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Chapter NR 115

WISCONSIN'S SHORELAND MANAGEMENT PROGRAM

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History: Chapter RD 15 as it existed on August 31, 1970 was repealed and a new chapter numbered NR 115 was created, Register, August, 1970, No. 176, effective September 1, 1970.

NR 115.01 Introduction. (1) The water resources act (chapter 614, laws of 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 navigable lake, pond or flowage and lands within 300 feet of a river or navigable 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 structures and land uses and reserve shore cover and natural beauty."

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

NR 115.02 Nature of the program. (1) The water resources act creates section 59.971, Wis. Stats., which requires the zoning of shorelands in the unincorporated areas of each county. Such zoning shall not require the approval of the town boards. To assure that such zoning will be accomplished, section 59.971 (6), Wis. Stats., states that if any county does not adopt an ordinance by January 1, 1968, or if the department of natural resources, 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 department shall adopt such an ordinance.

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

(3) It is the policy of the department, in the discharge of its responsibility under section 144.26, to require adherence to certain specific standards and criteria. The standards and criteria are intended to define the objectives of the regulations.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

NR 115.03 Shoreland regulation standards and criteria. (1) ESTABLISHMENT OF APPROPRIATE ZONING DISTRICTS. Shoreland area development can usually be controlled by regulations appropriate to wetlands (conservancy district), recreation-residential districts and general purpose districts. Where detailed land use planning has been accomplished, other types of districts may also be desirable.

(2) **ESTABLISHMENT OF LAND USE ZONING REGULATIONS.** The zoning provisions adopted must provide sufficient control of the use of shorelands to afford the protection of water quality as specified in Wis. Adm. Code chapters RD 2 and 3. The provisions shall include the following:

(a) *Minimum lot sizes.* All future lots in the shoreland area shall afford protection against danger to health and hazard of pollution of the adjacent body of water.

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

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

(b) *Building setbacks.* The permitted location of buildings and structures shall conform to health requirements, preserve natural beauty and reduce flood hazards.

1. Unless an existing development pattern exists, a setback of 75 feet from the normal high waterline shall be required.

2. No building shall be erected in the floodway of a stream (see chapter NR 116, definitions).

3. Boathouses or similar structures which require a waterfront location shall not be used for habitation nor extend toward the water beyond the ordinary high waterline.

4. Buildings and structures shall be subject to any applicable floodplain zoning regulations.

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

(d) *Filling, grading, lagooning, dredging.* 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.

(3) **ESTABLISHMENT OF SANITARY REGULATIONS.** The protection of health and the preservation and enhancement of water quality require sanitary regulations to be adopted by the county. (a) Where public water supply systems are not available, private well construction shall conform to Wis. Adm. Code chapter RD 12.

(b) Where a public waste collection and treatment system is not available, design and construction of private sewage disposal systems shall fully comply with Wis. Admin. Code section H62.20.

(4) **ADOPTION OF ADMINISTRATIVE AND ENFORCEMENT PROVISIONS.** Each ordinance required by these regulations shall provide for:

(a) The appointment of an administrator and such additional staff as the work load may require.

(b) A planning agency (planning and zoning committee) and a board of adjustment as required by law.

(c) A system of permits for all new construction, reconstruction, structural alteration or moving of buildings and structures, including sanitary waste disposal and water supply facilities. A copy of all applications shall be filed in the office of the county administrator.

(d) Regular inspection of permitted work in progress to insure conformity of the finished structures with the terms of the ordinance.

(e) A variance procedure relating to the use, change of use or alteration of nonconforming lands and structures, and a special exception procedure for uses presenting special problems of pollution or flood hazard. The county shall keep a complete record of all proceedings before the board of adjustment and planning agency.

(f) Timely notice to the floodplain-shoreland management section of the department of natural resources of hearings on proposed variances, special exceptions and amendments and delivery to that section of copies of decisions on such variances, special exceptions and such amendments, when adopted.

(g) Mapped zoning districts and the recording, on an official copy of such map, of all district boundary changes.

(h) The prosecution of all violations of shoreland zoning ordinances.

(5) **ESTABLISHMENT OF LAND SUITABILITY REVIEW.** The county shall review all land divisions which create 3 or more parcels or building sites of 5 acres each or less within a 5-year period. In such review the following factors should be considered:

(a) Hazards to the health, safety or welfare of future residents.

(b) Proper relationship to adjoining areas.

(c) Public access to navigable waters, as required by law.

(d) Adequate storm drainage facilities.

(e) Conformity to state law and administrative code provisions.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

NR 115.04 Role of the Department of Natural Resources. (1) **Role.** The department of natural resources is directed by the legislature to assist the counties in carrying out their responsibilities under the law and to review and evaluate the administration of the regulations. If necessary, the department may recommend to the natural resources board the adoption of an ordinance for a county, if the county failed to meet these standards and criteria.

(2) **COMPLIANCE DETERMINED BY EVALUATING COUNTY REGULATIONS WITH SECTION NR 115.03.** (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 contained in section NR 115.03. Counties that have enacted regulations that meet the minimum standards for shoreland protection will be considered as complying with section 59.971, Wis Stats.

(b) Compliance status shall also be maintained by the county during subsequent reevaluation of the regulations to ascertain their effectiveness in maintaining the quality of Wisconsin water. A county shall keep its regulations current, effective and workable to retain its status of compliance. Failure to do so shall be deemed noncompliance.

(c) Compliance with chapter NR 115 shall not affect a county's responsibility to comply with chapter NR 116, floodplain management standards.

(d) The department shall issue a certificate of compliance when a county has, in the opinion of the department, complied with section 59.971, Wis. Stats.

(3) **NONCOMPLIANCE.** (a) Counties that have regulations that do not meet the minimum rules as contained in section NR 115.03 shall be considered as not complying with the requirements of the water resources act pertaining to shoreland regulations. For these counties to achieve compliance status, they shall modify their regulations to meet the minimum standards within a time limit established by the department.

(b) Counties that have not drafted shoreland regulations shall be deemed noncomplying counties. They shall state to the department of natural resources their reasons, if any, for failure to comply with the water resources act. The department shall then require the county:

1. To proceed with regulation formation within a given time period, or;

2. a. To have the staff of the department of natural resources draft the regulations, or;

b. Contract with a consultant to draft the regulations. All costs for such actions by the department of natural resources shall be borne by the noncomplying county.

History: Cr. Register, August, 1970, No. 176, eff. 9-1-70.

NR 115.05 Assistance to counties. To the full extent of its resources, the department of natural resources 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, August, 1970, No. 176, eff. 9-1-70.