

## Chapter RD 15

## WISCONSIN'S SHORELAND MANAGEMENT PROGRAM

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**RD 15.01 Introduction.** (1) The Water Resources Act (Chapter 614, Laws of Wisconsin, 1965) requires counties to enact regulations for the protection of all shorelands in unincorporated areas by January 1, 1968. Shorelands as defined by the law, are lands within 1,000 feet of a lake, pond or flowage and lands within 300 feet of a river or stream or to the landward side of the floodplain, whichever distance is greater.

(2) The statute defines the purposes of regulations enacted for shoreland protection to "further the maintenance of safe and healthful conditions; prevent and control water pollution; protect spawning grounds, fish and aquatic life; control building sites, placement of structure and land uses and reserve shore cover and natural beauty."

**History:** Cr. Register, November, 1968, No. 155, eff. 12-1-68.

**RD 15.02 Nature of the program.** (1) The water resources act creates section 59.971, Wis. Stats. which calls for the zoning of unincorporated shorelands by each county. Such zoning does not require the approval of the town boards. To assure that such zoning will be accomplished section 59.971 (6) Wis. Stats. states:

"If any county does not adopt an ordinance by January 1, 1968, or if the division of resource development, after notice and hearing, determines that a county had adopted an ordinance which fails to meet reasonable minimum standards in accomplishing the shoreland protection objectives, the division of resource development shall adopt such an ordinance."

(2) In addition to the zoning regulations, the purposes of the law imply the need for land division regulations to control building sites, placement of structures and land uses as well as sanitary regulation to prevent and control water pollution.

(3) Therefore, for a county to comply with the water resources act, it is necessary for the county to enact a shoreland zoning ordinance including land division controls, sanitary regulations, and administrative provisions ensuring enforcement of the controls and regulations.

(4) It will be the policy of the division of resource development, in the discharge of its responsibility to assure achievement of legislative goals, to require adherence to certain specific standards and criteria. The standards and criteria are designed to define the objectives of the regulations. Although the objectives may be achieved

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in a variety of ways, a model ordinance is available, illustrating a recommended means of doing so.

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**RD 15.03 Shoreland regulation standards and criteria.** (1) ESTABLISHMENT OF APPROPRIATE DISTRICTS. Shoreland areas can usually be covered by regulations appropriate to wetlands (conservancy district), recreation-residential districts, and general purpose districts. Where detailed planning has been accomplished, other types of districts may also be desirable.

(2) ESTABLISHMENT OF SUBDIVISION REGULATIONS. The county must establish a procedure for county review and approval or disapproval of all proposals for the division of a tract of land that creates 3 or more parcels or building sites of 5 acres each or less within a 5-year period.

No subdivision may be eligible for approval if the subdivision:

- (a) Is likely to result in hazard to the health, safety or welfare of future residents.
- (b) Fails to maintain proper relation to adjoining areas.
- (c) Does not provide public access to navigable waters, as required by law.
- (d) Does not provide for adequate storm drainage facilities.
- (e) Violates any state law or administrative code provision.

(3) ESTABLISHMENT OF LAND USE REGULATIONS. The ordinances adopted must provide sufficient control of the use of shorelands to afford the protections of water quality specified in the Statute. The controls must include the following:

(a) The minimum lot size must afford protection against danger to health and excessive hazard of pollution of the body of water.

1. Lots served by public sewer will normally have a minimum width of 65 feet and a minimum area of 10,000 square feet.

2. Lots not served by public sewer will have a minimum width of 100 feet and a minimum area of 20,000 square feet.

3. Larger dimensions may be required if the specified minimums do not afford adequate protection against pollution of the water.

(b) The permitted location of buildings and structures must be such as to conform to health requirements and to preserve natural beauty. This will normally require a setback of 75 feet from the normal high water line. Structures are also subject to flood plain management regulations.

(c) The regulation of the cutting of trees and shrubbery so as to protect scenic beauty, control erosion and reduce flow of effluents or nutrients from the shoreland. For example, in the strip 35 feet inland from the normal high water mark, no more than 30 feet in any 100 feet should be clear cut. In other areas, tree and shrub cutting should be governed by consideration of the effect on water quality and should be in accord with accepted management practices.

(d) Filling, grading, lagooning and dredging may be permitted only in accord with state law and where protection against erosion, sedimentation, and impairment of fish and aquatic life has been assured.

(4) **ESTABLISHMENT OF SANITARY PROTECTIONS.** The protection of health and the preservation and enhancement of water quality require special shoreland regulations. In part these are provided by statute and administrative code but some should be reiterated in regulations adopted by the county.

(a) Where public water supply systems are not available, private well construction will conform to the Wisconsin Administrative Code.

(b) Where a public sanitary sewer is not available, construction and operation of private sewage disposal systems shall comply fully with Wisconsin Statutes and the Administrative Code.

(5) **ADOPTION OF ADMINISTRATIVE AND ENFORCEMENT PROVISIONS.** Inasmuch as the shoreland regulations are useful only to the extent they are applied, it is essential that the regulations provide for:

(a) An administrator.

(b) A permit system.

(c) An exception procedure (subject to timely review and prior approval by the division of resource development).

(d) A board of adjustment.

**History:** Cr. Register, November, 1968, No. 155, eff. 12-1-68.

**RD 15.04 The role of the division of resource development.** (1) The division of resource development is directed to assist the counties in this function and to review and evaluate the administration of the regulations. If necessary, the division may recommend to the natural resources board the adoption and enforcement of an ordinance for a county, if the county fails to meet the standards and criteria.

(a) In approaching this responsibility the division plans on the following procedure: On January 2, 1968, the administrator of the division of resource development shall request each county to report in writing stating its progress in the zoning of its shorelands. From such reports, a listing shall be made by the division, indicating the status of compliance by the counties.

1. *Full compliance.* a. Compliance with the requirements of Section 59.971 will be determined by comparing the county shoreland regulations with the state minimum standards for shoreland protection as outlined in this "Shoreland Management Program." Counties that have enacted regulations that meet the minimum standards for shoreland protection identified below will be considered as complying with the water resources act. Deviation from the standards may be authorized if justification therefore is submitted by the county and is found acceptable by the division of resource development.

b. Compliance status must also be maintained by the county during subsequent reevaluation of the regulations to ascertain its effectiveness in maintaining the quality of Wisconsin water. A county must keep its regulations current, effective, and workable to retain its status of full compliance.

c. Compliance status is dependent on evaluation and reevaluation of the effectiveness of its enforcement by the county.

2. *Partial compliance.* a. Many counties are undertaking a comprehensive land use planning program, either on an individual or multi-county basis. To achieve the most compatible development plan to guide shoreland use, it is in the best interests of the county, as well as the state, for such comprehensive planning programs to continue.

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b. Formal assurance by a county zoning committee to the division of resource development that planning programs underway will provide needed data and will result in effective shoreland regulations will be accepted tentatively as partial compliance with the statutory requirements. Acceptance by the division will indicate the time limit within which the shoreland regulations are to be adopted. Full compliance status may be assigned by the division of resource development after evaluation of the regulations so adopted.

c. When efforts of a county to draft shoreland regulations without professional planning assistance are incomplete as of January 1, 1968, the division of resource development will evaluate the completed portion of such regulations. If the completed portion meets the minimum standards set by the division of resource development and progress is being made by the county towards completion of the ordinance, the county will be considered as partially complying with the requirements of the water resources act.

d. After determining partial compliance, the division of resource development will impose a reasonable time restriction for the completion of the regulations. Upon completion, the division of resource development will again review the regulations, to ascertain if they fully comply with the water resources act.

3. *Non-compliance.* a. Counties that have regulations that do not meet the minimum standards of the division of resource development shall be considered as not complying with the requirements of the water resources act pertaining to shoreland zoning.

b. For these counties to achieve compliance status, they shall modify their regulations to meet the minimum standards within a time limit established by the division.

c. Counties that have not drafted shoreland regulations shall be non-complying counties. They shall state to the administrator of the division of resource development their reasons, if any, for failure to comply with the water resources act. The administrator shall then require the county either to proceed with regulation formation within a given time period or to have the staff of the division of resource development either draft the regulations or contract with a consultant to draft the regulations. All costs for such action by the division of resource development shall be borne by the noncomplying county.

**History:** Cr. Register, November, 1968, No. 155, eff. 12-1-68.

**RD 15.05 Assistance to counties.** To the full extent of its resources, the division of resource development will provide advice and assistance to the counties, seeking the highest practicable degree of uniformity consistent with the objectives of the shoreland regulation provisions of the water resources act.

**History:** Cr. Register, November, 1968, No. 155, eff. 12-1-68.