

The New Shoreland Zoning Rule (NR 115): What Does It Mean in Polk County?

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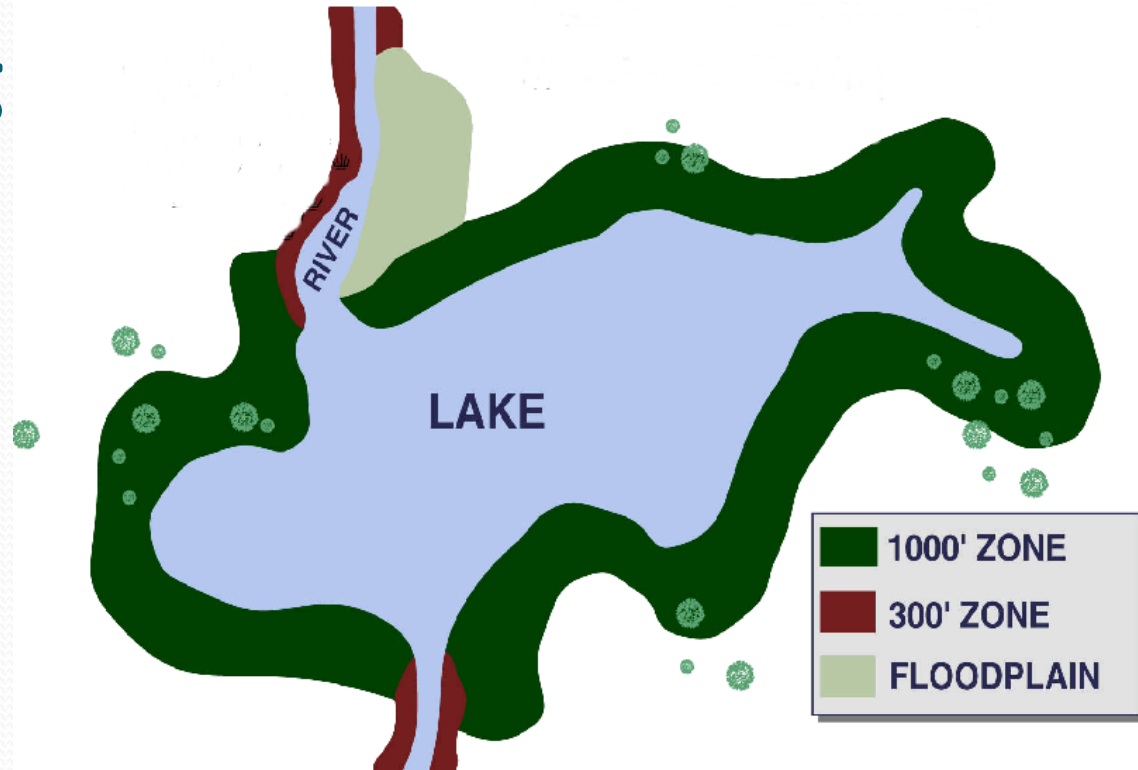
Center for Land Use Education, UW-Stevens Point

Outline for this session

- 1) What is shoreland zoning?
- 2) Why care about shoreland zoning?
 - County comprehensive plan
 - Economics of lake and river protection
 - Fishing, swimming, etc.
- 3) What standards have changed, why, and options for changing the Polk County shoreland ordinance ?

Shoreland Zoning

What is it?

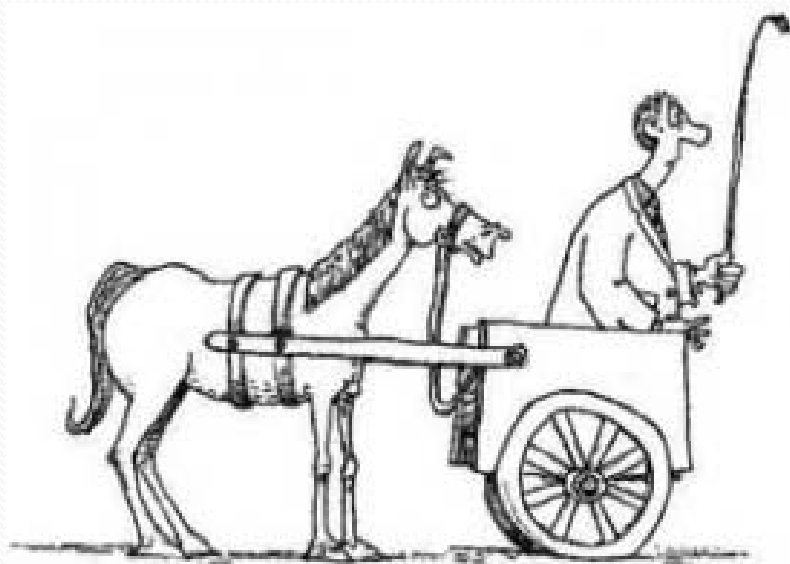


- Zoning for shoreland areas
- June 1966, Water Resources Act passed (now called NR 115)
 - Statewide shoreland zoning program for all unincorporated areas.

Why Care About Shoreland Zoning?

Polk County Comp Plan

- “Goal: Preserve and protect water quality”
- Over 400 lakes in the county
- Shoreland zoning is a part of the County’s Plan



Zoning is
supposed to follow
a local plan

Why Care About Shoreland Zoning?

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

Why Care About Shoreland Zoning?

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.



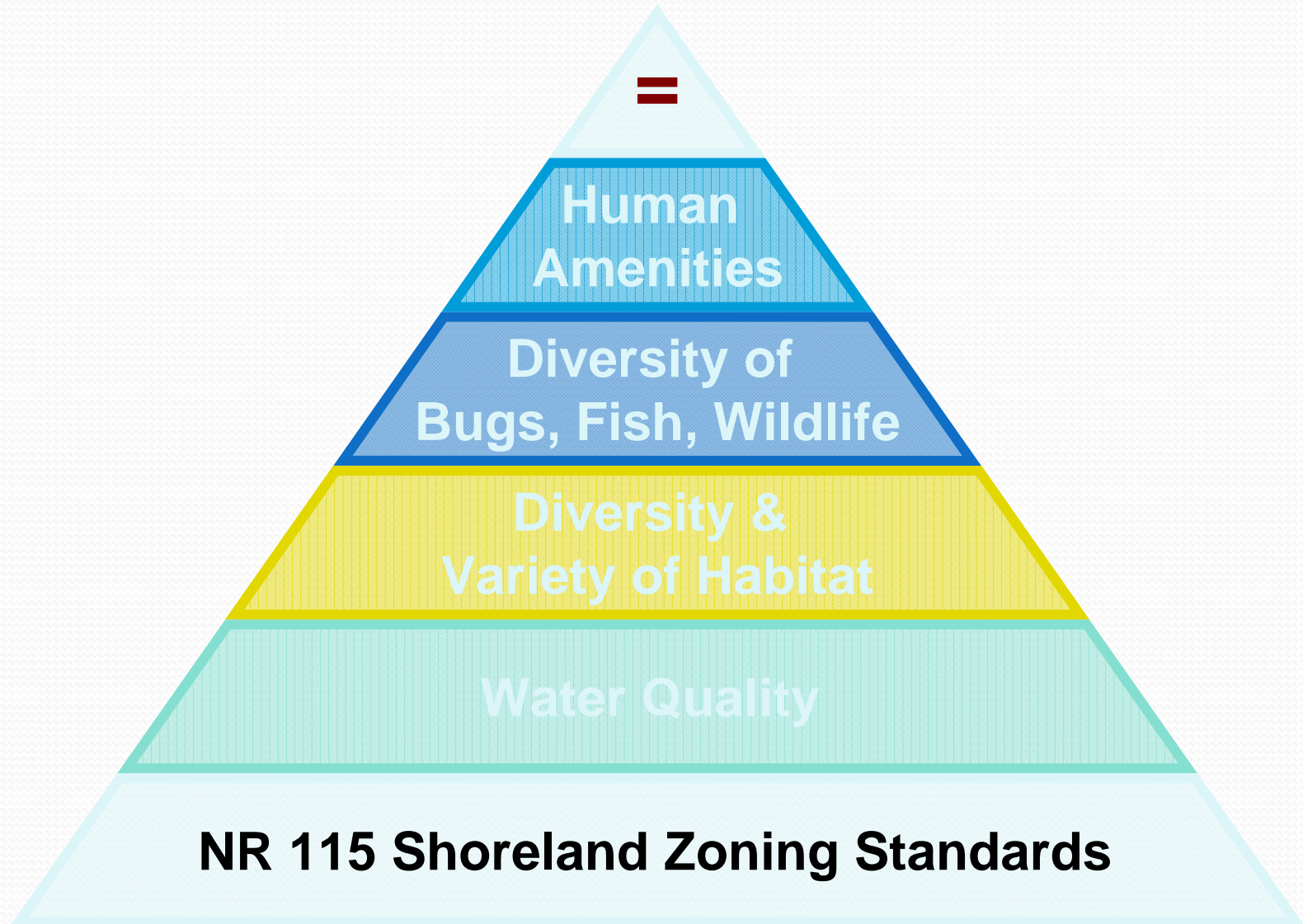
Enjoying healthy lakes & rivers: Part of who we are in WI





Healthy shorelands make healthy lakes and higher
property values

Higher Property Values

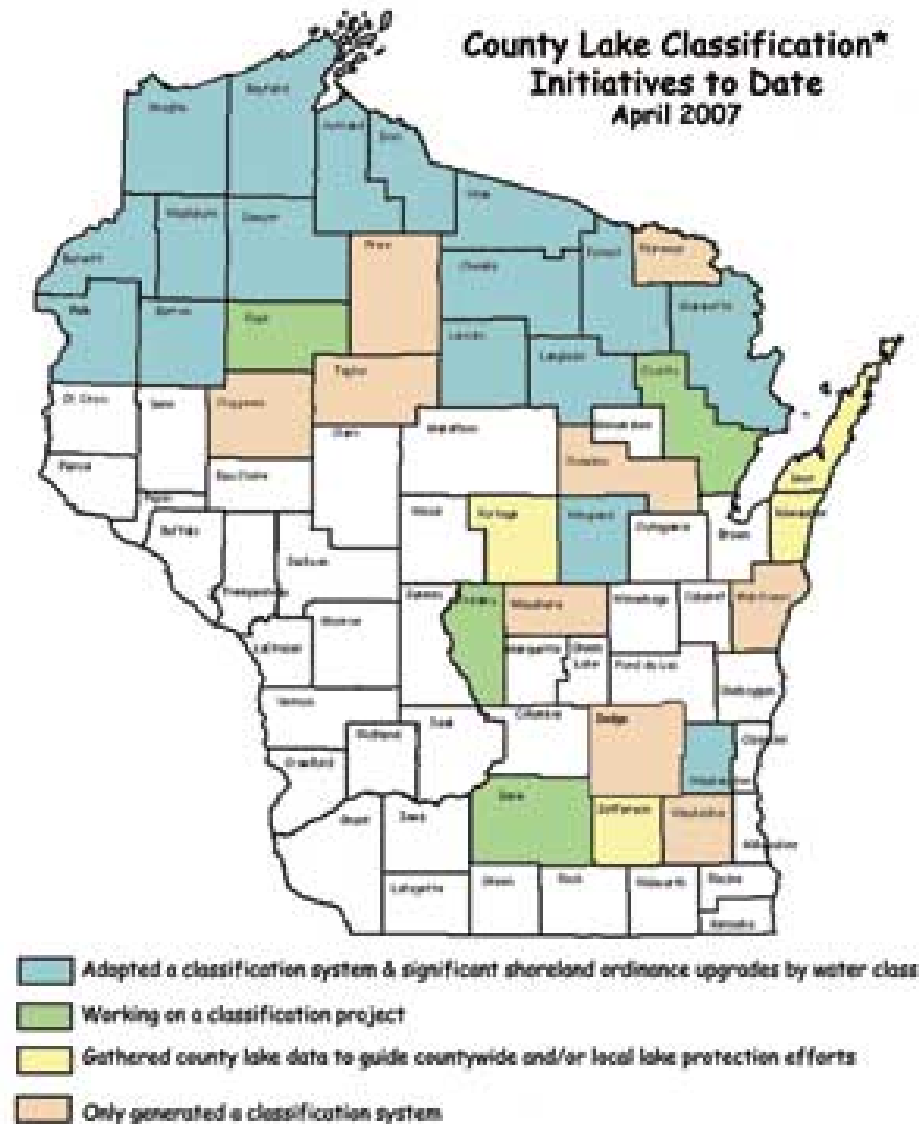


Shoreland Zoning

Counties going beyond 1968 law

- Counties recognized inadequacies
- Adopted higher standards
- “New” ideas
 - 16 counties have impervious surface stds
 - 27 counties have shoreland mitigation

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. 280.05, Wis. Stats.) passed by the Legislature and Governor in 1997 and administrative rules (Ch. NR 200, Wis. Admin. Code) adopted by the Department of Natural Resources in 1999.

Shoreland Zoning Changes

NR 115 Revision Efforts

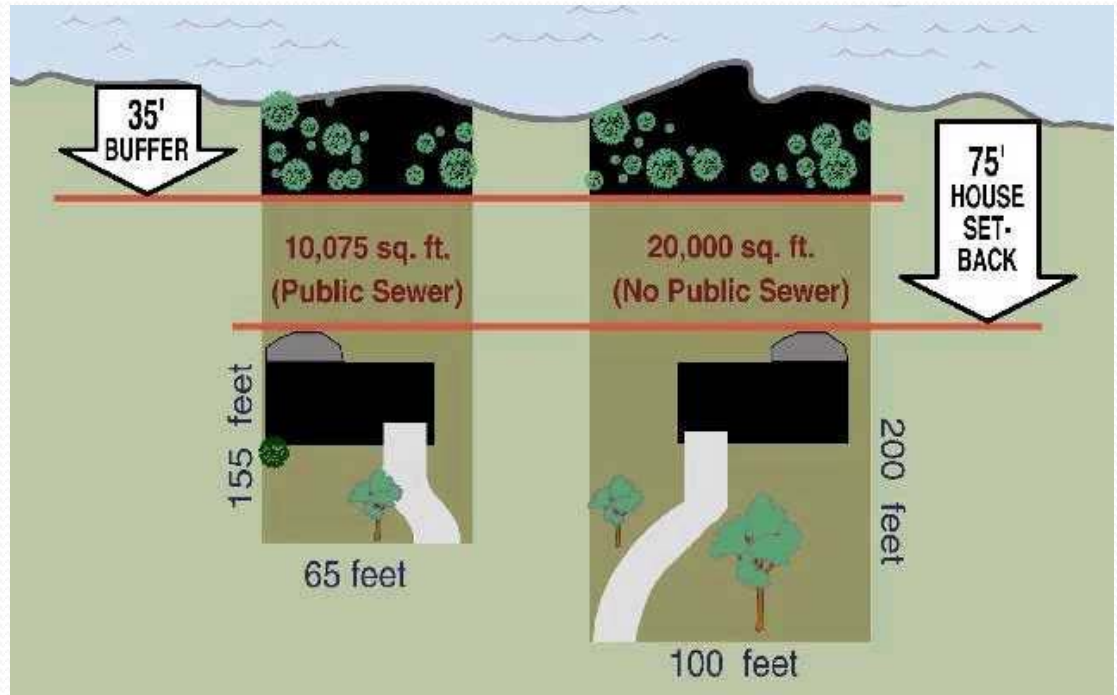
2002-2010:

- 28-member Advisory Committee
 - 8 public listening sessions
 - 19 public hearings over two years
 - Over 14,000 comments
-
- Feb. 1, 2010: New NR 115 went into effect. Counties may adopt more protective standards.
 - Feb. 1, 2012 – Counties need revised shoreland ordinances to meet new rule.

Shoreland Zoning Changes

What standards have stayed the same?

- Lot sizes
- Shoreland setbacks
- Shoreland buffer sizes



Shoreland Zoning Changes

What standards have stayed the same?

Lot Size

- Unsewered lots =
 - 20,000 ft²
 - 100 ft average width
- Sewered lots =
 - 10,000 ft²
 - 65 ft average width

Setbacks

75-feet from the Ordinary High Water Mark

Reduced setbacks
(aka setback averaging)

Structures exempt from Setbacks

- Boathouses
- Open sided structures
- Antennas/satellite dishes
- Utilities
- Walkways, stairs or rail systems necessary for access

Standards for Land Disturbing Activities

Shoreland-Wetland Standards



Shoreland Zoning Changes

What standards have changed & why?

- Shoreline Buffers
- Impervious Surface Limits
- More flexibility for Nonconforming Principal Structures
- Shoreland Mitigation

Shoreland Zoning Changes - Shoreline Buffers

1968 law

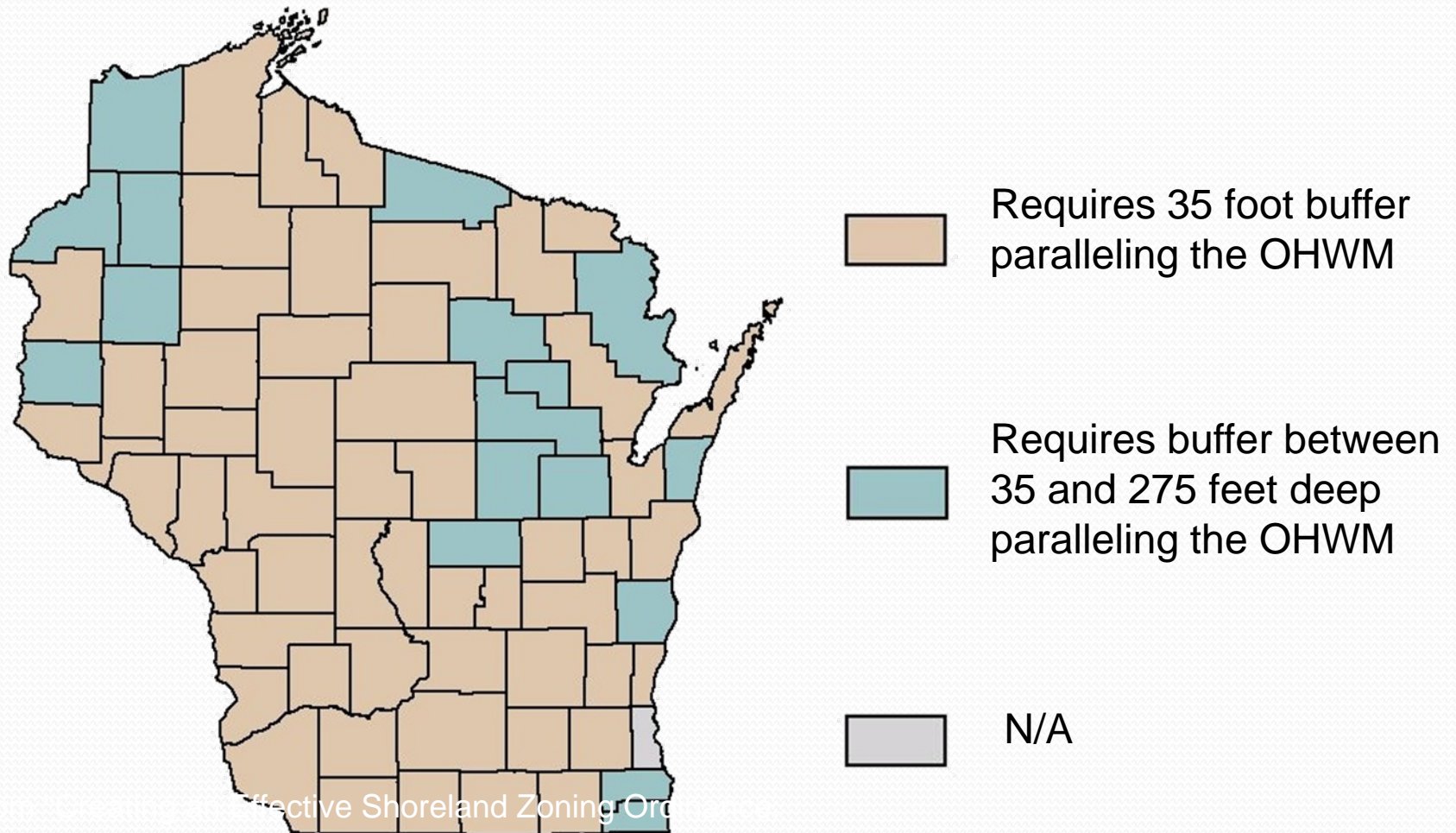
- First 35 foot no clear-cut zone
 - No definition for clear-cut



New NR 115

- 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”
- Other types of removal allowed with a permit.
 - Vegetation removed with a permit must be replaced.
- Larger buffers in many counties

Shoreline Buffer Standards



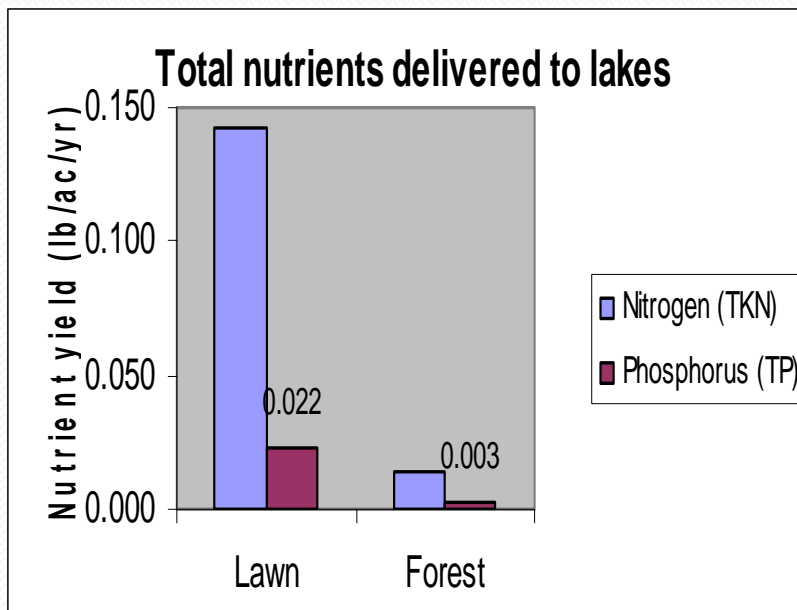
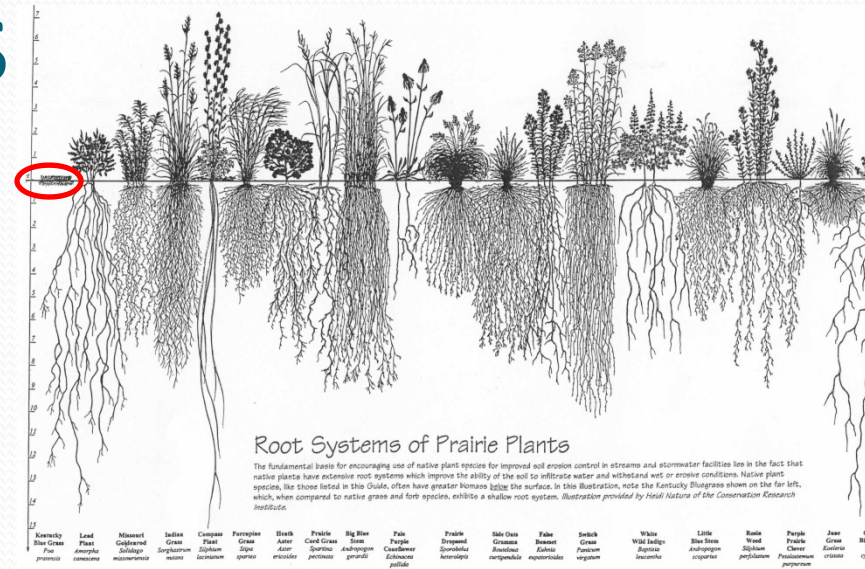
Existing Shoreline Buffer Standards

	Low	Medium	High
<u>County</u>	<u>Sensitivity</u>	<u>Sensitivity</u>	<u>Sensitivity</u>
State standard		35' for all	
Langlade	50'	75'	100'
Washburn	50'	75'	100'
Waupaca	50'	75'	275'

Buffer widths are typically 25' less than shoreland setbacks

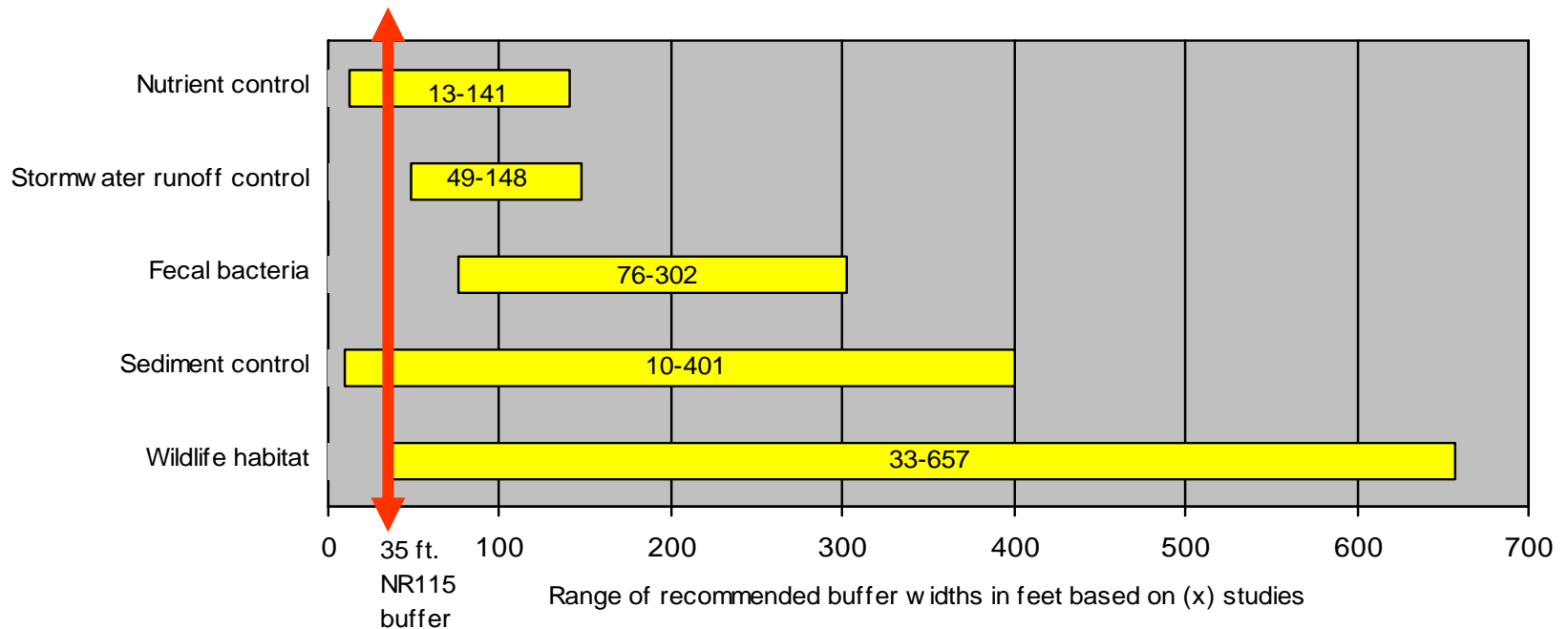
Shoreline Buffers

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



Shoreline Buffer Research

Recommended Shoreline Buffer Widths A Research Summary

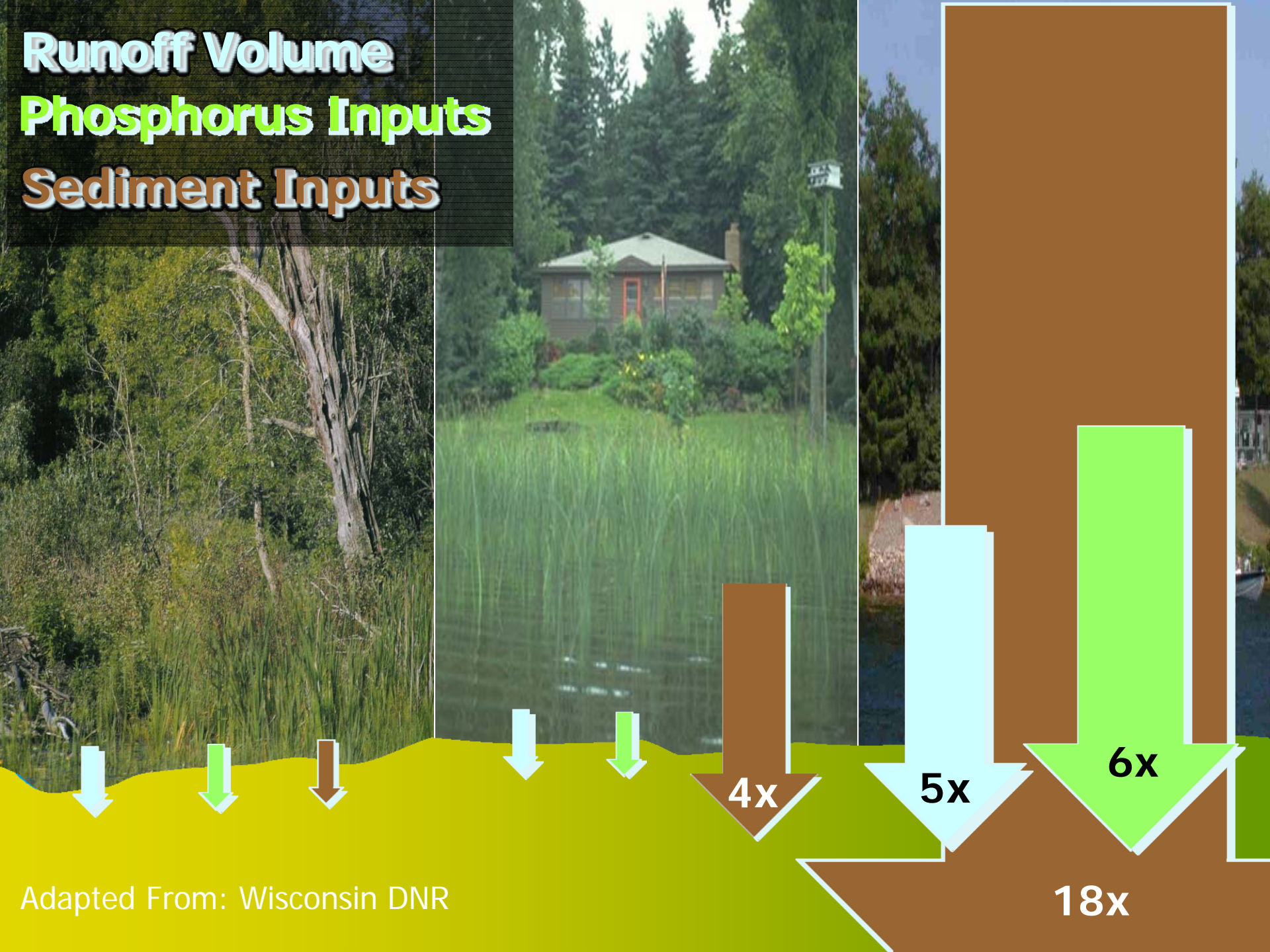


Review of 52 U.S. studies by Aquatic Resource Consultants, Seattle WA

Runoff Volume

Phosphorus Inputs

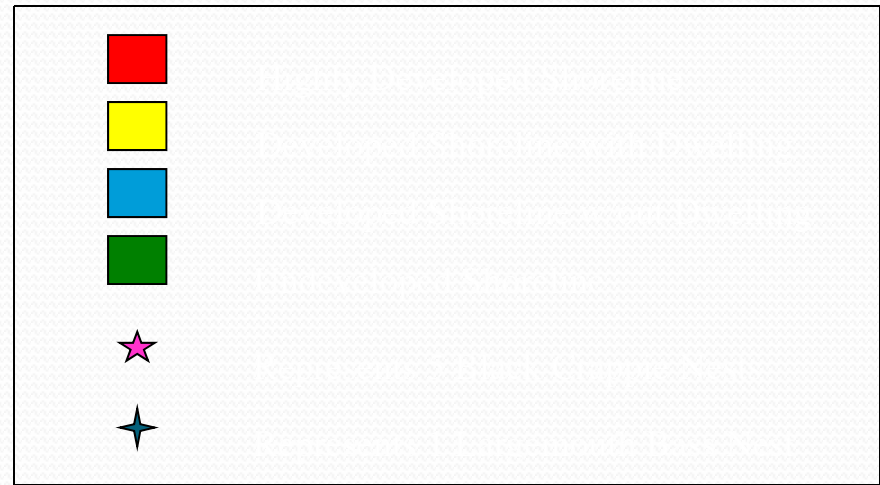
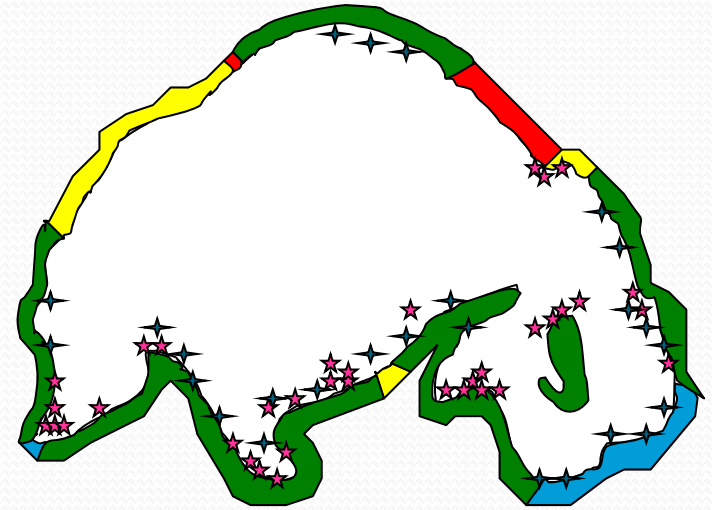
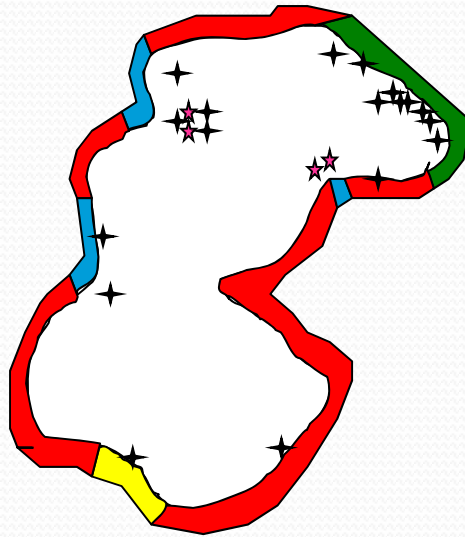
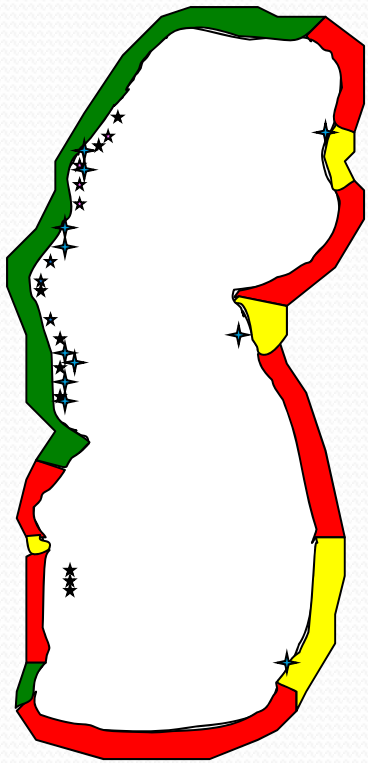
Sediment Inputs



Adapted From: Wisconsin DNR

Largemouth bass & black crappie nests

Jeffrey Reed, MN DNR, 2001



Shoreland Zoning Changes

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 in terms of existing impervious surfaces
 - Up to 15% impervious no permit is needed
 - Between 15% - 30% allowed with a permit and mitigation
 - Variance required for greater than 30% impervious surface



Shoreland Zoning Changes

Impervious Surface Standards

Impervious surfaces that existed prior to revision of the county shoreland zoning ordinance, may be:

- Maintained and repaired
- Replaced with a similar impervious surface within the existing building envelope
- Relocated or modified with a similar or different impervious surface if:
 - No overall increase in % of impervious on the property
 - Impervious surfaces meets the setbacks in NR 115.

Impervious Surface Example

15% of 20,000 sq. ft. lot

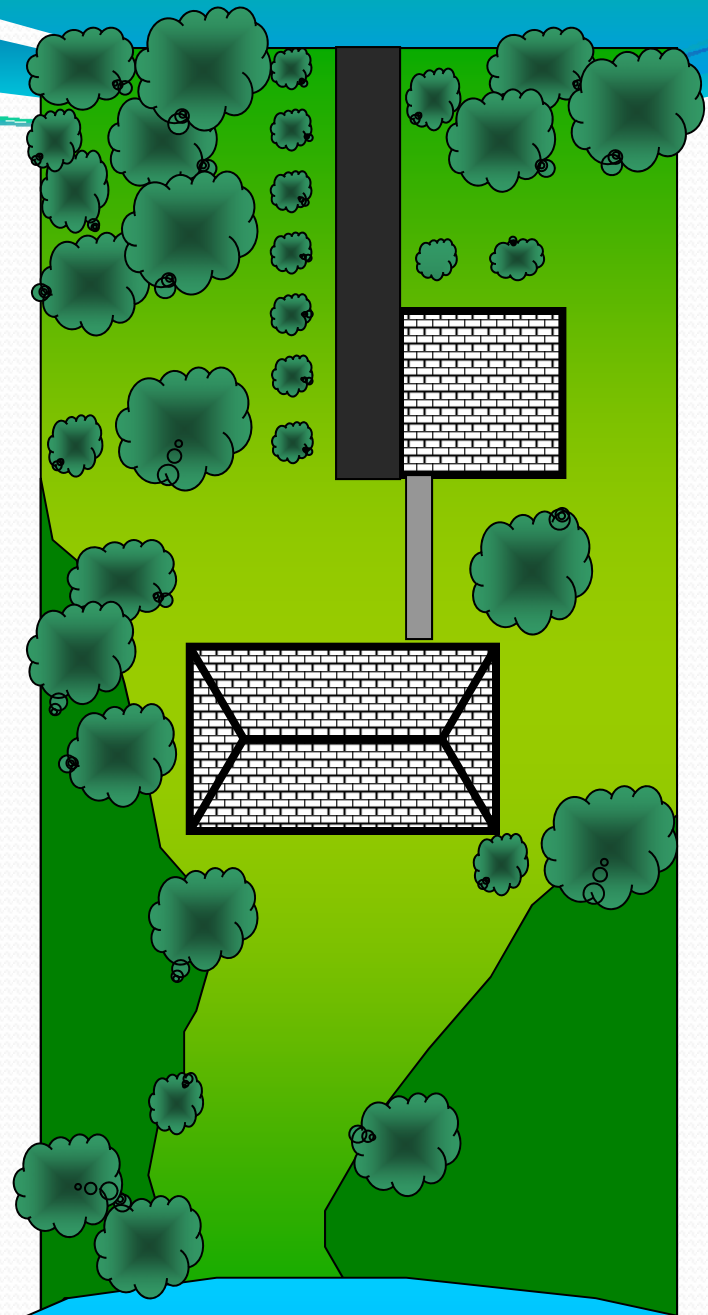
1500 sq. ft. house footprint

740 sq. ft. garage

660 sq. ft. driveway

100 sq. ft. sidewalk

3000 sq. ft. total





Effects of impervious surfaces

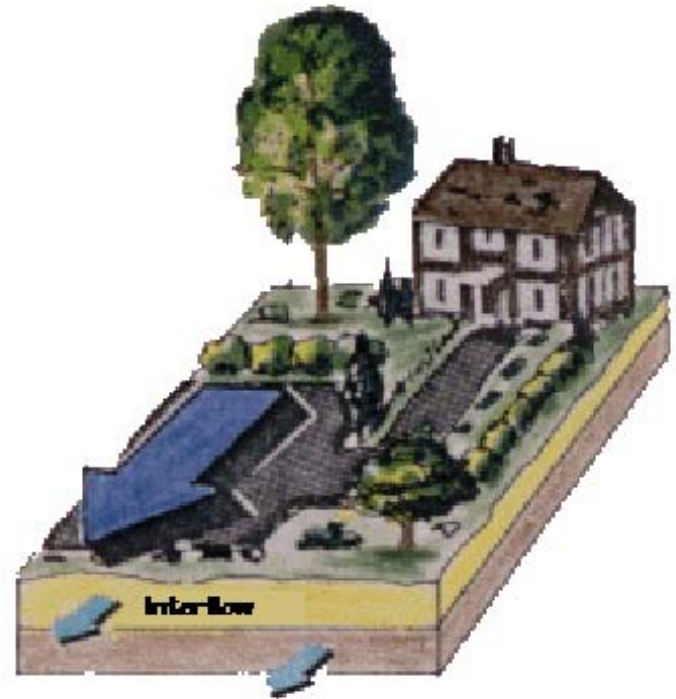
- Erosion
- More pollutants entering water
- Increased algae growth
- Fewer fish & insect species

Impervious Surfaces and Runoff



Less impervious surface

Less runoff



More impervious surface

More runoff

Increasing impervious surface in the watershed Decreasing number of fish & fish species

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


Less than 8%

8 - 12%


Greater than 12%



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




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



Creek chub
Fathead minnow
Green sunfish
White sucker
Brook stickleback



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



Creek chub
Fathead minnow
Green sunfish
White sucker
Brook stickleback

2008 study
of 164 WI
lakes found
the same
trend



Creek chub
Fathead minnow
Green sunfish
White sucker
Brook stickleback



Shoreland Zoning Changes

Nonconforming Principal Structures

Nonconforming Structure = pre-existing structure that does not meet current standards

NR 115 now provides options other than a 50% increase in valuation (i.e. 50% Rule)

Polk County revised pre-existing structure language ~5 years ago, prior to change in NR 115

Shoreland Zoning Changes

Nonconforming Principal Structures

- Maintenance
 - unlimited within existing building envelope
- Expansion
 - 0-35 feet from OHWM– prohibited
 - 35-75 feet from OHWM- vertical expansion only
 - 75 feet + from OHWM – vertical or horizontal
- Replacement/Relocation
 - 0-35 feet from OHWM- prohibited
 - Only if no other compliant location available
 - All other non-conforming structures on lot removed

Shoreland Zoning Changes

Current Polk County Ordinance

- (a) Preexisting dwellings less than 50' from the OHWM are permitted ordinary maintenance and repair. Such structures may be improved and expanded provided:
- (1) The maximum size of the dwelling shall not exceed a 750 square feet footprint, including an attached garage. The maximum height of the dwelling shall not exceed 26 feet.
 - (2) Additions to building footprint must be located on the landward side of the dwelling **and at least 75 feet from the OHWM**;
 - (3) Limitations on land disturbing activities in Article 15 are observed; and
 - (4) The mitigation requirements of Article 14 are received, approved and implemented.

Shoreland Zoning Changes

Current Polk County Ordinance

- (b) Preexisting dwellings 50-75 feet from the OHWM are permitted ordinary maintenance and repair. Such structures may be improved and expanded provided:
- (1) The maximum size of the dwelling shall not exceed an 1100 square feet footprint, including an attached garage. The maximum height of the dwelling shall not exceed 26 feet;
 - (2) Additions to building footprint must be located on the landward side of the dwelling **and at least 75 feet from the OHWM**;
 - (3) Limitations on land disturbing activities in Article 15 are observed; and
 - (4) The mitigation requirements of Article 14 are received, approved and implemented.

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

Shoreland Zoning Changes - Shoreland Mitigation

- Definition
 - “balancing measures that are designed, implemented and function to restore natural functions and values that are otherwise lost through development and human activities”
 - Natural Functions = Water quality, near-shore aquatic habitat, upland wildlife habitat and natural scenic beauty
- Mitigation is triggered by
 - Increasing impervious surfaces over 15%
 - Expanding nonconforming structures

Shoreland Zoning Changes - Shoreland Mitigation

- Various approaches
 - Required steps
 - Shoreland Buffer Maintenance or Restoration
 - Stormwater Management
 - Septic System in Compliance
 - Land Use Runoff Rating
 - Adjust rating number needed?
 - Other Alternatives
 - Menu and Point Approach
 - Others

Shoreland Zoning Changes - Shoreland Mitigation

- What might you have to do for a shoreland mitigation project?
 - Each county identifies practices that are appropriate for local conditions
 - Rain garden or other stormwater device
 - Restore or maintain a vegetative buffer
 - Remove a non-conforming accessory structure
 - Paint home and other structures a neutral or earth tone color
 - Reduce shoreland lighting

Shoreland Zoning Changes - Shoreland Mitigation

- Menu Approach 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

Resources to Help with Shoreland Ordinance Revisions

- County zoning staff with 5-15 years of experience with impervious surface standards & mitigation
- WI County Code Administrators NR 115 revisions guidebook
 - Draft is on-line
 - Final version within 2 weeks

Resources to Help with Shoreland Ordinance Revisions

- Compilation of counties' ordinance language for mitigation and impervious surface
www.wisconsinlakes.org/policy/pdf/CountyImpvSurfaceMitigationOrdinanceExamples.pdf
- UW-Extension Educational Assistance
- WI DNR Shoreland Program



Summary

- Healthy, natural shorelands provide healthy lakes with good fishing and higher property values
- Over 20 counties revised their shoreland ordinances to more effectively protect lakes and rivers from 1995-2005
- Counties need to revise their shoreland ordinances to comply with NR 115 by February 1, 2012
- 40 counties have started revising their shoreland ordinances to comply with NR 115
- Assistance is available through experienced zoning staff, WI County Code Administrators, UW-Extension and DNR grants



Comments, Questions??

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