

Shoreland Zoning

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Shoreland Zoning Policy
Coordinator

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Shoreland Management Program History

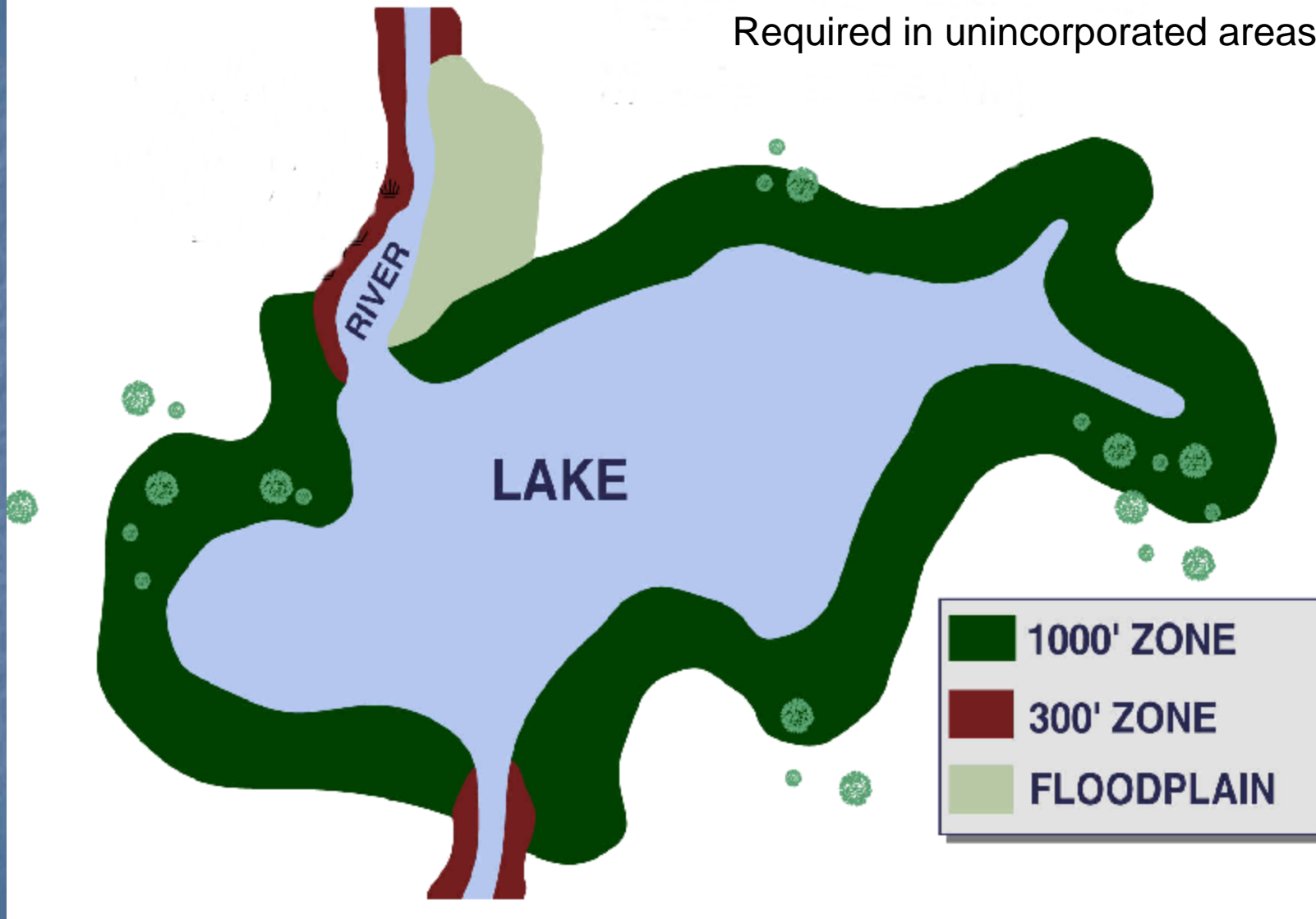
- Water Resources Act directed State Dept of Resource Development to develop minimum statewide shoreland standards
 - Deadline for county adoption of an appropriate ordinance was January 1, 1968
 - By 1971, all counties had adopted and were administering a shoreland ordinance
- 1980: NR115 amended to create minimum shoreland-wetland standards, which were also applied to cities and villages in 1981 through legislative directive (NR117)
- 2013: Wisconsin Act 80 changed shoreland standards for city/village shorelands annexed after 1982 and/or cities/villages incorporated after 1994

A partnership between state and local government

- Effective shoreland ordinance administration requires a working partnership between DNR & local governments
- Local government is responsible for administration and enforcement
- DNR may use these tools to ensure public interests:
 - technical assistance and education for local decision makers
 - veto of noncompliant text and map amendments by adoption of a superseding ordinance
 - appeal of shoreland zoning board decisions to circuit court

Shoreland zoning applies near lakes & rivers

Required in unincorporated areas



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



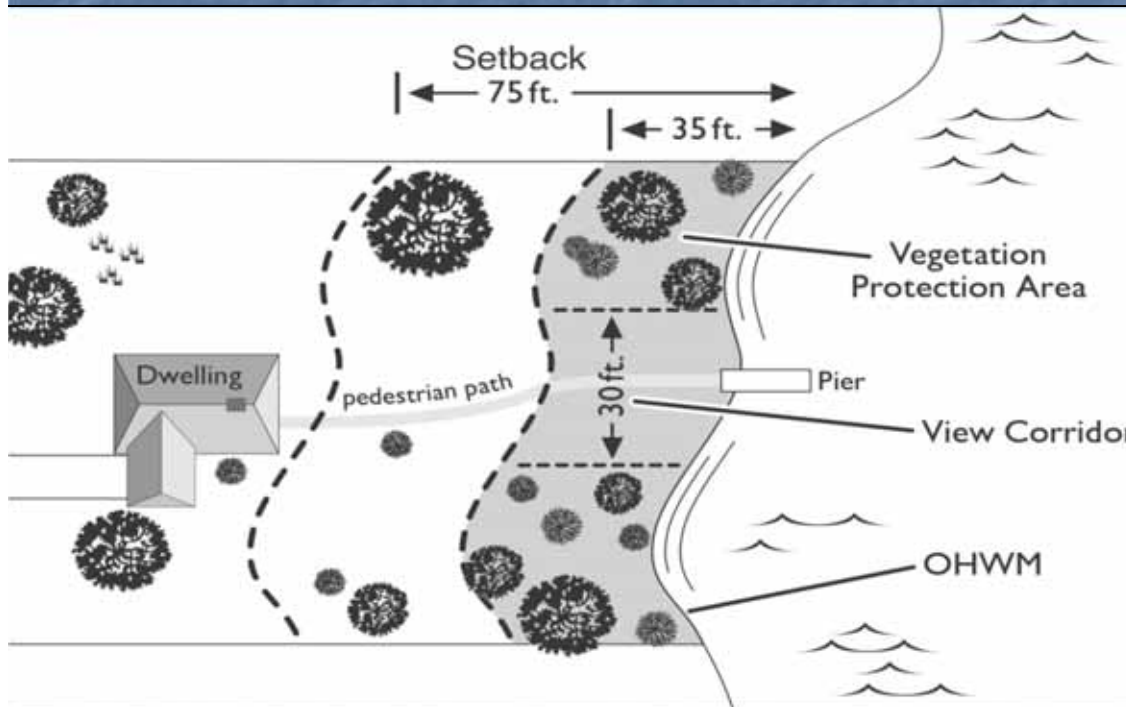
Without shoreland zoning

Purposes of shoreland zoning include...

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

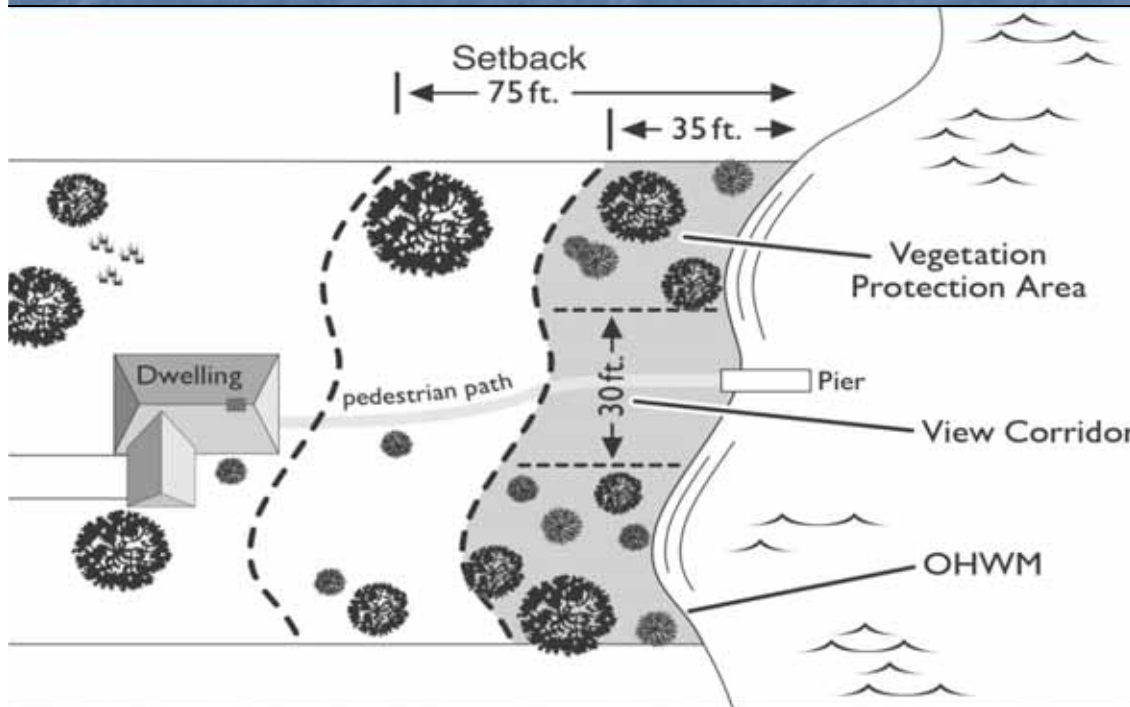


Minimum WI shoreland standards (NR 115)



- Adopted in 1968
- Lot size
- Vegetation protection area (buffer)
- Shoreline setback
- Filling/grading
- Sanitary codes
- Subdivision review

How do these standards prevent and control water pollution?



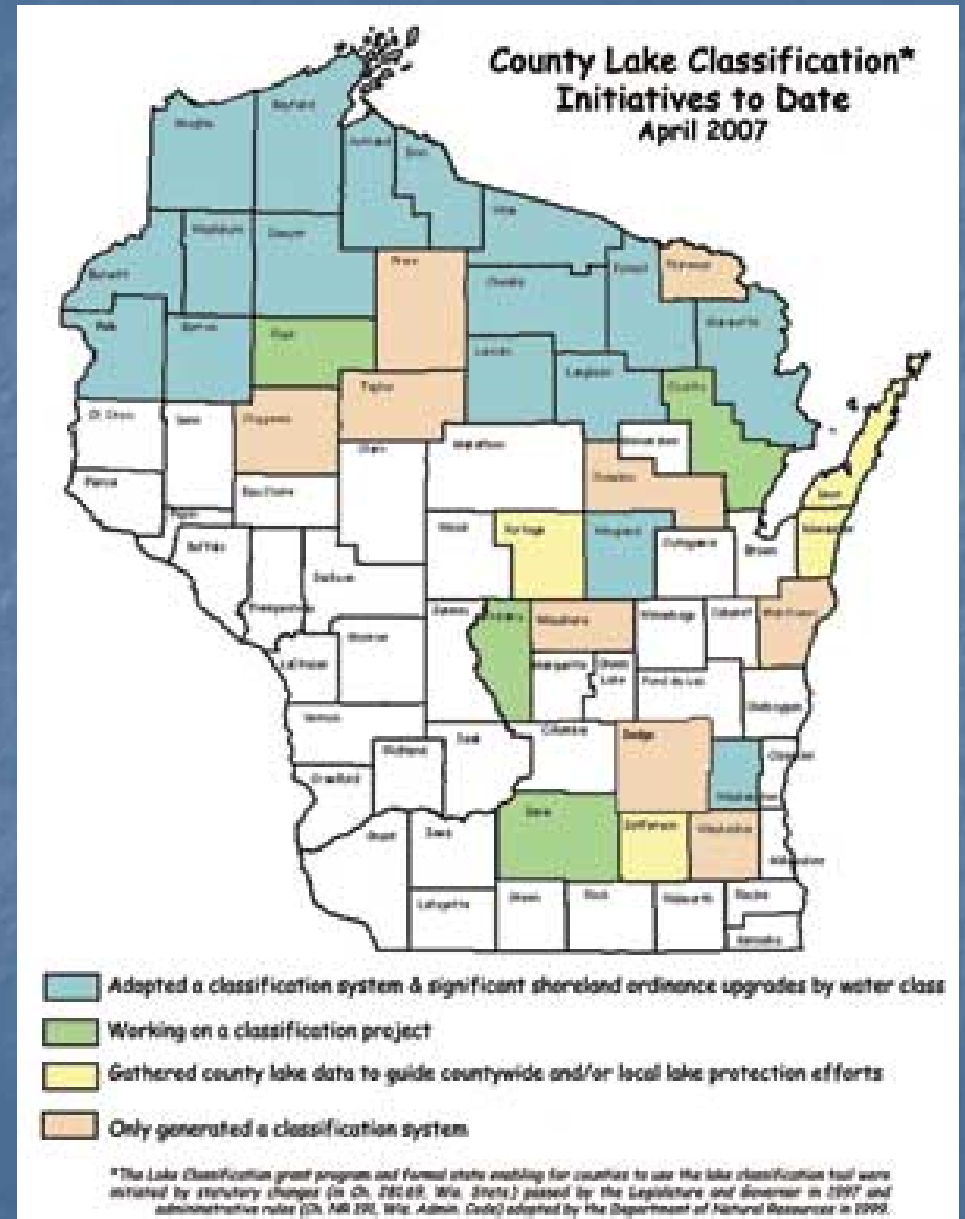
1. Curb pollutants at their source such as eroding soils
2. Cut runoff that carries pollutants to the waterway by minimizing impervious surfaces
3. Capture and cleanse pollutant-carrying runoff with shoreland buffers or rain gardens

Shoreland zoning From the 1990's until today



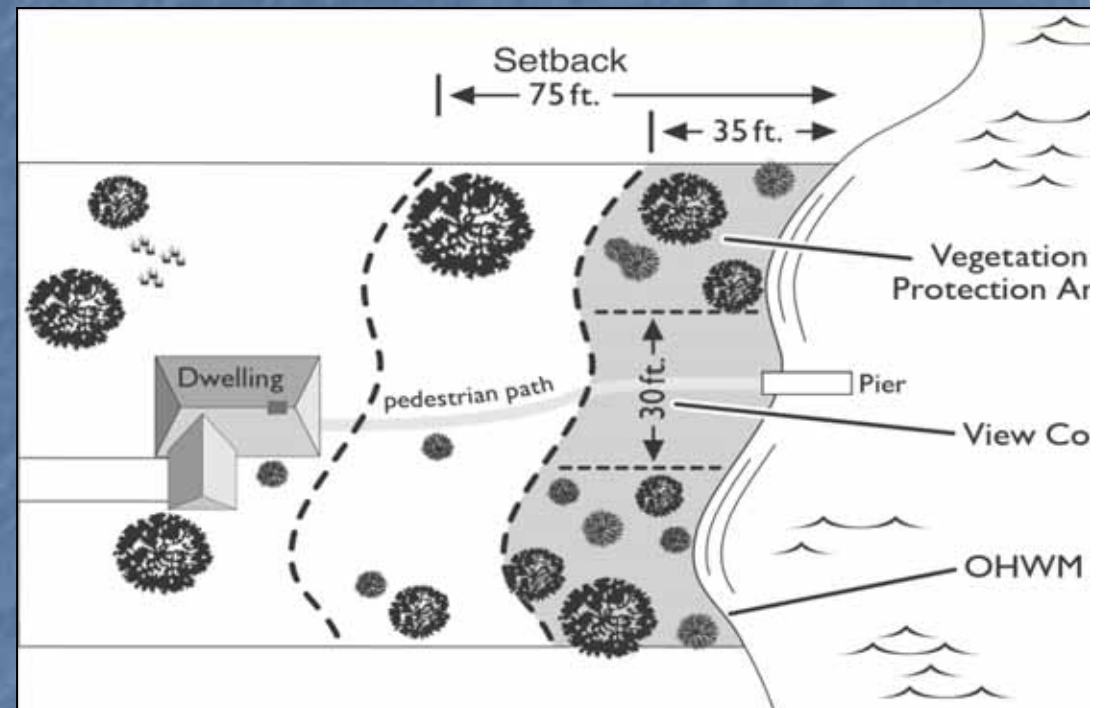
Counties led...

- Many counties recognized inadequacies in 1968 state SL zoning law
- Starting in 1990s, counties adopted higher standards



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)



Changes to state minimums

Process to upgrade state shoreland standards from 2002-2010 resulted in agreement to changes from lake, river, realtor and builder groups

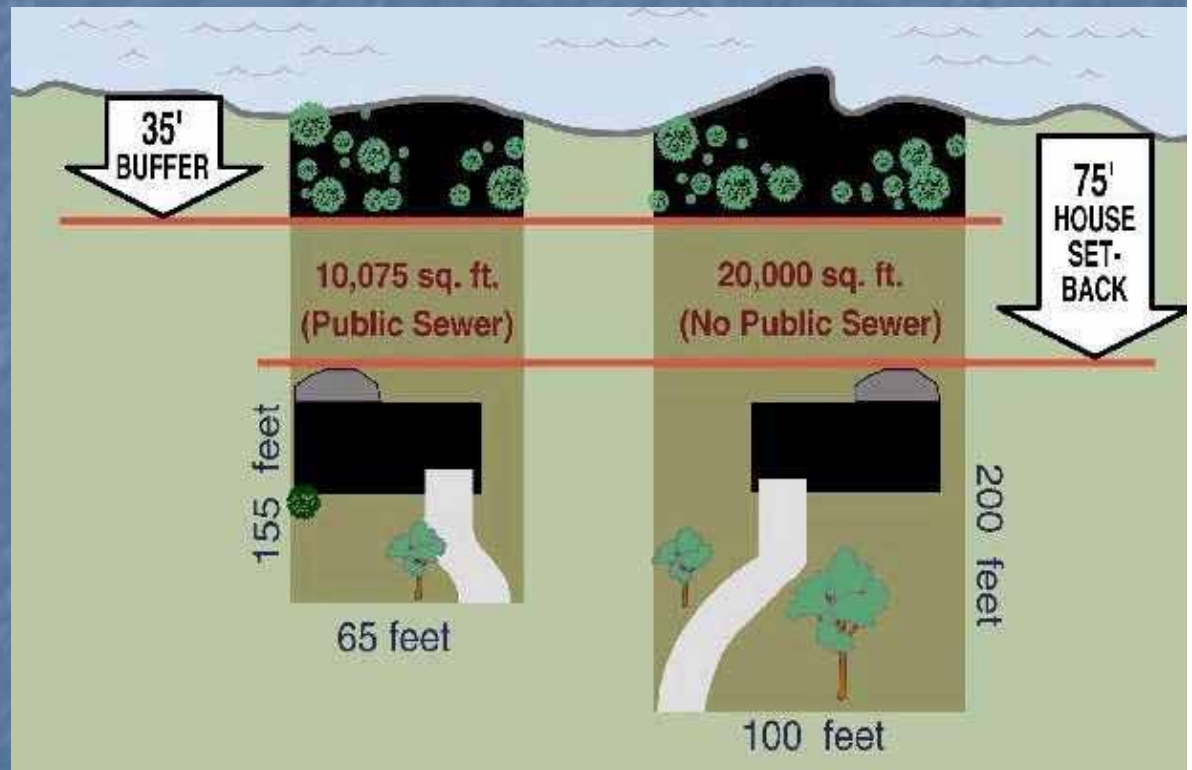
Changes again in 2013 was based on input from county zoning staff and legislators

Compromise in setting statewide minimum standards goal is to balance the rights of hunting/fishing, water quality/natural scenic beauty with private property rights

What stayed the same and what changed?

No changes to 1968 standards on

- Lot sizes
- Buffer size
- Setbacks



Required Lot Size

- Unsewered lots need to be 100' wide and 20,000 square feet in area
- Sewered lots need to be 65' wide and 10,000 square feet in area
- Counties may be more restrictive
 - Substandard lots can be used for construction purposes if never reconfigured/combined, never developed with structure over lot line, and all other ordinance requirements are met

Vegetative Buffer

- 35 ft. buffer required
- Viewing and access corridor may not exceed lesser of 30% of shore frontage or 200 feet
- Damaged, invasive, exotic, safety hazard can be removed provided replaced by replanting in same area
- Counties may be more restrictive

Shoreline buffers

1968 law

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

Current

- 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”



Shoreline Setback

- 75' setback required for all structures
 - Exemptions: boathouses, walkways less than 60" necessary to access shore, satellite dish less than 2 m
 - If existing development pattern (principal structure on adjacent lot w/in 200' of proposed principal structure) averaging may be applicable

Setbacks

- Required 75' setback stayed the same however the way averaging is done has been changed
- Need adjacent principal structure on each side

What's been changed or is new?

- Impervious Surface Standards
- Nonconforming Principal Structure – flexibility (maximum)
- Mitigation
- Vegetative buffer standards clarified
- Substandard lots (maximum)
- Height

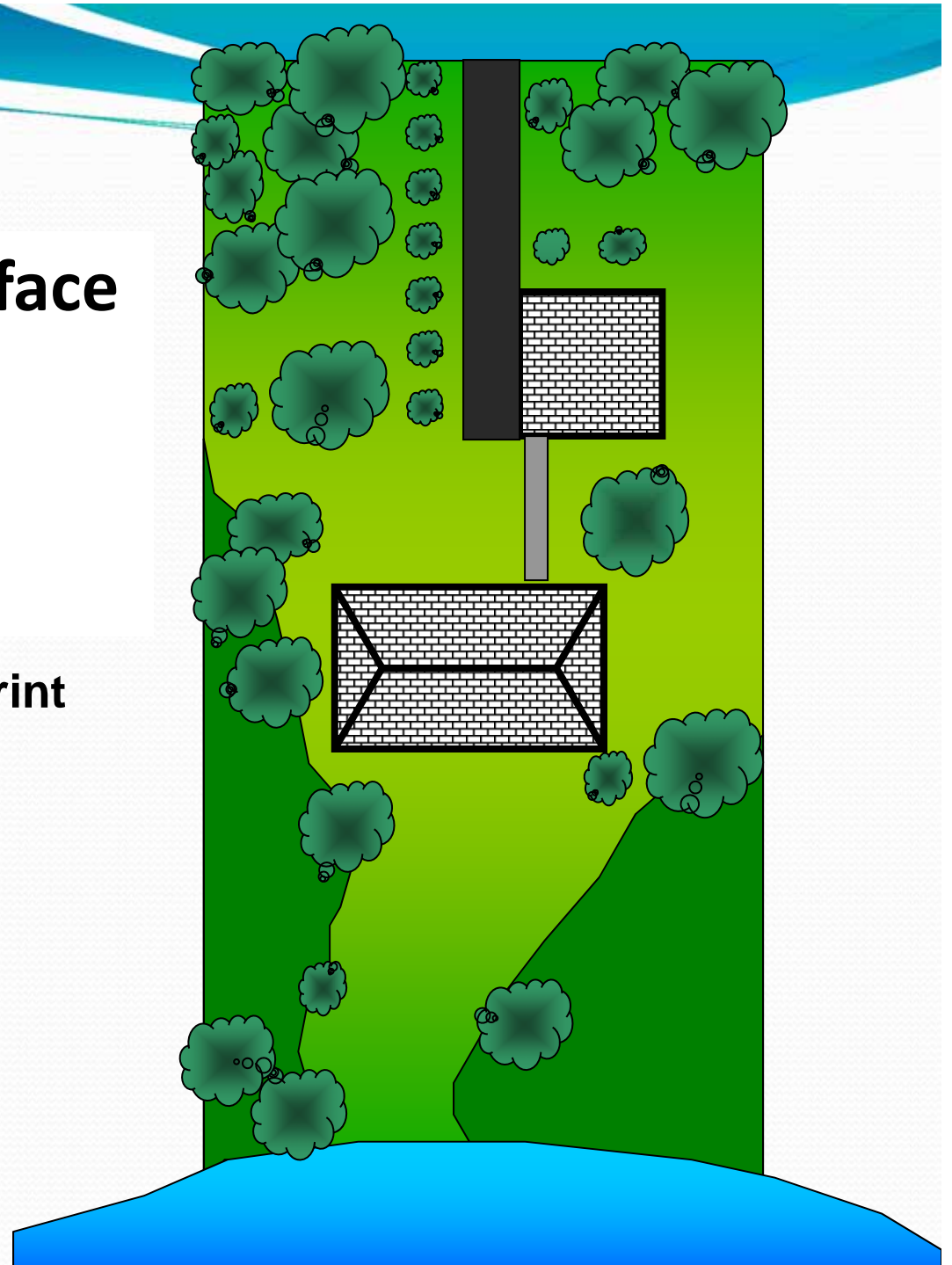
2010 Impervious surface standards

- What is an impervious surface?
 - An area that releases all or a majority of the precipitation that falls on it.
 - Includes rooftops, sidewalks, driveways, parking lots, etc.
- What are the geographical boundaries of this standard?
 - Applies to property within 300-feet of any waterway
- **What is the standard?**
 - Keep what you have
 - For riparian lots or non-riparian lots that are entirely within 300 feet of the OHWM
 - Up to 15% impervious no permit is needed
 - Between 15% - 30% ok with a permit and mitigation

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





Effects of impervious surfaces

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

2013 relaxations of impervious surface standards

- Counties may create “highly developed shorelines”
 - Urbanized Areas or Urbanized Clusters in 2010 US Census
 - Commercial, Industrial or Business land use
- Counties may add additional areas if all of the following standards are met
 - At least 500 feet of shoreline
 - Majority of lots exceed 30% impervious OR
 - Lots are located on a lake that is sewerred

2013 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 protection 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.

2013 Nonconforming Principal Structures

- Clarify that maintenance and repair includes exterior remodeling, replacement or enhancement of plumbing, electrical, windows etc...
- **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.

- **59.692(1s), Stats.**, allows destroyed nonconforming principal structures to be reconstructed.
- “referred to as the burn-down rule”
- Tornado, wind, fire, ice, etc.

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

2013

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

Mitigation examples

- Restoring vegetative buffer or portions of
- Infiltration techniques/devices
- Rain gardens
- Removal of accessory structures within shoreland setback
- Increase in setback from OHWM

Shoreland mitigation - flexibility

- 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

Why is this important?

- reduces the potential variance requests for existing non-conforming structures while holding a higher level of protection for the resource.
- allows a landowner to have a well maintained usable property in exchange for addressing water quality through approved methods (mitigation). This increases property values and water quality for a positive impact.

Substandard lots

A legally created lot or parcel that met minimum area and minimum average width requirements when created, but does not meet current lot size requirements, may be used as a building site if all of the following apply:

- The substandard lot or parcel was never reconfigured or combined with another lot or parcel by plat, survey, or consolidation by the owner into one property tax parcel.
- The substandard lot or parcel has never been developed with one or more of its structures placed partly upon an adjacent lot or parcel.
- The substandard lot or parcel is developed to comply with all other ordinance requirements.

-

Height

- 35' height maximum within the shoreland setback area
- Applies to first 75 feet from OHWM, to protect natural scenic beauty

Counties may be more restrictive

- Counties may be more restrictive with exception of regulating nonconforming structures and substandard lots
- Locally can address diverse and unique water resources based on existing and proposed development patterns
- Lake classification

Do the revised standards in NR 115 apply to villages/cities?

- NO
- Previous requirement required lands that were subject to county shoreland zoning but later incorporated or annexed to continue to receive the same protection that the county shoreland zoning provided

2013 Act 80

- Repealed annexation/incorporation provisions in 59.692(7)
- Created new provisions requiring cities and villages to adopt shoreland zoning standards for areas annexed after 5/7/1982 and incorporated after 4/30/94
- Effective Dec. 14, 2013

Act 80 requirements – minimum standards

- 50' setback from OHWM for principal structures
- Averaging allowed
- Maintenance of vegetative buffer
 - Removal of dead/diseased/invasive except all removed then replace with new vegetation
 - Viewing/access corridor no greater than 30' wide for every 100' of shoreline

Can municipalities be more restrictive than Act 80 standards?

- Yes, municipalities can be more restrictive and add additional standards

County enforcement of municipal shoreland ordinance?

- Yes – s. 66.0301 allows a municipality to enter into a cooperative agreement/contract to provide services.
- NR 115 standards are more restrictive and would be in compliance with the Act.

NR 117

- Establishes minimum standards for cities & villages for shoreland-wetland regulations
- Regulations became effective 1983
- Establishes uses permitted

Questions?

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