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Comparison of NR 115 Proposals

This document provides a brief summary of existing standards for Chapter NR 115, Wis. Admin. Code and the proposed changes put before the NR 115 Advisory Committee. For more detailed information on the regulations and proposals, please refer to existing and proposed administrative code language, which is available at: www.dnr.wi.gov/water/wm/dsfm/shore/title.htm or from the DNR's Bureau of Watershed Management at 608-266-8030.

Definitions

Existing NR 115 ▪ Contains 13 definitions.

January Proposal ▪ Proposes 52 definitions.

Land Division Review

Existing NR 115 ▪ All land divisions in shoreland areas that create 3 or more parcels of 5 acres each or less within a 5-year period shall be reviewed.

January Proposal ▪ All land divisions in shoreland zone that create 1 or more parcels of 5 acres or less shall be reviewed.
▪ When new lots are created, they may not be divided by a navigable river or stream unless each portion meets minimum lot size standards.
▪ A county may adopt standards to regulate substandard lots in common ownership.

Minimum Lot Sizes and Development Density

Existing NR 115 ▪ Unsewered lots = 20,000 s.f. and 100 feet wide
▪ Sewered lots = 10,000 s.f. and 65 feet wide
▪ No standards for multi-unit development, campgrounds and PUDs.

January Proposal ▪ Unsewered single-family lots = 20,000 s.f. and 100 feet wide
▪ Sewered single-family lots = 10,000 s.f. and 65 feet wide
▪ Standards for multi-unit residential development, campgrounds, and mobile home parks.
▪ Keyhole lots shall be at least 20,000 s.f. and 100 feet wide and require a conditional use permit.
▪ Different lot size and density standards for multi-unit developments and alternative developments (i.e. conservation subdivisions, PUDs) may be approved if as or more effective in achieving program objectives

Shoreland Setbacks

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| Existing NR 115 | <ul style="list-style-type: none">▪ All structures, except piers, boat hoists and boathouses, shall be setback a minimum of 75 feet from the OHWM. |
| January Proposal | <ul style="list-style-type: none">▪ All structures shall be setback a minimum of 75 feet from the OHWM, except for:<ul style="list-style-type: none">▪ Structures exempted by other laws:<ul style="list-style-type: none">- Open-sided and screened structures- Fishing rafts- Satellite dishes and antennas- Reasonable accommodations for disabled persons▪ Structures that counties may exempt:<ul style="list-style-type: none">- Chapter 30 & 31 structures- Walkways, stairways and lifts- Signs and flagpoles- Water quality improvement structures- Wildlife & fisheries habitat improvement structures- Erosion control structures- Marine fuel dispensing systems- Public access sites- Roads and driveways- Utilities- Agricultural fences- Captive wild animal fencing- Open fences- Sidewalks, and steps and landings at entrances- Public walkways▪ Reduced setbacks may be permitted if:<ul style="list-style-type: none">- No compliant building site (30-foot deep building envelope) available- Lot is at least 7,000 s.f.- Lot has a building location available that is not wetland, floodway, primary buffer, public right-of-way, or lakebed or riverbed- Setback is not less than 35 feet from OHWM- Same footprint caps apply that apply to expansion of NCPSs▪ Reduced setback is calculated by:<ul style="list-style-type: none">- Formula: Reduce roadway setback, then OHWM setback to create 30-foot deep building envelope- Averaging: Average OHWM setback of principal residences on each side of proposed site within 150 feet and two adjacent structures must be built at less than 75 feet from OHWM- Different reduced setback formula may be approved if as or more effective in achieving program objectives |

Shoreland Vegetation

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| Existing NR 115 | <ul style="list-style-type: none"> ▪ No more than 30 feet in any 100 feet shall be clear-cut in the strip of land 35 feet wide inland from the OHWM. ▪ This does not apply to dead, diseased or dying trees and shrubs. |
| January Proposal | <ul style="list-style-type: none"> ▪ Primary buffer = OHWM to 35 feet inland. <ul style="list-style-type: none"> - Trees and shrubs may be pruned if health and natural shape of tree or shrub is not jeopardized - Trees and shrubs may be removed if exotic or invasive, diseased or damaged, or imminent safety hazard, but must be replaced. ▪ Secondary buffer = 35 feet to 75 feet inland. Tree & shrub removal allowed. Ground layer vegetation required. ▪ Access corridors (ACs) in primary buffer allowed to provide pedestrian access to waterfront: <ul style="list-style-type: none"> - Lots with 200 feet or less of frontage = 30% of lot width or 40 feet, whichever is less. - Lots with more than 200 feet of frontage = 20% of lot width. - Trees less than 6 inches in diameter at 4 feet high & shrubs may be removed. - Trees larger than 6 inches may not be removed unless exotic or invasive, diseased or damaged, or imminent safety hazard, and must be replaced. - Alternative cutting plans may be approved by counties, if 60 s.f. of basal area maintained in AC & 100 s.f. of basal area in remainder of primary buffer ▪ Existing lawns that do not comply with buffer standards may be maintained, but not expanded, and compliance with primary and secondary buffer standards is required when: <ul style="list-style-type: none"> - Residence is constructed or replaced on lot with land within shoreland buffer area. - Nonconforming structure is expanded on lot with land within shoreland buffer area. - County's mitigation system requires compliance. - 20% impervious surface limit is exceeded on lot with land within shoreland buffer area. - Land division decreases a lot's frontage and the resulting AC width that is allowed. ▪ Activities exempt from buffer standards: <ul style="list-style-type: none"> - Agricultural practices and farm drainage ditch maintenance - Forest management activities - Natural areas management activities - Dam and levee maintenance activities - Utility maintenance activities - Road intersection and driveway maintenance activities - Temporary construction access |

Impervious Surface Limit

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| Existing NR 115 | <ul style="list-style-type: none"> ▪ No standards |
| January Proposal | <ul style="list-style-type: none"> ▪ Best management practices are implemented and maintained that, to the maximum extent practicable, result in no increase in stormwater discharge from the lot or parcel as a result of impervious surfaces for storms up to and including the 10 year, 24 hour storm event. ▪ If 20% or more of the lot is impervious surfaces, the shoreland buffers are preserved or established on the lot or parcel in compliance with the standards in s. NR 115.15 (applies only to lots with land within 75' feet of OHWM) |

Land Disturbing Activities

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| Existing NR 115 | <ul style="list-style-type: none"> ▪ Allowed if done in accordance with state and federal laws and completed in a manner designed to minimize erosion, sedimentation, and impairment of fish and wildlife habitat. |
| January Proposal | <ul style="list-style-type: none"> ▪ For land disturbing activities, property owners must submit erosion control and revegetation plans to minimize erosion and sedimentation caused by activity. ▪ County permit required if: <ul style="list-style-type: none"> - 1,000 s.f. or more is disturbed within 75 feet of the OHWM - 2,000 s.f. or more is disturbed between 75 and 300 of the OHWM ▪ 10-foot wide buffer around wetlands must be maintained during land disturbing activities to prevent damage to wetlands |

Nonconforming Accessory Structures

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| Existing NR 115 | <ul style="list-style-type: none"> ▪ Ordinary maintenance and repairs allowed with no limits ▪ Structural alterations and expansions allowed, if over the life of the structure, costs do not exceed 50% of the equalized assessed value of the structure* ▪ Replacement generally prohibited** |
| January Proposal | <ul style="list-style-type: none"> ▪ Ordinary maintenance and repairs allowed with no limits ▪ Structural alterations allowed if mitigation specified by the county is implemented ▪ Expansion or replacement prohibited** |

*Counties have option of using an alternative method, besides the 50% rule, to require eventual compliance with the terms of the shoreland zoning ordinance.

**A structure damaged or destroyed by violent winds, fire or vandalism may be replaced if the requirements of s. 59.692 (1s) are satisfied.

Nonconforming Principal Structures

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| Existing NR 115 | <ul style="list-style-type: none"> ▪ Ordinary maintenance and repairs allowed with no limits ▪ Structural alterations and expansions allowed, if over the structure, costs do not exceed 50% of the equalized assessed value of the structure* ▪ Replacement generally prohibited** |
| January Proposal | <ul style="list-style-type: none"> ▪ Ordinary maintenance and repairs allowed with no limits ▪ Structural alterations allowed if mitigation specified by the county is implemented ▪ Expansions allowed if: <ul style="list-style-type: none"> - Lot is at least 7,000 s.f. - Horizontal expansions allowed if structure is setback at least 35 feet from OHWM, is on side of structure away from water or to enclose a footprint (i.e. an L-shaped or U-shaped structure), & footprint cap is not exceeded - Vertical expansions allowed if structure is setback at least 50 feet from OHWM & footprint cap is not exceeded - Mitigation specified by the county is implemented ▪ Footprint cap options: <ul style="list-style-type: none"> - If no compliant building location, at 35 feet = 1000 s.f. & at 74 feet = 1975 s.f., and if a compliant building is available, at 35 feet = 750 s.f. & at 74 feet = 1725 s.f. (For each additional foot that structure is setback, footprint cap increases by 25 s.f. – See Appendix A of proposal) ▪ Replacement allowed if:** <ul style="list-style-type: none"> - Lot is at least 7,000 s.f. - On existing foundation anywhere - On new foundation if setback at least 50 feet from OHWM. - Between OHWM & 50 feet of the OHWM, the height of new structure may not exceed height of pre-existing structure, except for conversion of flat roof to pitched roof. - New structure does not extend closer to OHWM than pre-existing structure. - Mitigation specified by the county is implemented. - Replacement is prohibited if structure has no foundation, the foundation extends below the OHWM, or the structure extends over the OHWM |

*Counties have option of using an alternative method, besides the 50% rule, to require eventual compliance with the terms of the shoreland zoning ordinance.

**A structure damaged or destroyed by violent winds, fire or vandalism may be replaced if the requirements of s. 59.692 (1s) are satisfied.

Mitigation

Existing NR 115

- No performance standards

January Proposal

- Counties shall adopt a mitigation system that is roughly proportional to impacts of proposed projects.
 - Level 1 mitigation requirements shall be determined by counties and apply to:
 - Structural alterations of nonconforming accessory structures
 - Replacement of nonconforming accessory structures in campgrounds and mobile home parks
 - Level 2 mitigation requirements shall include, at a minimum, restoration of primary shoreland buffer, proportional to the impacts of the proposed project and apply to:
 - Structural alteration of nonconforming principal structures
 - Expansion of nonconforming principal structures
 - Replacement of nonconforming principal structures
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