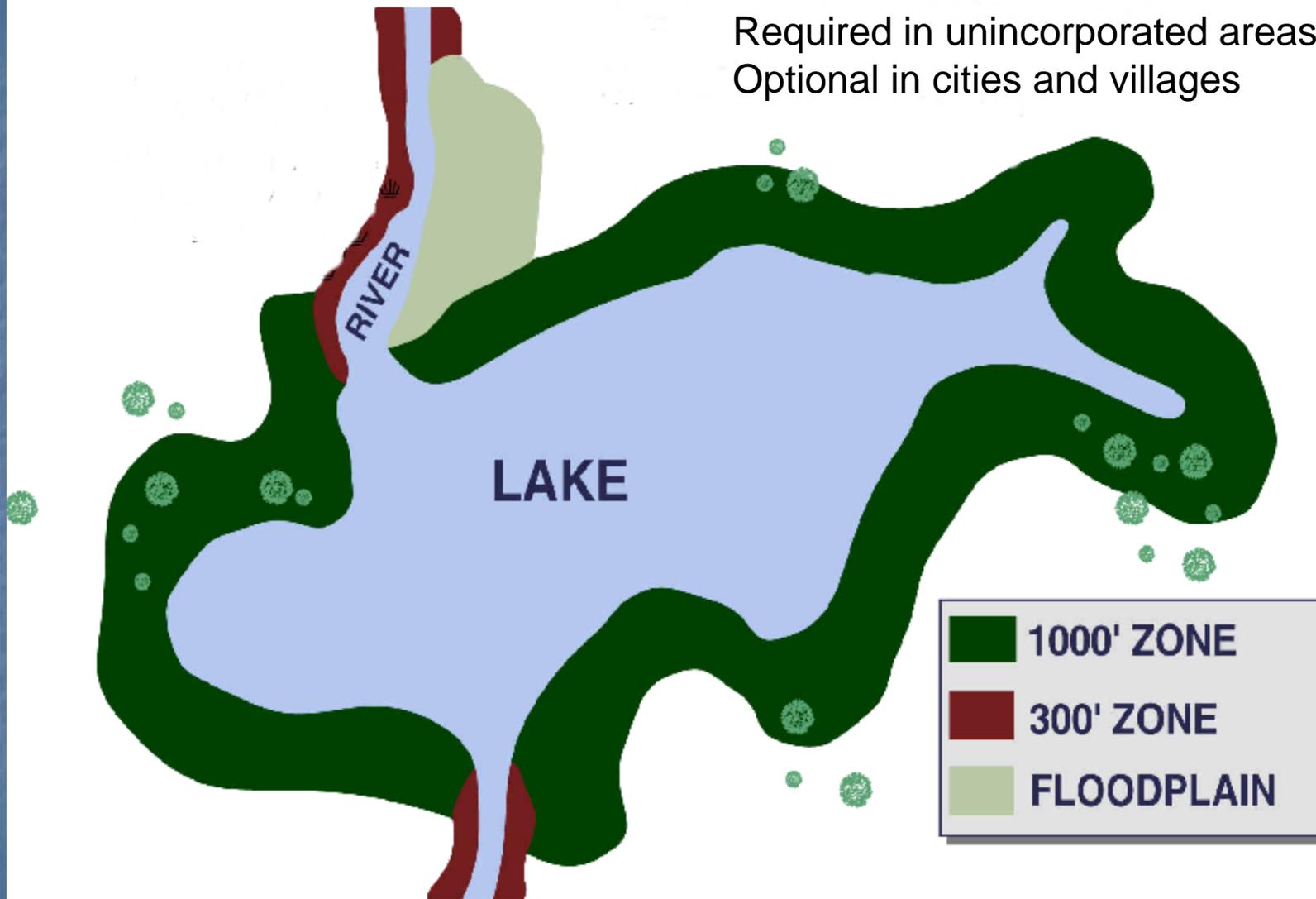


Outline

1. Introductions
2. Shoreland zoning 101
3. Does shoreland zoning work? Lake quality in states with and without shoreland zoning
4. Recent research: How impervious surfaces impact fish, wildlife & waterfront property values
5. Shoreland zoning policy at the state level
6. Shoreland zoning ordinances and implementation at the county level

Shoreland zoning applies near lakes & rivers

Required in unincorporated areas
Optional in cities and villages



Purposes of shoreland zoning include...

- Prevent and control water pollution
- Protect spawning grounds, fish and aquatic life
- Reserve shore cover and natural beauty



SHORELAND ZONING is in place to protect our lakes and rivers.

- Wisconsin Administrative Code **NR 115** provides minimum standards for shoreland zoning.

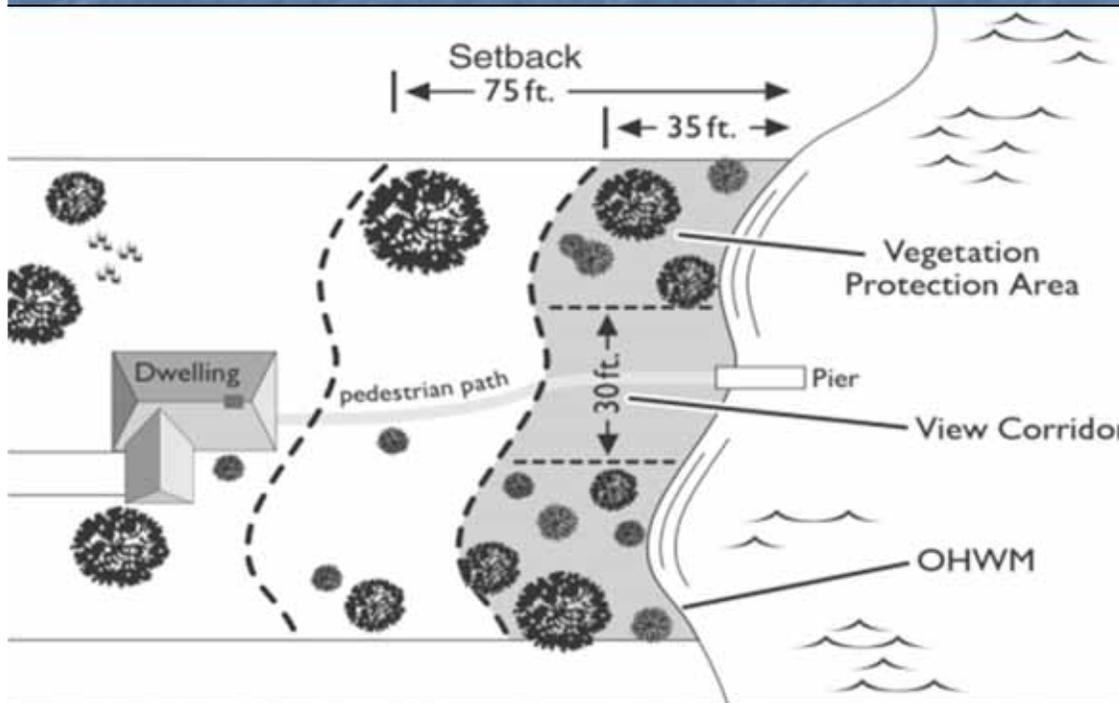


With shoreland zoning



Without shoreland zoning

Minimum WI shoreland standards (NR 115)



- Adopted in 1968
- Lot size
- Vegetation protection area (buffer)
- Shoreline setback

Does shoreland zoning work?

Statewide standards (Maine)

Maine requires that towns adopt a shoreland zoning ordinance at least as restrictive as the model ordinance developed by lake scientists with the State of Maine. This model ordinance includes: a 100 foot setback for buildings, and keeping trees and low growing plants and shrubs in place between buildings and the lake.



Developed site in Maine

No statewide standards (Vermont)

Vermont has no minimum shoreland standards, leaving the responsibility to craft an ordinance to town officials. Often all of the trees, shrubs and groundcover is removed near the water's edge, the lot is leveled, and buildings, driveways, and patios are built close to the shoreline. Seawalls are sometimes installed to stabilize the banks that were destabilized by the removal of the natural trees and shrubs.



Developed site in Vermont

Does shoreland zoning work?

- From 2005 – 2008 in Vermont studied
 - 234 undeveloped reference sites
 - 151 unbuffered developed lakeshore sites
- In 2011 in Maine studied
 - 13 undeveloped reference sites
 - 36 developed sites that met shoreland zoning standards

Can we develop a lakeshore and protect the lake?



9 measures of lake health	Statewide shoreland zoning standards (Maine)	No statewide shoreland zoning standards (Vermont)	Why are these measures important?
Shoreline trees	✓		Trees, shrubs and ground cover near the shoreline provide: <ul style="list-style-type: none"> • Erosion control • Shade in water near shore • Food for deer and other wildlife
Large woody structure	✓		Fallen trees in the water (woody structure) provide: <ul style="list-style-type: none"> • Cover for fish to hide from birds and bigger fish • Places for turtles to bask in the sun to digest their food • Structure where frogs attach their eggs
Medium woody structure	✓		
Small woody structure	✓		
Leaves in the water	✓		Leaves in the water feed water insects (fish food)
Variety of lake bottom types, not covered in sand	✓		Lake bottoms not covered in sand & sediment provide: <ul style="list-style-type: none"> • Valuable nesting sites for fish, where their eggs aren't buried • Habitat for water insects (fish food)
Structure not covered in sediment	✓		
Small animals and plants growing on structures	✓		Small animals and plants growing on rocks and other structure provide food for fish, snails and other animals
Dragonflies & damselflies			Dragonflies & damselflies rely on healthy shorelines & lakes and are voracious predators of mosquitoes

Full report: Determining if Maine's Mandatory Shoreland Zoning Act Standards are Effective at Protecting Aquatic Habitat, March 14, 2013 by the Vermont Department of Environmental Conservation. www.anr.state.vt.us/dec/waterq/lakes/docs/lp_mainezoning.pdf

*In the table, a checked box means there was no significant difference ($\alpha = 0.05$) between the developed and reference (undeveloped) lake sites, while an unchecked box means there was a significant difference between the developed and reference (undeveloped) lake sites.

Can we develop a lakeshore and protect the lake?

- In Vermont, lakefront sites developed without statewide shoreland zoning standards harmed the lakes in nine ways, as shown in the table.
- In Maine, statewide shoreland standards make it possible to both develop a lakeshore and protect the lake.

Ways to get or stay involved

Individual

- Learn about protecting lakes, including shoreland zoning
- Set a great example of how to protect the lake with your own waterfront property
- Help others learn how they can help

Lake organization

- Join a lake organization

Ways to get or stay involved

State government

- Talk with your legislators about your feelings about NR 115 revisions – state rule about shoreland zoning
- Vote for representatives and senators in Fall 2014 who share your views about shoreland zoning
- Members of the Senate and Assembly natural resource committees + JCRAR will have a chance to change the NR 115 proposal in Spring 2015

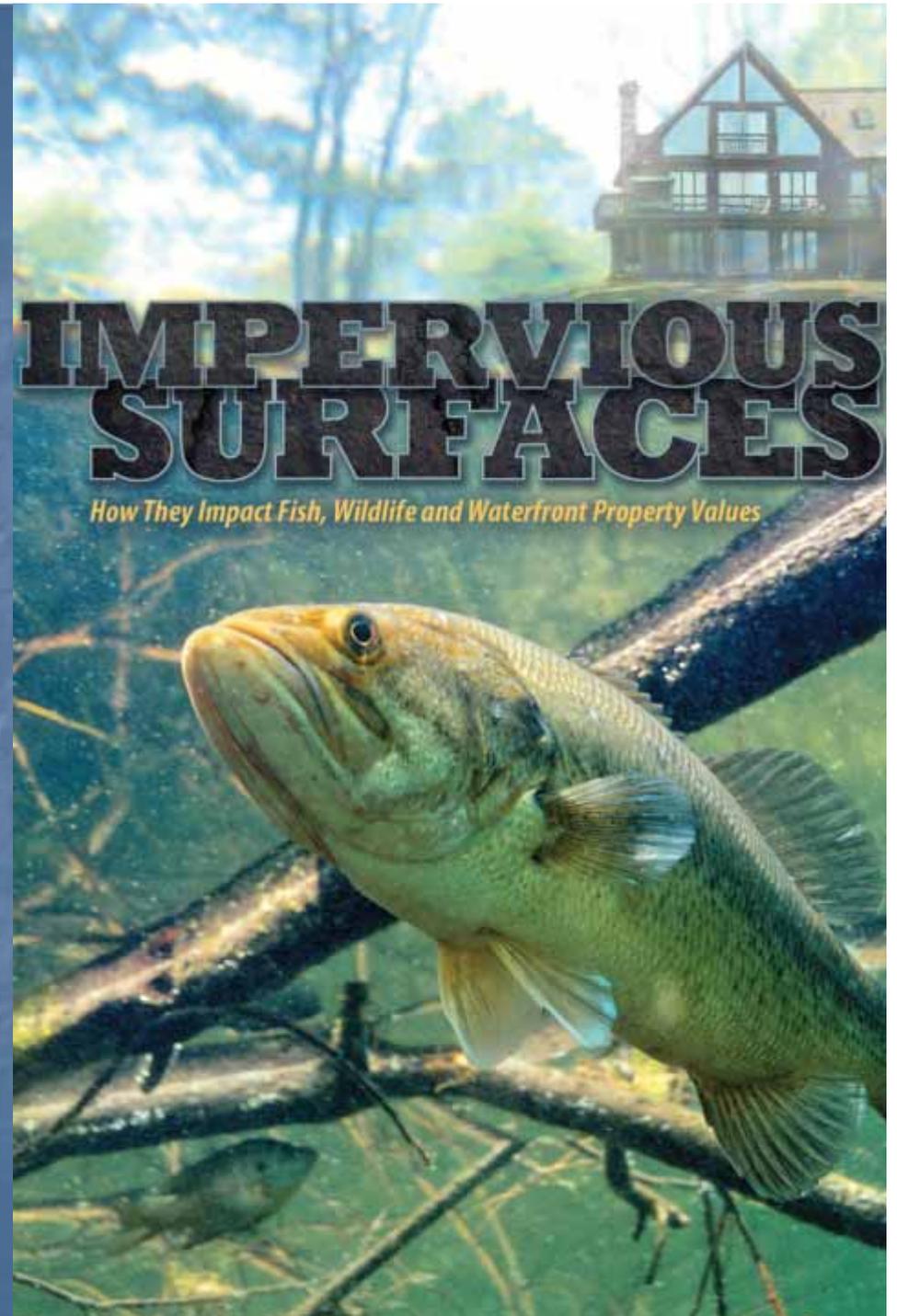
Ways to get or stay involved

County government

- Meet zoning staff
- Attend county meetings about shoreland zoning: county board meetings, planning and zoning committee meetings and/or zoning board of adjustment meetings
- Run for county board and request to serve on the county planning and zoning committee.
- Ask the county board chair or zoning staff to be appointed to the county board of adjustment
- Get involved as a citizen when the shoreland zoning ordinance is being revised

Recent Research

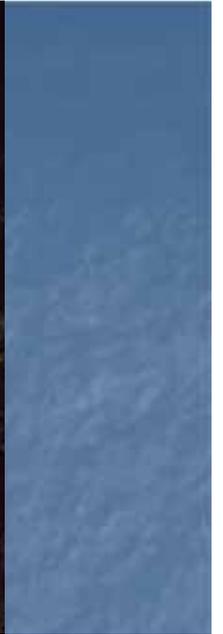
How impervious
surfaces impact fish,
wildlife and
waterfront property
values





Impervious surfaces IMPACT

1. Fishing
2. Wildlife
3. Waterfront property values



Impervious
surfaces



More Impervious Surface = Less Fish

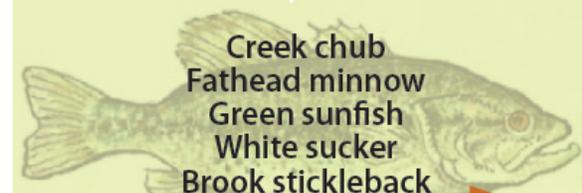
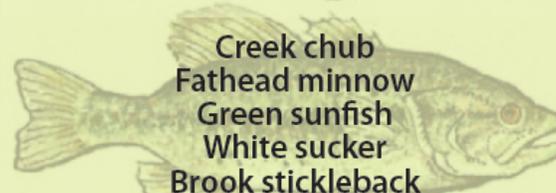
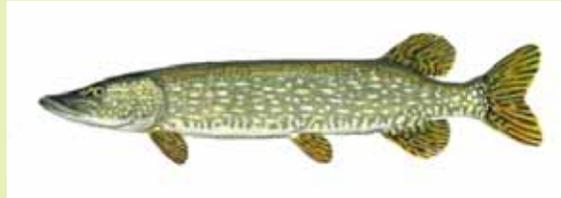
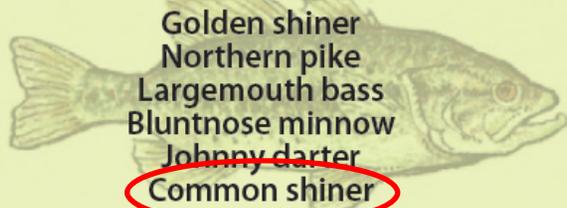
Fish found in streams when impervious surface in the watershed was:

Less than 8%

8 - 12%

Greater than 12%

More Impervious Surfaces in Watershed 



2008 study of 164 WI lakes found the same trend

Fewer species of fish 



12% impervious on a half-acre lot = 2,600 square feet



More Impervious Surface = Less Fish

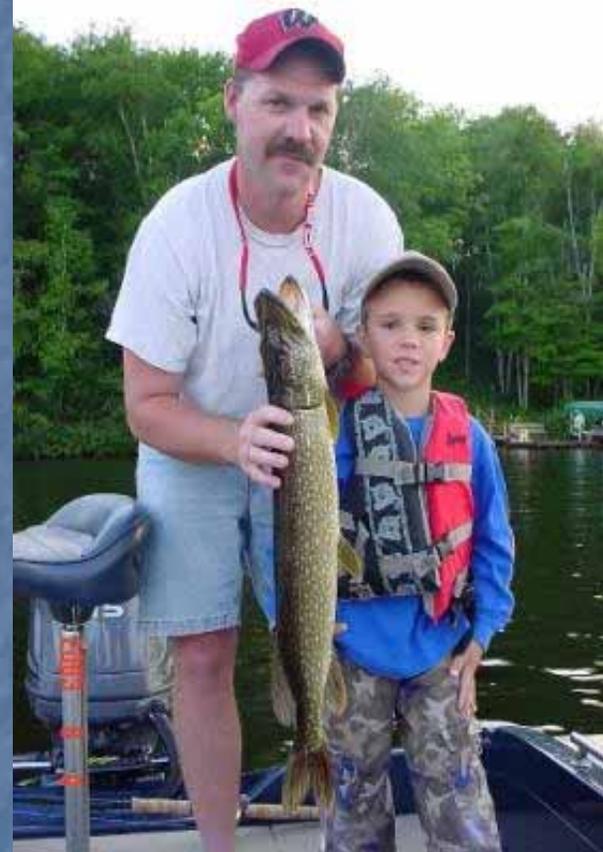
More impervious surface



- Larger and more frequent floods
- Less groundwater leads to lower stream flows & warmer water temperatures during dry periods

More Impervious Surface = Less Fish

- **More runoff** from hot pavement and shingles makes the water hotter
- **More nutrients** from soil and fertilizers result in less oxygen in the water, which fish need to survive



Trout are gone above 11% impervious
Northern pike are gone above 12% impervious

More Impervious Surface = Less Fish

- **More sediments** and algae growth make it difficult for some predator species that hunt by sight to find their food
- **More sediments** cover spawning beds of fish such as walleye and smallmouth bass, depriving eggs of oxygen



Walleye

- Walleye prefer to spawn on gravel- and cobble-covered bottoms.
- They typically spawn between mid-April and early May in Wisconsin when spring runoff is highest.
- The runoff from impervious surfaces can cause soil erosion. When the spaces between the rocks and gravel become blanketed with silt, walleye eggs can die quickly due to lack of oxygen.

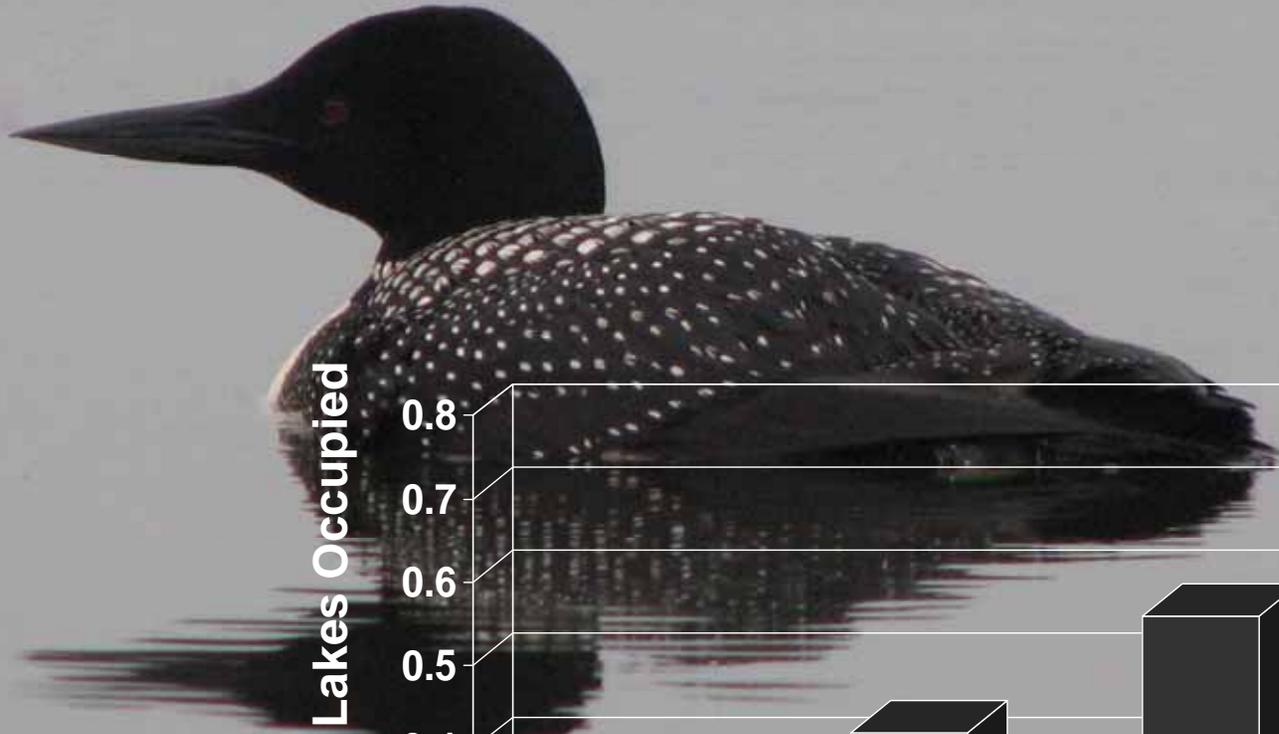


Common Loon



- Loons have been pushed northward, in part due to the effects of shoreland development.
- Loons nest at the water's edge where they share incubation duties for 30 days. The presence of a safe, secure, undisturbed location to nest along the lake shoreline or on an island is a critical requirement for breeding loons in Wisconsin.

Wisconsin Loons More Likely Found on Lakes with Clearer Water



Proportion of Lakes Occupied

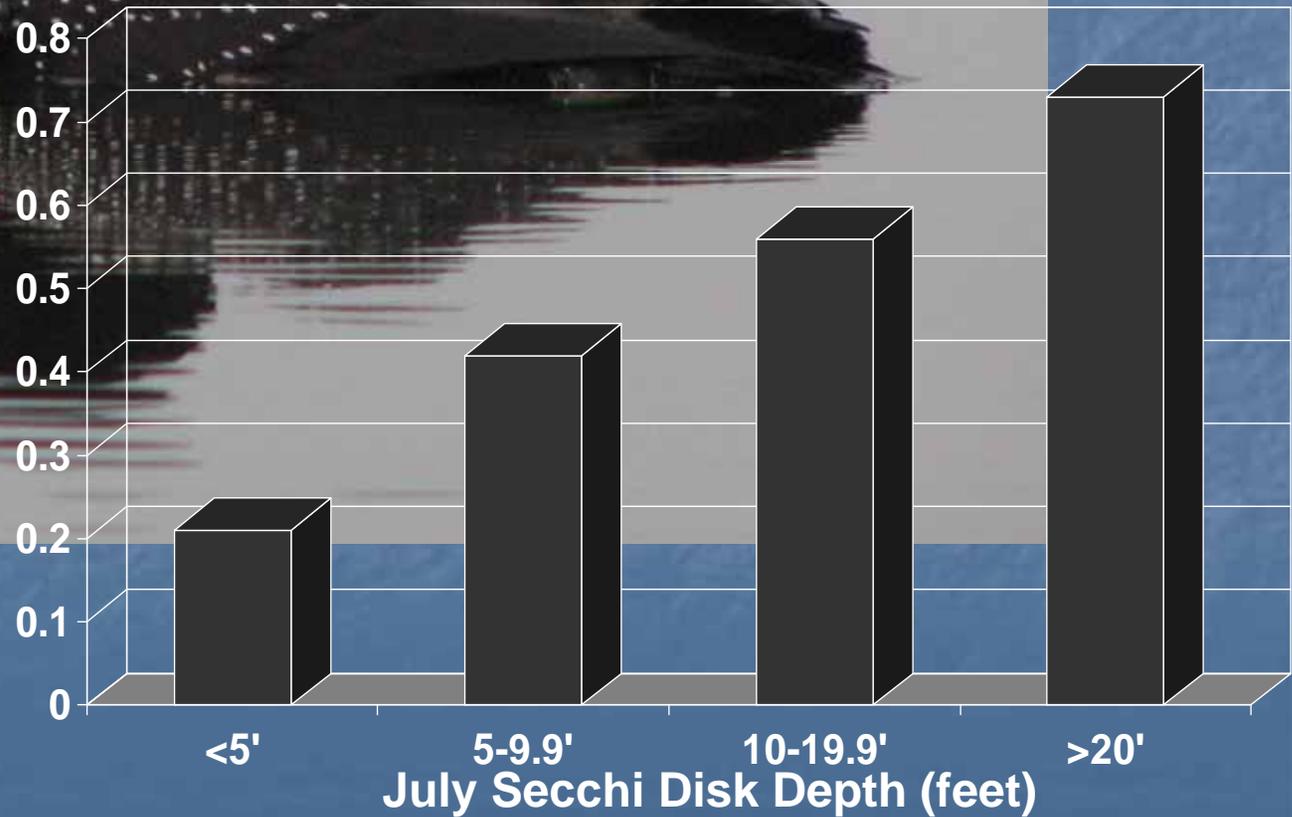


Photo credit
Doug Killian

Lake quality & economics: Is there a connection?



“More polluted lakes have less valuable property than do cleaner lakes.”

E.L. David, *Water Resources Research*, 1968

Water quality & economics

- A study of over 1200 waterfront properties in Minnesota found when water clarity changed by 3 feet changes in property prices for these lakes are in the magnitude of tens of thousands to millions of dollars.



Krysel et al, 2003.



Healthy shorelands make healthy lakes and higher property values



Impervious surfaces impact:

1. Fish

- When water runs over asphalt or shingles and into a lake or stream, it gets warmer. Some fish can't take the heat.
- Northern pike are gone above 12% impervious
- Trout are gone above 11% impervious

2. Wildlife

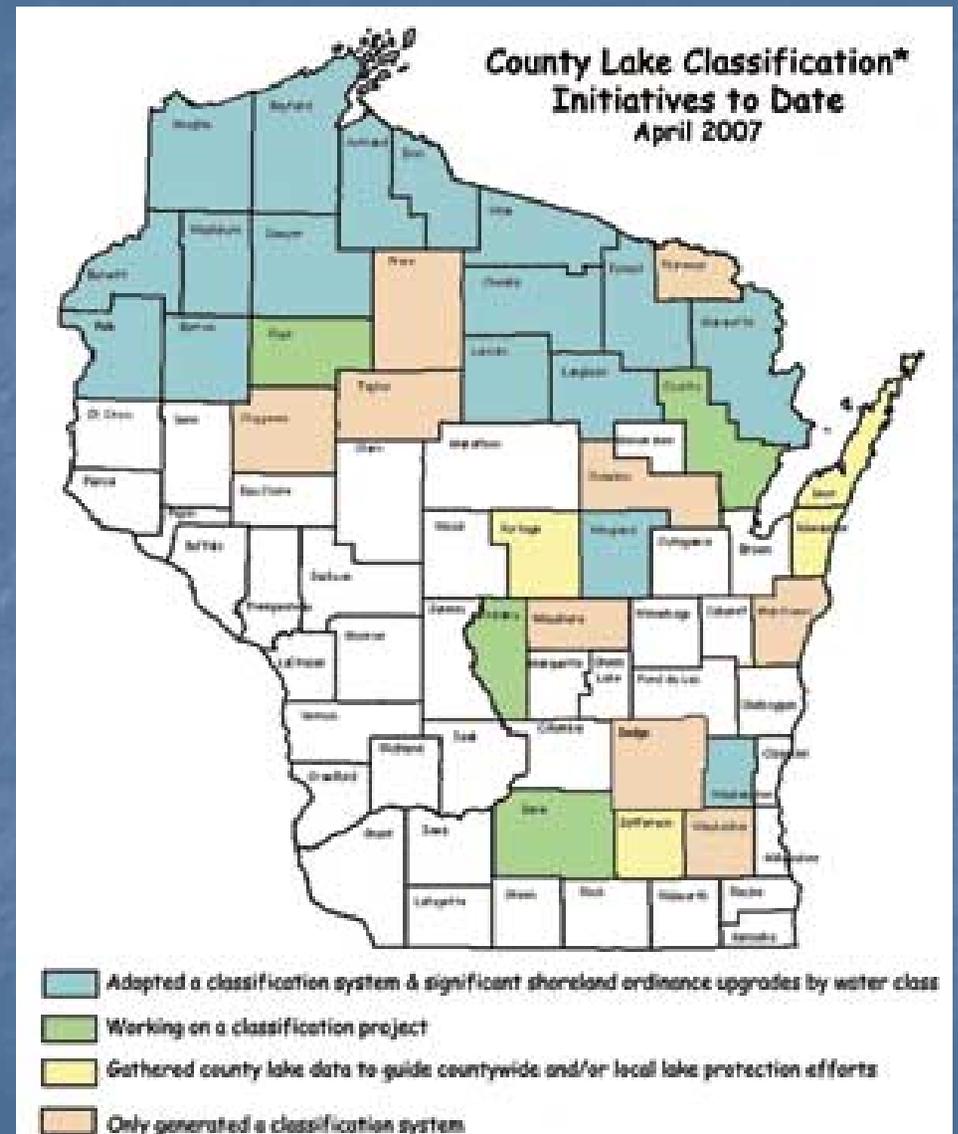
3. Water quality and property values

Shoreland zoning **policy** at the
state and county level in WI

Counties led...

- Counties recognized inadequacies in 1968 state SL zoning law
- Starting in 1990s, counties adopted higher standards
- Lincoln County ZA, Dan Miller: "We're failing" (with our current SL zoning)

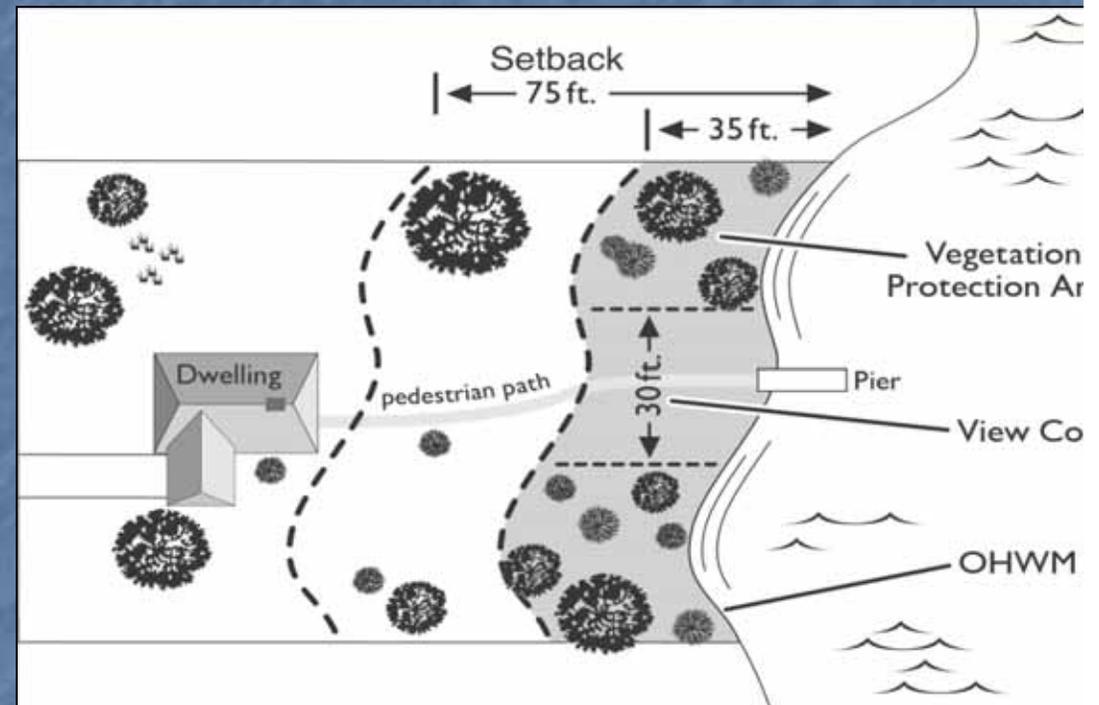
Map by Wisconsin Lakes



*The Lake Classification grant program and formal state enabling for counties to use the lake classification tool were initiated by statutory changes (in Ch. 282.05, Wis. Stats.) passed by the Legislature and Governor in 1997 and administrative rules (Ch. NR 201, Wis. Admin. Code) adopted by the Department of Natural Resources in 1999.

Higher standards adopted by counties...

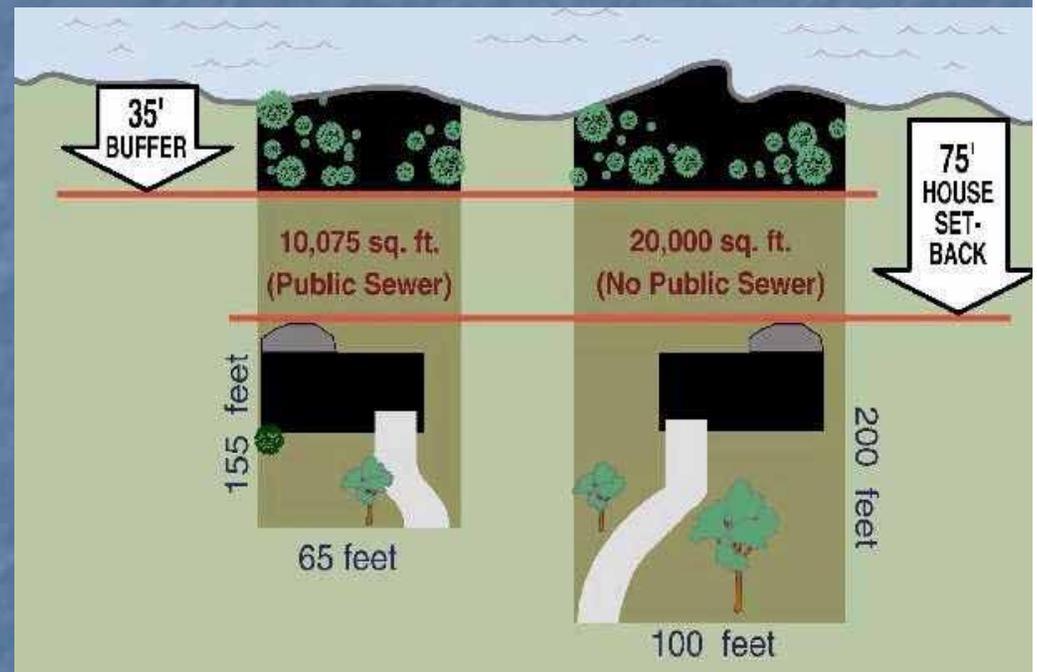
- Larger lot sizes
- Larger shoreland setbacks
- Larger shoreland buffer sizes
- Impervious surface standards (16 counties)
- NC structures
- Mitigation (27 counties)



From 2002-2010 statewide process to try to upgrade statewide standards/rule

No changes to 1968 standards on

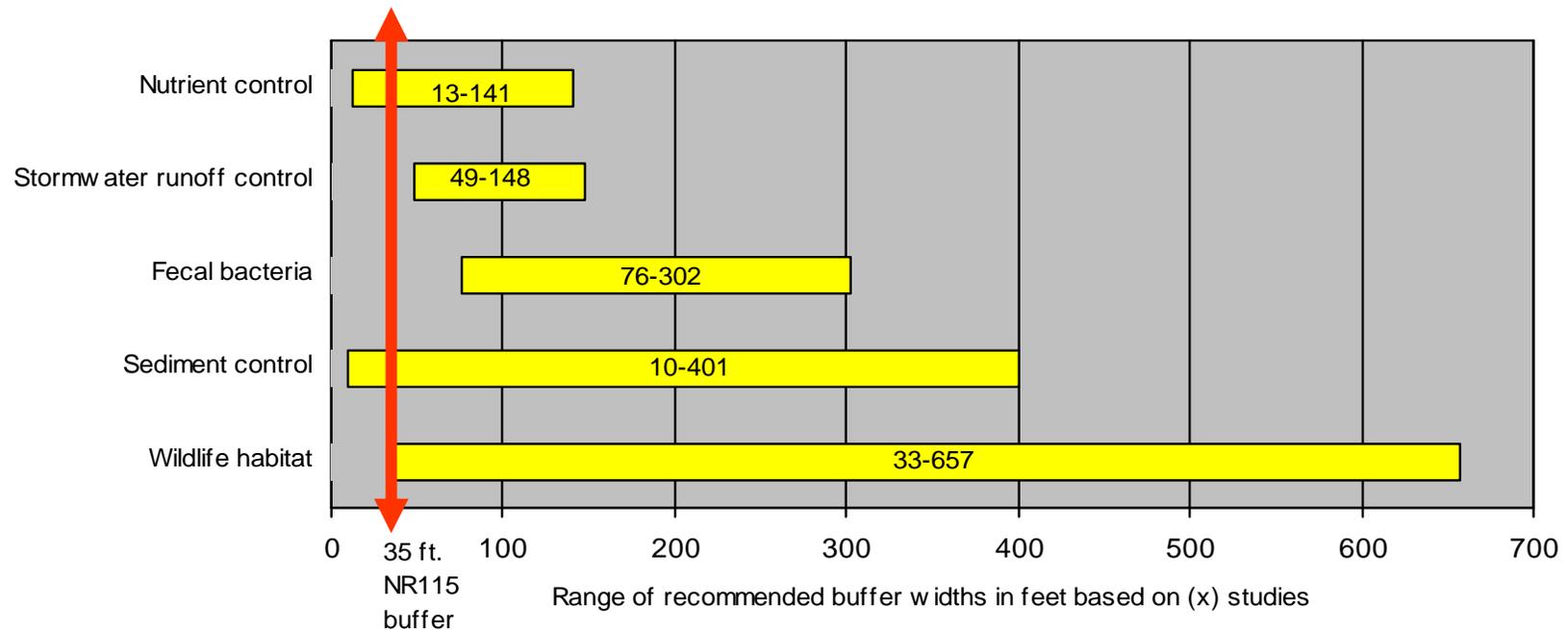
- Lot sizes
- Setbacks
- Buffer size



But some changes to statewide standards were made in 2010 after years of discussion and agreement from lake, river, realtor and builder groups

Minimum buffer size stayed at 35 feet

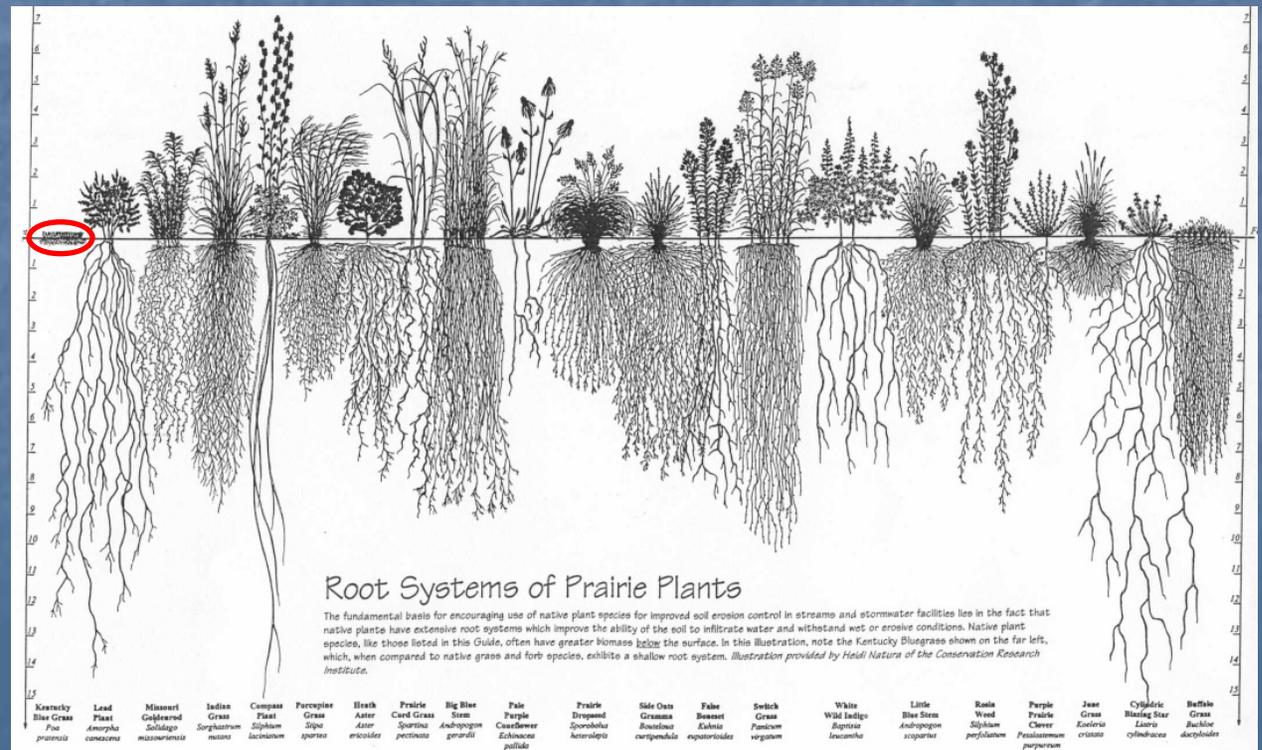
Recommended Shoreline Buffer Widths A Research Summary



Review of 52 U.S. studies by Aquatic Resource Consultants, Seattle WA

Stronger buffer definition because

- Greater understanding of buffers/native plants and what they do...compared to lawns. Bluegrass circled.



Shoreline buffers

1968 law

- First 35 foot no clear-cut zone
 - No definition for clear-cut

2010 law

- First 35 feet, no vegetation removal except
 - Access and viewing corridors
 - Shoreline restoration activities & invasive species control
 - Dead, dying or diseased when replaced with native vegetation
 - Sound forestry practices on larger tracts of land
 - Where mowing currently occurs counties may allow “keep what you have”

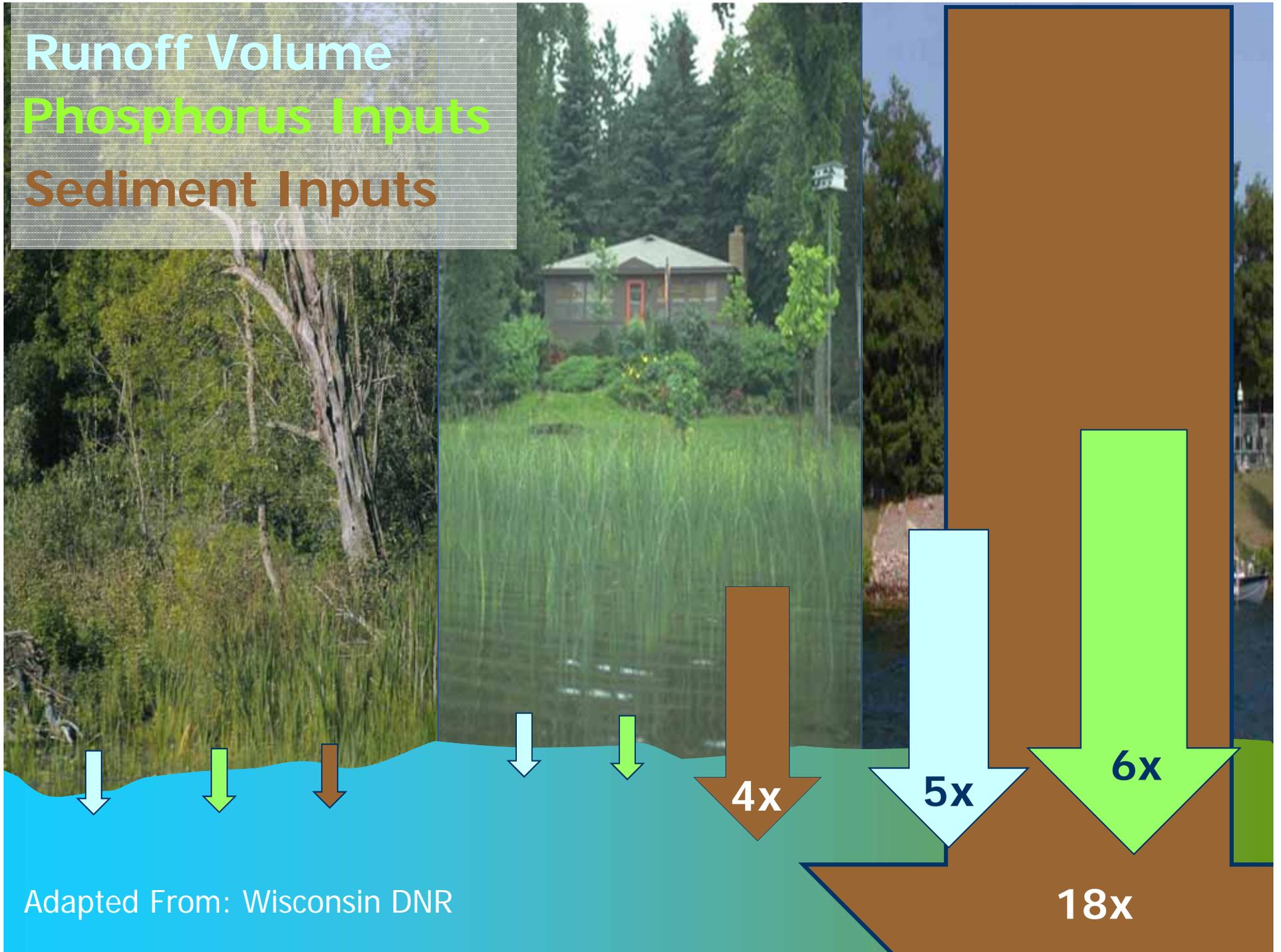




Effects of impervious surfaces

- Erosion
- More pollutants entering water
- Increased algae growth
- Fewer fish & insect species

Runoff Volume
Phosphorus Inputs
Sediment Inputs



Adapted From: Wisconsin DNR

More Impervious Surface = Less Fish

Fish found in streams when impervious surface in the watershed was:

Less than 8%

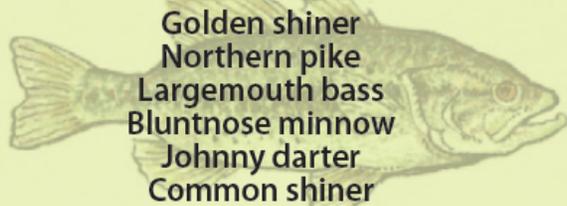
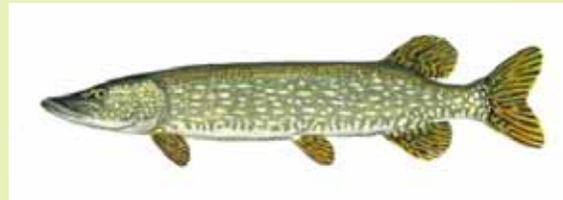
8 - 12%

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More Impervious Surfaces in Watershed 



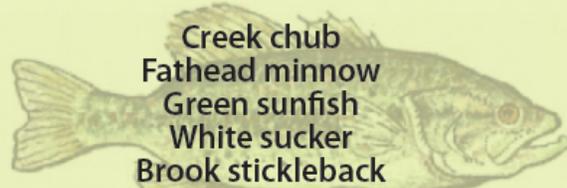
Iowa darter
Black crappie
Channel catfish
Yellow perch
Rock bass
Horneyhead chub
Sand shiner
Southern redbelly dace



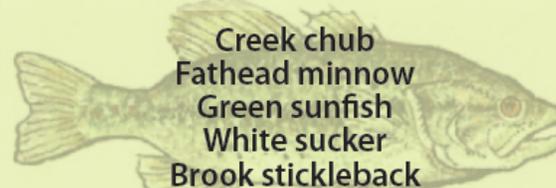
Golden shiner
Northern pike
Largemouth bass
Bluntnose minnow
Johnny darter
Common shiner



Golden shiner
Northern pike
Largemouth bass
Bluntnose minnow
Johnny darter
Common shiner



Creek chub
Fathead minnow
Green sunfish
White sucker
Brook stickleback



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2010 Impervious surface standards

- What is an impervious surface?
 - An area that releases all or a major portion of precipitation that falls on it.
 - Includes rooftops, sidewalks, driveways, etc.
- What are the geographical boundaries of the standard?
 - Applies to property within 300-feet of the OHWM
- **What is the standard?**
 - Keep what you have
 - Up to 15% impervious
 - Between 15% - 30% ok with mitigation

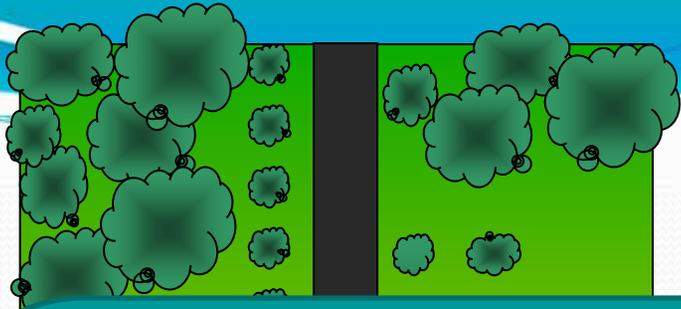
NRB proposal -> Legislature

- Limit application of impervious surface standards to only riparian lots or non-riparian lots that are entirely within 300 feet of the OHWM
 - Eliminates application to portions of parcels
- Impervious surfaces that **do not drain directly** or drain to **treatment system** prior to discharge are not counted towards impervious surface limits.

2010: Impervious Surface Example

15% of 20,000 sq. ft. lot

1500 sq. ft. house footprint
740 sq. ft. garage
660 sq. ft. driveway
100 sq. ft. sidewalk
3000 sq. ft. total



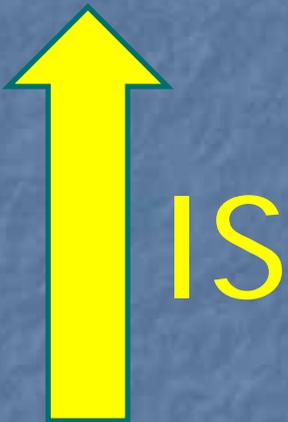
NRB proposal -> Legislature
Counties could create "highly developed shorelines"

- Urbanized Areas or Urbanized Clusters in 2010 US Census
- Commercial, Industrial or Business land use
- Counties could add additional areas if all of the following meet the standards.
 - At least 500 feet of shoreline
 - Majority of lots exceed 30% impervious OR
 - Lots are located on a lake that is sewered

NRB proposal -> WI Legislature

Impervious Surface Standards

- For Highly Developed Shorelines
 - Impervious surface standard (IS):
 - No permit needed for
 - residential land use with less than 30% IS
 - commercial, industrial or business land use with under 40% IS
 - Permit with mitigation for expansion over the standard
 - Maximum impervious surface standard:
 - 40% IS for residential land use
 - 60% IS for commercial, industrial or business land use



2010: Nonconforming Principal Structures

Nonconforming structure is

- An existing structure that was constructed but that does not meet water setback
- Known in some counties as "grandfathered structures"

NR 115 provides increased flexibility for structures in exchange for

- Vertical expansion
- Horizontal and/or vertical expansion
- Shoreline setback
- Replacement or relocation
- Counties may be more restrictive

2012: Act 170 goes into effect

For NC structures, counties, cities or villages may NOT be more restrictive than state standards.

This is the first time that state shoreland zoning standards became a cap or upper limit, instead of a lower limit for protection, which they had been since 1968.

NRB proposal -> WI Legislature

Nonconforming Principal Structures

- Clarify that maintenance and repair includes exterior remodeling, replacement or enhancement of plumbing, electrical, windows etc...
- **One-time lateral expansion within setback**
 - 200 sq. ft. expansion no closer to OHWM.
 - Could still do vertical expansion
- Clarify discontinuance language
 - Only structures with a nonconforming use
- Eliminate
 - Requirement to remove NC accessory structures for replacement/relocation of NC principal structure.
 - Provision about wet boathouses to clarify that county may regulate dry boathouses

2010: Shoreland mitigation

- Definition

- “balancing measures that restore natural resources and function to restore natural resources that are otherwise lost through human activities

- What natural functions?

- Water quality, near-shore wildlife habitat and natural resources

- Mitigation is triggered by

- Increasing impervious surfaces over 15%
- Expanding nonconforming structures

NRB proposal -> Legislature

Mitigation only applies on highly developed shorelines when:

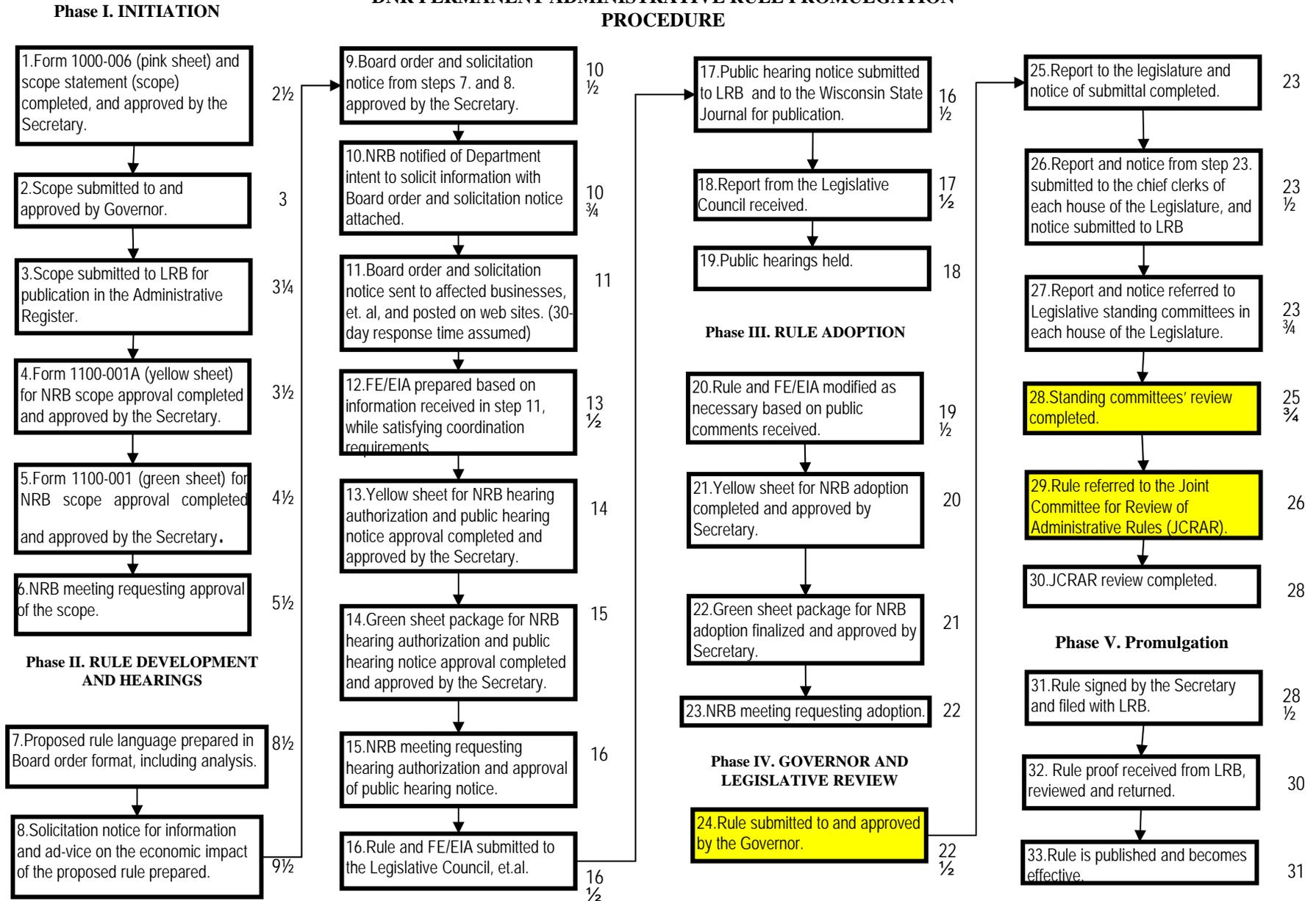
- IS increases above 30% for residential land use
- IS increases above 40% for commercial, industrial or business land use

Shoreland mitigation

- A menu approach is common in 21 counties with mitigation
- Example

Mitigation practice	Points
Buffer restoration 35 feet from OHWM	3 points
Buffer restoration 10 feet from OHWM	1 point
Rain garden to capture runoff	1 point
Removing accessory structures less than 75' from OHWM	1-3 points
Narrowing viewing corridor	1 point
Reducing shoreland lighting	1 point
Removing shoreline structures such as firepits, beaches	1 point
Other practices agreed to by zoning administrator	Up to 2 points

DNR PERMANENT ADMINISTRATIVE RULE PROMULGATION PROCEDURE



To learn more...

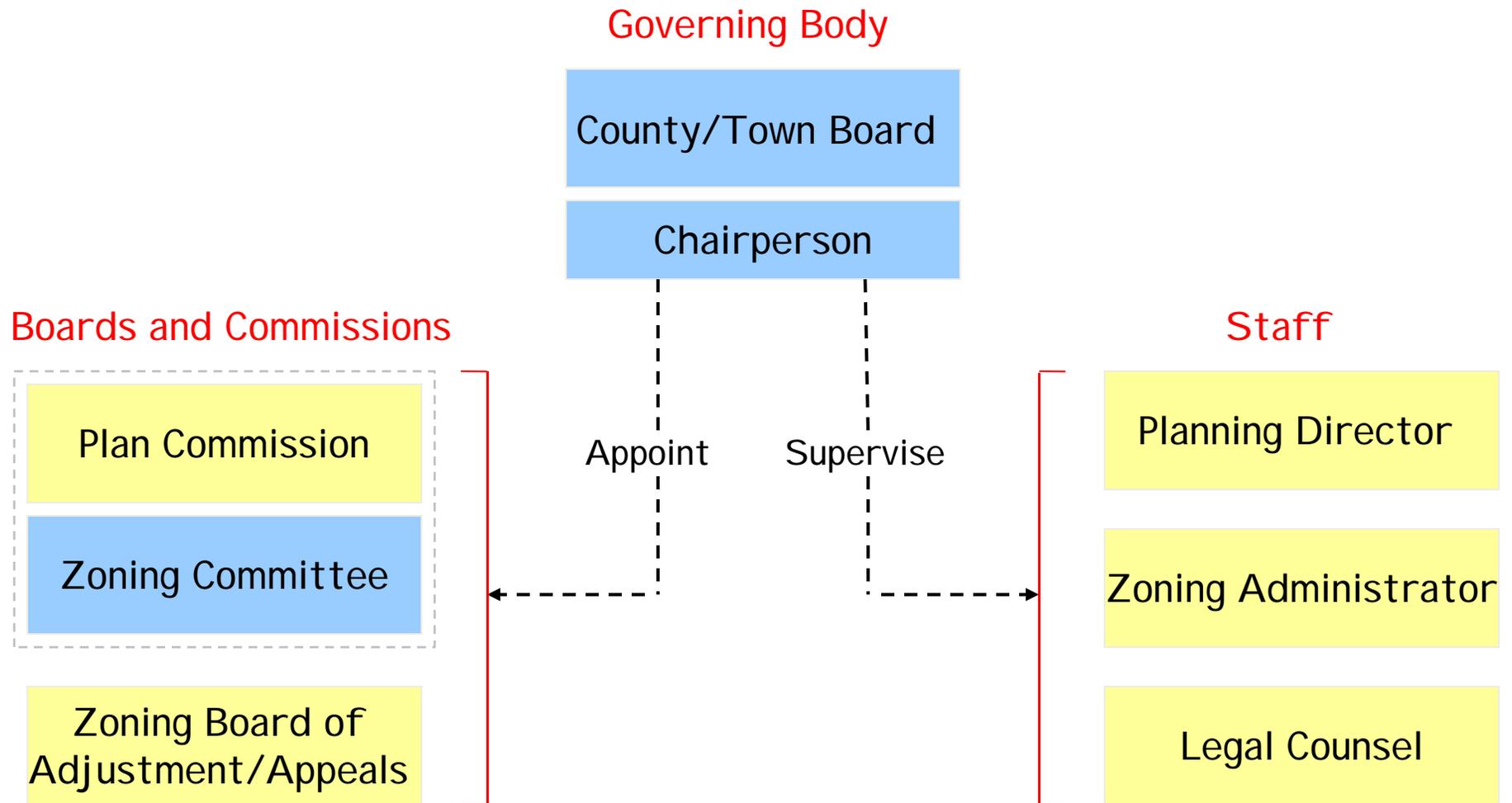
- NR 115 proposal at Dec 2013 NRB meeting
 - Agenda and webcasts
dnr.wi.gov/About/NRB/2013/Dec/Dec-2013-NRB-agenda.html
 - Groups that testified at the Dec 2013 NRB meeting
 - WI Wildlife Federation
 - River Alliance of WI
 - Clean WI
 - WCCA

Ways to get or stay involved

State government

- Talk with your legislators about your feelings about NR 115 revisions – state rule about shoreland zoning
- Vote for representatives and senators in Fall 2014 who share your views about shoreland zoning
- Members of the Senate and Assembly natural resource committees + JCRAR will have a chance to change the NR 115 proposal in Spring 2015

Local Government Structure



Governing Body



Role – Law makers

- Adopt and amend plans and ordinances
- Appoint plan commission and zoning board
- Supervise planning and zoning staff
- Administer public funds
- May decide conditional use permits
- May review/approve land divisions

Plan Commission/ Zoning Committee



Role – Land use advisors

- Prepare and recommend plans, policies and ordinances for adoption by governing body
- Monitor plan implementation and consistency
- Review amendments to zoning map or text
- May decide conditional use permits
- May review/approve land divisions

Zoning Board



Role – Judge

- Review and decide zoning cases where there is an alleged error or a relaxation of the zoning ordinance is sought
- 3 types of decisions:
 - 1) Administrative Appeal
 - 2) Variance
 - 3) Conditional Use/
Special Exception

Staff



*Role – Administrator,
Enforcer, Technical advisor*

- Administer and enforce code – grant simple permits
- Help public understand rationale for regulations and navigate application process
- Provide technical data, maps
- May provide staff reports/recommendations
- Schedule hearings, prepare notice, may take minutes

Let's Review: who does what?

Governing Body

Plans, ordinances,
amendments

Conditional use
permits?

Plat review?

Zoning
Administrator

Simple zoning
permits

Plan Commission

Policy
Recommendations

Conditional use
permits?

Plat review?

Zoning Board

Conditional use
permits?

Variances

Administrative
appeals

Policy-Making

Zoning

Subdivision

If you want to change the county shoreland zoning ordinance

- Talk to your county board member about your views on shoreland zoning. Do they agree with you? What's their track record?
- Run to be on county board; request to be on planning and zoning committee

The zoning board functions like a court...



- 1) Decision-making criteria are outlined in state statutes, case law, and local ordinances.
- 2) The board applies these laws to particular fact situations (*quasi-judicial* decisions).
 - BOA decisions can be appealed to higher courts.
 - Decisions will generally be upheld if proper decision making standards and procedures are followed.

Role of the zoning board

- Review and decide cases
- 3 types of decisions:
 - 1) Administrative appeal
 - 2) Variance
 - 3) Special exception/conditional use

Variances

An applicant has burden of proof to show that all three statutory tests are met:

1. unnecessary hardship*
2. due to conditions unique to the property &
3. no harm to public interests

Variations

Conditions unique to the property test

Conditions unique to the property
physical limitations of the property
such as steep slopes or wetlands
prevent compliance with the



To avoid
unbuildable lots,
Bayfield County
now requires
3000 sf of
buildable area to
create a
shoreland lot

Does every small, steep or irregularly
shaped parcel qualify for a variance??

Variances

Conditions unique to the property test

- Limitations that prevent ordinance compliance & are common to a number of properties should be addressed by ordinance amendment.
- Circumstances of an applicant such as a growing family or need for a larger garage, are not a factor in deciding variances.



Variations

Public interest test

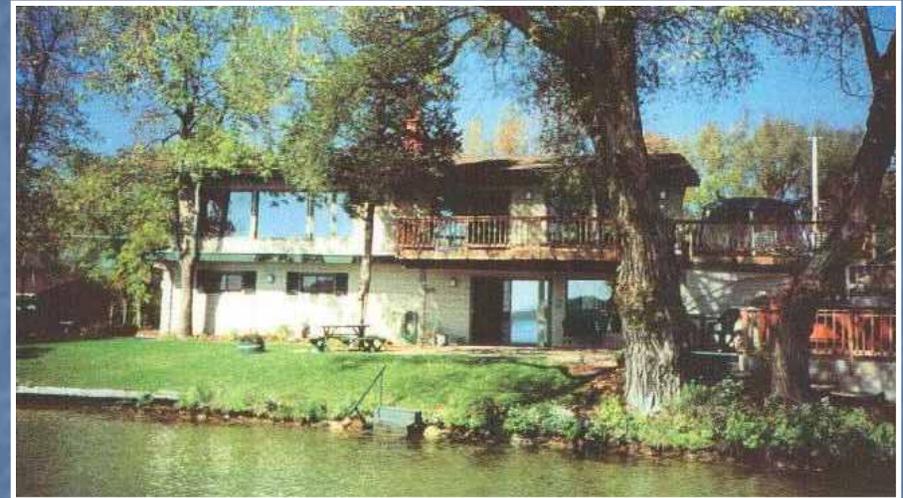
- A variance granted may not harm public interests but is not required to advance them.
- “Public interests” are the purpose and intent of the ordinance that were agreed upon by the county board, representing the community. Those who provide testimony may try to convince you other factors are the “public interests.”
- Short-term, long-term and cumulative impacts of variance requests must be considered. **Zoning staff should provide an impact analysis.**

What does unnecessary
hardship mean for area
variances?

Case law

Ziervogel & area variances...

- House located 26 feet from the OHWM of Big Cedar Lake in Washington County
- Owners wanted a 10-foot vertical expansion of their house to add two bedrooms, two bathrooms, and an office to the house
- Washington County's Ordinance prohibited expanding any structure within 50 feet of the OHWM of a lake



- Washington County BOA denied variance request
- Circuit Court & Court of Appeals affirmed
- Supreme Court changed standard

Case law

Unnecessary hardship test for area variances...

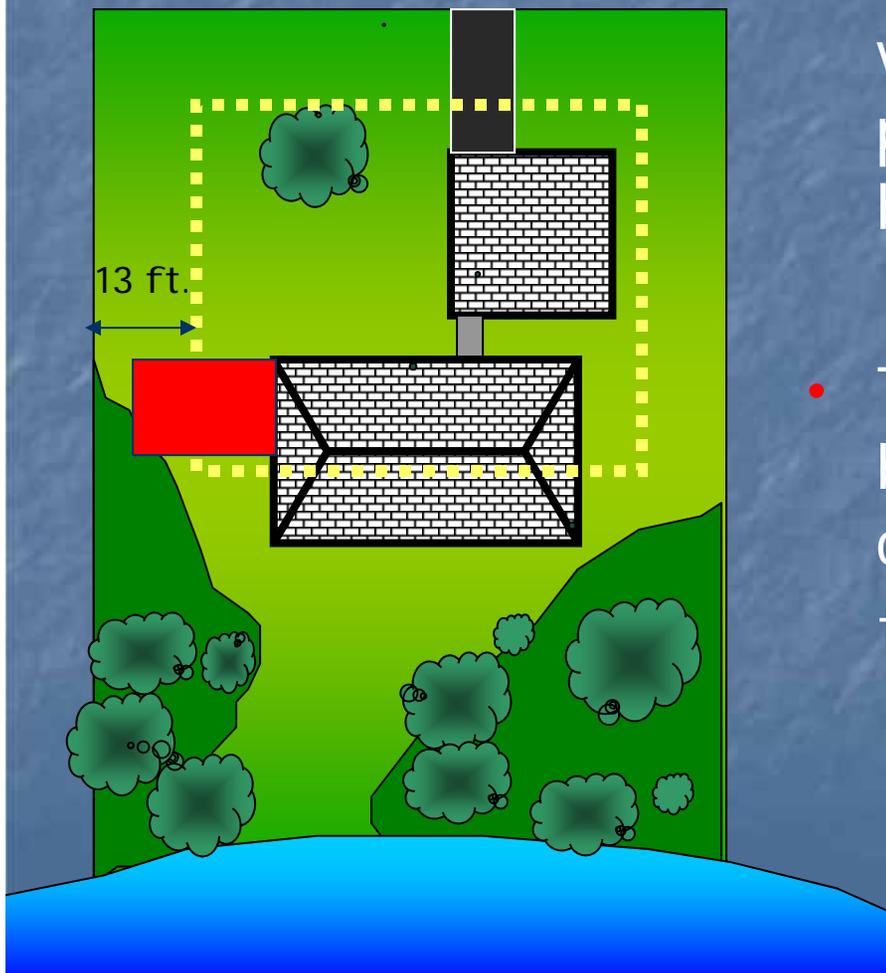
- Unnecessary hardship = when compliance with the ordinance would:
 - unreasonably prevent the owner from using the property for a permitted purpose, or
 - be unnecessarily burdensome in view of ordinance purposes

Ziervogel v. Washington County Board of Adjustment, 2004 WI Supreme Ct.

What does “unnecessarily burdensome” mean??

Case law

- Should an after-the-fact variance be granted for the red porch because its removal would be “unnecessarily burdensome”?
- The WI Supreme Court said NO because the “hardship was self-created and the porch no more than a personal convenience”.



Snyder v. Waukesha County Zoning Board, 1976

Case law

Unnecessary hardship

- Building inspector missed a setback violation for 2 duplexes
- The duplexes were built and the developer then applied for an after-the-fact variance, which the zoning board granted
- Hardship cannot be self-created or created by a prior owner

Accent Developers, LLC v. City of Menomonie BOA and Timber Ridge Homes LLC, 2007 WI Court of Appeals

Unnecessary hardship

- The court noted there was ample evidence of external causes of the hardship and affirmed BOA's grant of a variance because the hardship of removing the duplexes was not solely self-created
- A zoning board may consider an error of local government staff when deciding whether to grant a variance

Is the hardship...

A personal inconvenience?

A hardship that is necessary to achieve ordinance purposes?

If yes to either question, deny variance.



A hardship that is not necessary to achieve ordinance purposes?

If yes and other 2 variance standards are met, then grant variance.

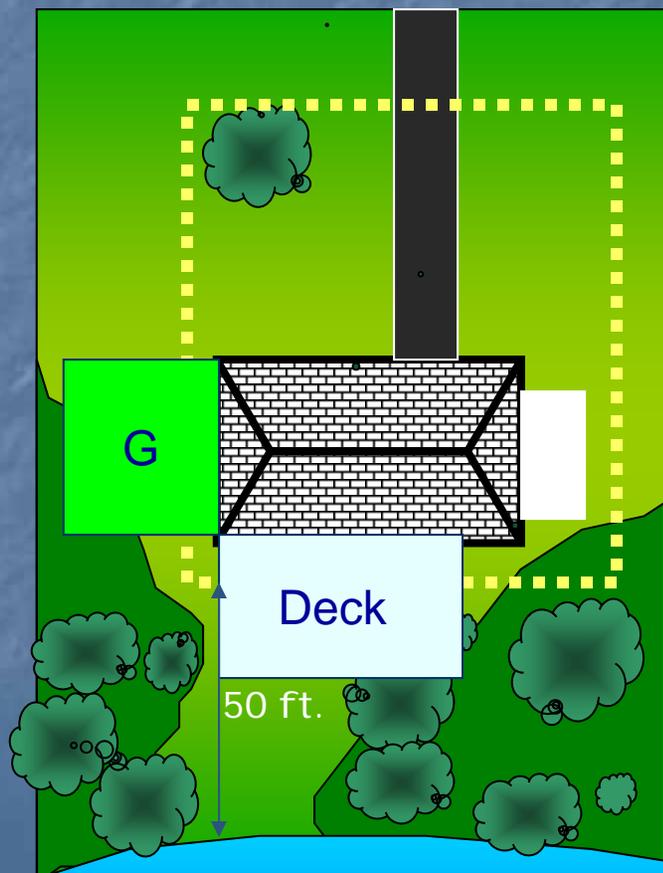
Variations...

- Loss of profit or financial difficulty do not constitute hardship
- A variance runs with the property.
- A variance does not create a nonconforming structure.
- Lack of objections from neighbors does not justify a variance.
- Nor do nearby ordinance violations.

Would you grant the variance?

Case law

Would you grant a variance for the red addition?



- Steep slope under deck
- Other lake properties also have steep slopes
- High value house
- Owners want to enclose the deck closest to water and add on a garage (G)

Block v. Waupaca County Zoning Board, July 2007

Town shoreland zoning

- Statutes exclude towns from having shoreland zoning authority except under Wis. Stat. § 59.692(2)(b) which applies to town ordinances in existence prior to county shoreland zoning. As a result, a town had no jurisdiction to deny a zoning variance.
- We don't know yet whether the WI Supreme Court will take this case

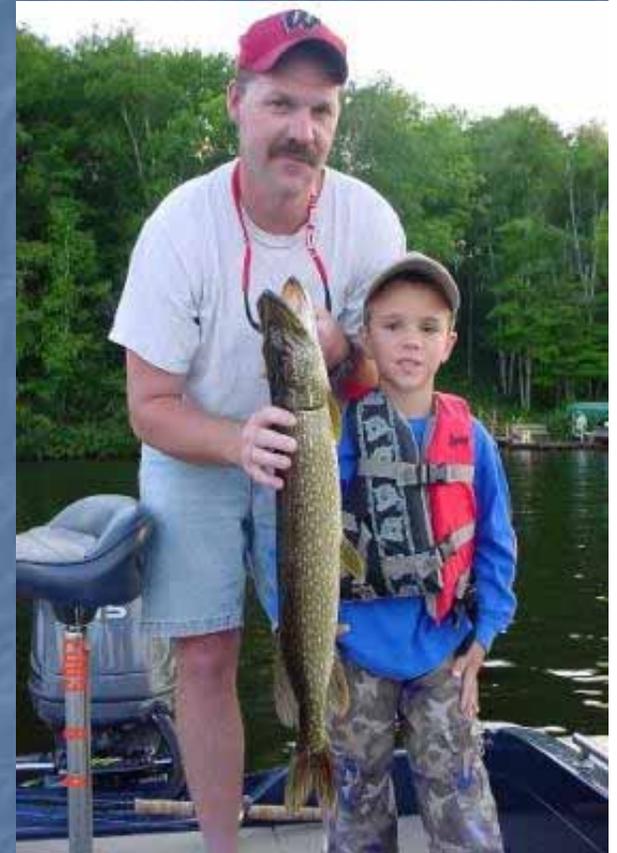
Ways to get or stay involved

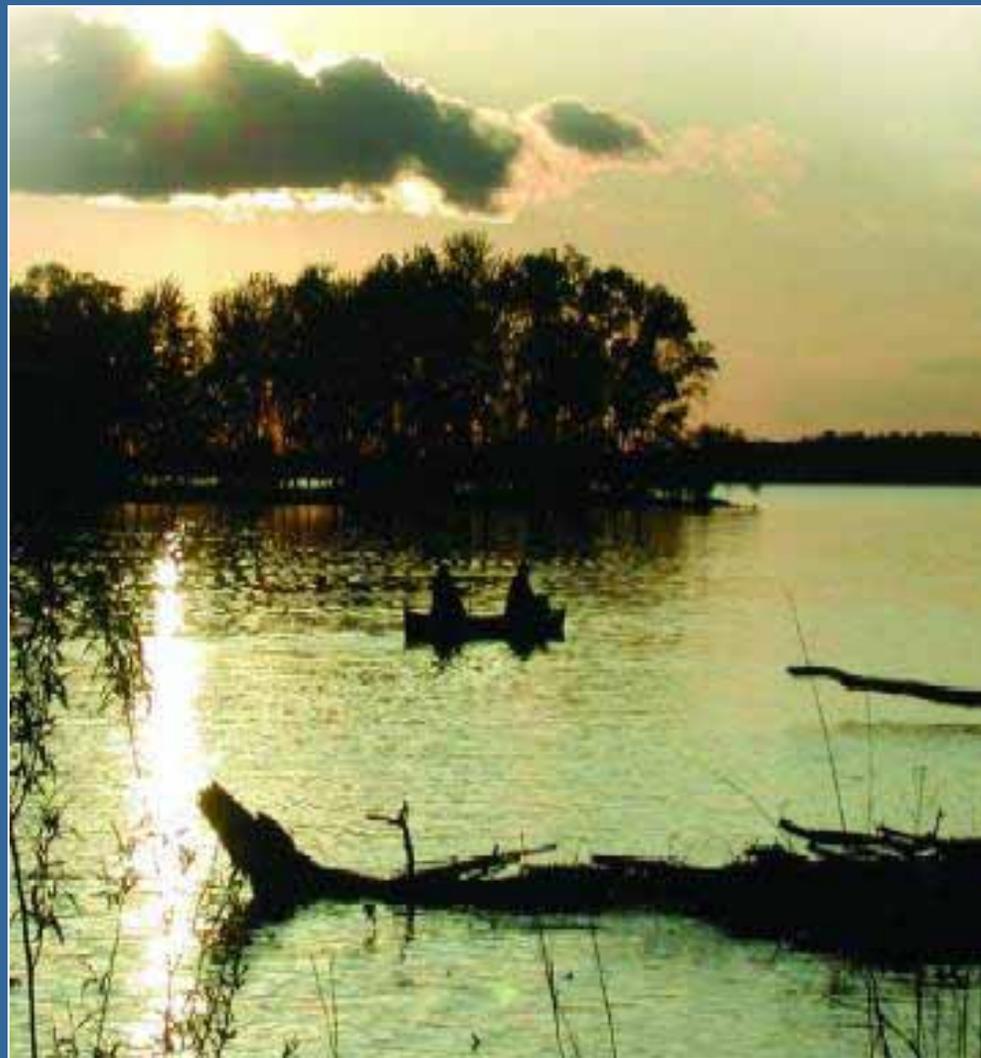
County government

- Meet zoning staff
- Attend county meetings about shoreland zoning: county board meetings, planning and zoning committee meetings and/or zoning board of adjustment meetings
- Run for county board and request to serve on the county planning and zoning committee.
- Ask the county board chair or zoning staff to be appointed to the county board of adjustment
- Get involved as a citizen when the shoreland zoning ordinance is being revised

Conclusions

- The quality of a lake or river depends on what's happening on the land around it
- Shoreland zoning is an effective tool to protect lake health and fisheries
- When impervious surfaces exceed 12% of a river's watershed, northern pike and trout are eliminated
- NR 115 was updated in 2010 to include impervious surface standards; a current NRB proposal to weaken the impervious surface standards may go to the legislature this session or next





*Natural shorelands provide some of
the most effective protection for the
lakes and streams of Wisconsin*

Collaborators

- WI DNR
- WI County Code Administrators
- WI Land and Water Conservation Assn
- University of Wisconsin Extension
 - UWEX Lakes
 - Natural Resource Educators
 - Environmental Resource Center
 - County educators
- Center for Watershed Science and Education
- Wisconsin Lakes (900+ lake groups)
- River Alliance of WI
- WI Wetlands Association
- Wild Ones
- WI Wildlife Federation



If you're a history buff...

- Protectors of the Land and Water:
Environmentalism in Wisconsin, 1961-1968 by
Thomas R. Huffman

Comments, questions??

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Center for Land Use Education
College of Natural Resources
University of Wisconsin - Stevens Point

UW
Extension

University of Wisconsin-Extension

Proposed Changes:

- Impervious Surface Limits
- Nonconforming Structure Standards
- Vegetative Management Standards
- Reporting Standards

Impervious Surface Standards

- Limit application of impervious surface standards to only riparian lots or non-riparian lots that are entirely within 300 feet of the OHWM
 - Eliminates application to portions of parcels
- Impervious surfaces that do not drain directly or drain to treatment system prior to discharge are not counted towards impervious surface limits.

Impervious Surface Standards

- Would allow counties to create a higher impervious surface standard for already highly developed areas
 - Proposed definition
 - Urbanized Areas or Urbanized Clusters in 2010 US Census
 - Commercial, Industrial or Business land use
 - Counties could add additional areas if all of the following meet the standards.
 - At least 500 feet of shoreline
 - Majority of lots exceed 30% impervious OR
 - Lots are located on a lake that is sewerred

Impervious Surface Standards

- For Highly Developed Shorelines
 - Impervious surface standard (IS):
 - No permit needed for
 - residential land use with less than 30% IS
 - commercial, industrial or business land use with under 40% IS
 - Permit with mitigation for expansion over the standard
 - Maximum impervious surface standard:
 - Residential land use exceeds 40% IS
 - Commercial, industrial or business land use exceeds 60% IS

Nonconforming Structures

- Clarify that maintenance and repair includes exterior remodeling, replacement or enhancement of plumbing, electrical, windows etc...
- One-time lateral expansion within setback
 - 200 sq. ft. expansion no closer to OHWM.
 - Could still do vertical expansion
- Clarify discontinuance language
 - Only structures with a nonconforming use
- Eliminate
 - Requirement to remove NC accessory structures for replacement/relocation of NC principal structure.
 - Provision about wet boathouses to clarify that county may regulate dry boathouses

Other Proposed Changes

- **Vegetative Management**
 - Clarify that permit is not required to remove invasive, damaged or diseased vegetation, or vegetation that poses a safety hazard.
- **Reporting standards**
 - Eliminates a requirement that counties submit nonconforming structure permits to the department
 - Reporting requirements would then reflect what has been required since 1968.

From WI Water Law by Kent

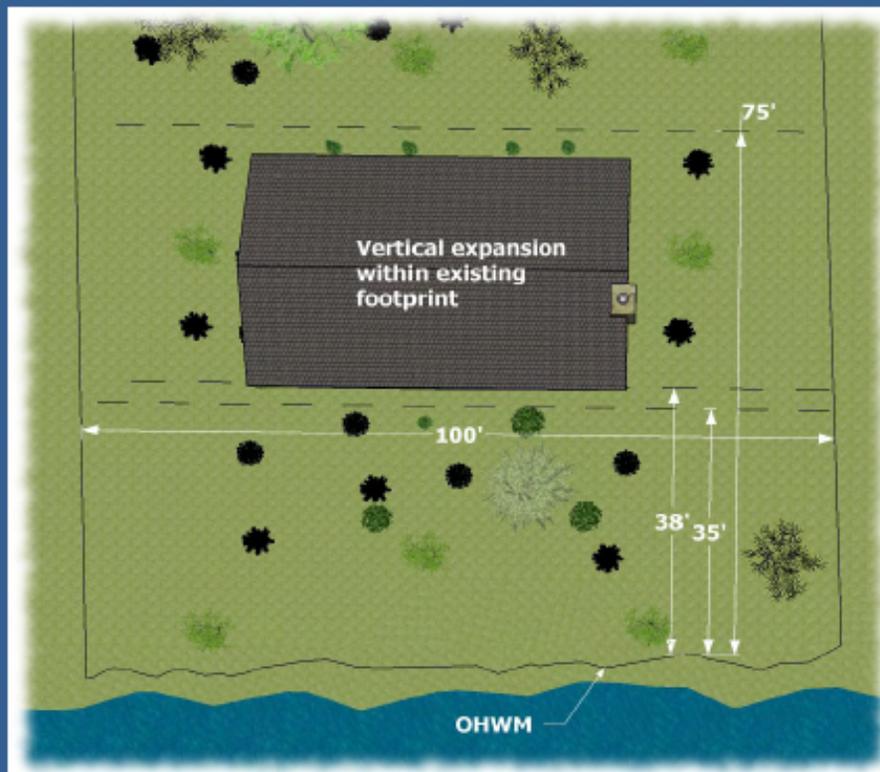
- **2013 Wis. Act 80** repealed the provisions in Wis. Stat. § 59.692(7) which provided for the application of county shoreland zoning to areas that were annexed into a city or village after May 7, 1982 or incorporated into a city or village after April 30, 1994. The new law has created separate requirements for cities (Wis. Stat. § 62.233) and villages (Wis. Stat. § 61.353) to enact more limited shoreland zoning ordinances for areas annexed after May 7, 1982 or incorporated after April 30, 1994.

Under the new law shoreland zoning for annexed or incorporated areas is only required to: (1) impose a shoreland setback for structures within 50 feet of the OHWM (which can be reduced to 35 feet under certain development conditions) and (2) require the maintenance of a vegetative buffer zone within 35 feet of the OHWM subject to an access corridor of 30 feet for every 100 feet. The other provisions of NR 115 are not required, although the law appears to allow cities and villages to be more restrictive. The law also provides that the new ordinances do not apply to lands adjacent to an artificially constructed drainage ditch, pond, or stormwater retention basin if they are not hydrologically connected to a naturally navigable water body.

The law is effective December 14, 2013 and requires new ordinances be enacted by July 2014.

Diagram A:

Nonconforming Principal Structure Located Greater than 35 feet from the OHWM.
Vertical Expansion within the Existing Building Envelope.



NR115.05(1)(g)(5)

- Has not been discontinued for > 12 months
- Limited to height NR115.05(1)(f)
- Mitigation required
- All other provisions (IS) must be met



Diagram D:

Nonconforming Principal Structure Located greater than 35 feet from the OHWM. Horizontal Expansion at a setback greater than 75 feet from the OHWM.

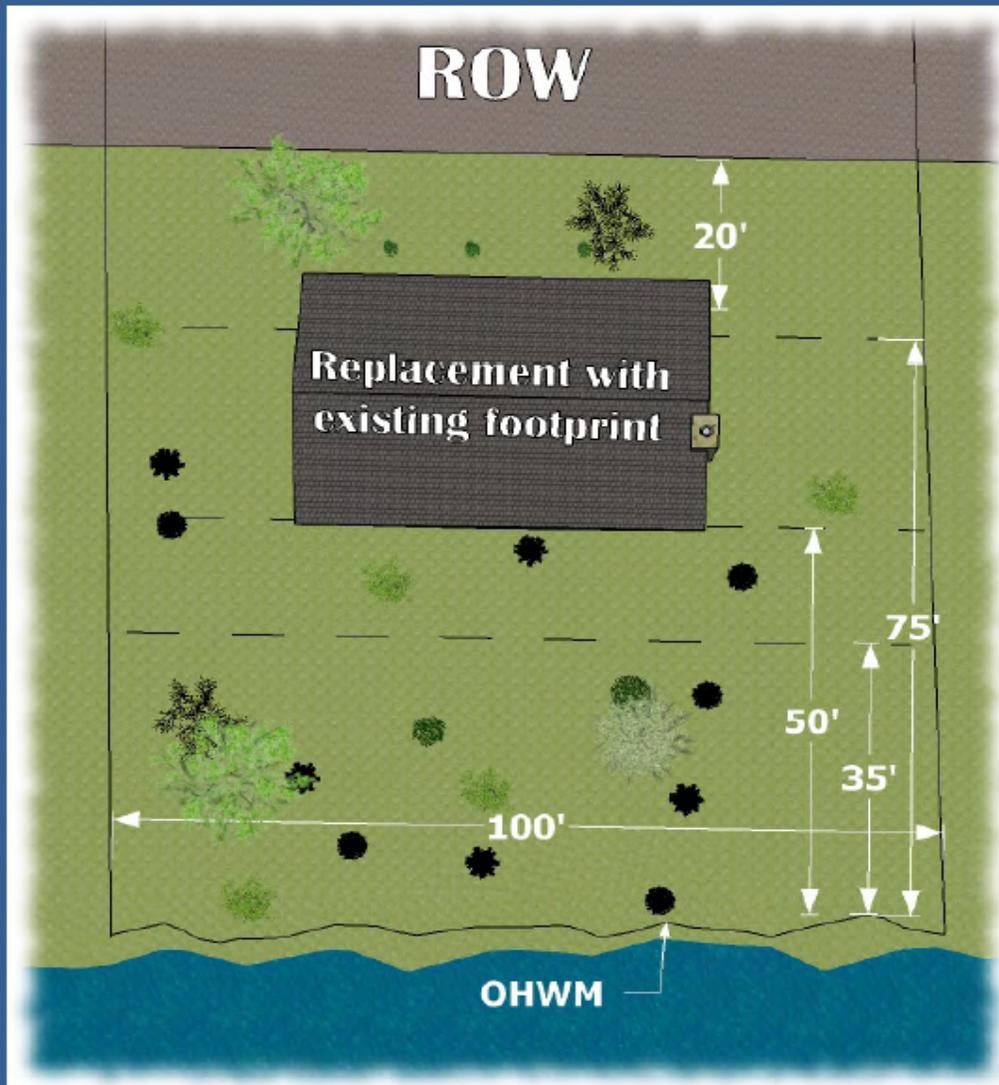


115.05(1)(g)5m

- Use has not been discontinued for a period of 12 months or more
- All other provisions apply

Diagram E:

Nonconforming Principal Structure Located greater than 35 feet from the OHWM. Replacement within the Existing Building Envelope.



NR115.05(1)(g)(6)

Permitted replacement @ 50'. No other compliant location for a principal structure of comparable size.

- Was not been discontinued > 12 months
- No portion of replacement can be closer than existing setback
- County must look @ options
- Mitigation required
- Removal of all accessory structures < 75'