

# Shoreland Zoning Update

## WCA Annual Conference

### September 25, 2016

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# SHORELAND ZONING

# History of Shoreland Zoning

- June, 1966 - Legislature provides DNR with general supervision over all Wisconsin waters. Legislation included a statewide shoreland zoning program.
- Counties required to adopt a shoreland zoning ordinance by January 1, 1968.

## Recent Pre-Act 55 Updates

- NR 115 - Administrative Code section that has historically provided the “floor” of regulation - minimum shoreland standards.
- Updates to shoreland standards occurred in 2010 and again in 2014 after more than 10 years of public hearings and stakeholder input.

# 2015 Wis. Act 55 (Budget Bill)

- Fundamental change in the law of shoreland zoning - turned the regulatory structure upside down



## “Floor” Becomes “Ceiling”

- Prior to Act 55, a county shoreland zoning ordinance could not regulate a matter more lenient than that established as a shoreland standard in NR 115. Now, a shoreland zoning ordinance may not regulate a matter more restrictively than the matter is regulated by a NR 115 shoreland standard.

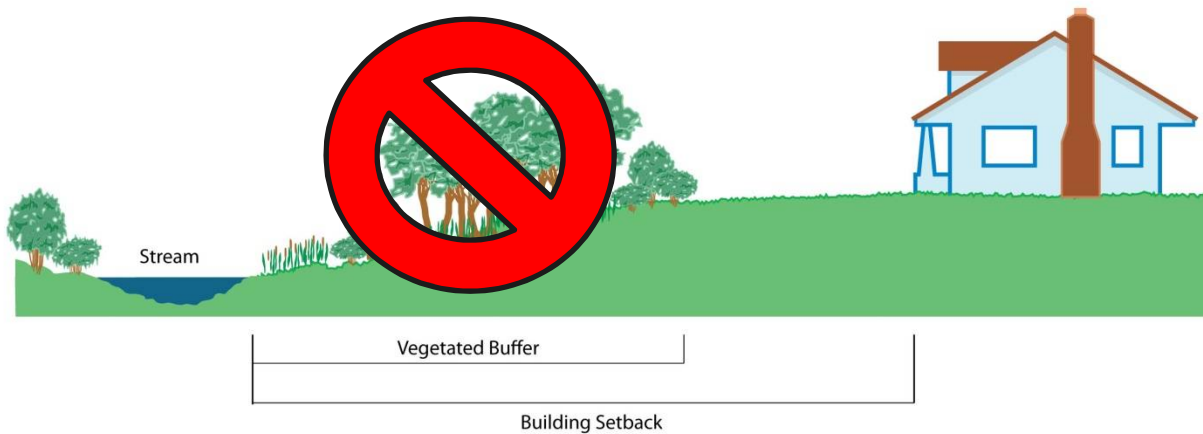
# The Basics

- Required Setback = 75 feet



# The Basics

- Vegetative buffers can no longer be required (or required to be expanded). However, counties may require maintenance of an existing buffer so long as the ordinance allows a 35' viewing corridor for every 100' of shoreline.





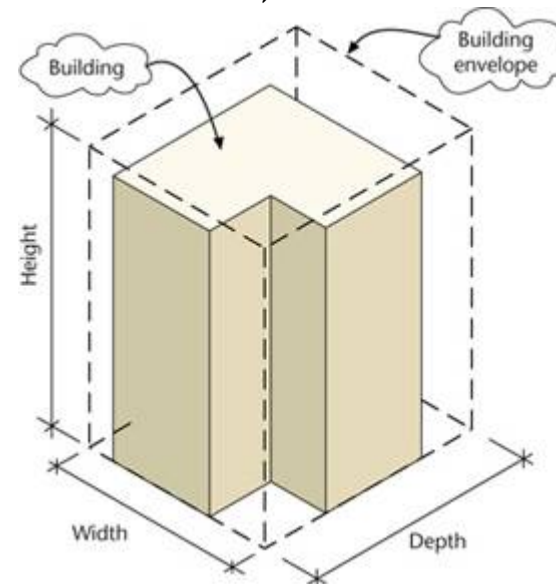
# The Basics

- Cannot regulate outdoor lighting for residential use.



# The Basics

- Ordinance cannot regulate the maintenance, repair, restoration, rebuilding or remodeling of a nonconforming “structure” as long as structure does not expand building envelope. (Act 167 clean-up) A “structure” is a boathouse, fishing raft, broadcast receiver, utility transmission line, walkway, stairway or rail system (servicing the shoreline that is not more than 60” in width).



# The Basics

- Cannot regulate the vertical expansion of a nonconforming structure or structure allowed by variance unless expansion is greater than 35' above grade.



# The Basics

- New impervious surface standards:
  - A surface is considered pervious if the runoff is treated by a device or system or is discharged to an internally drained pervious area...
  - Special exception for “highly developed” shorelines (as determined by DNR).

# “Mild” Post-Act 55 Legislative Success

- Act 167
  - Ability to enforce impervious surface standards for highly developed shorelines.
  - Introduced concept of “building envelope” for expansion of certain structures.
  - Allows/requires setback averaging that could increase setback beyond mandatory 75 feet.

# What's Left??

- Can a subdivision ordinance (enacted under Chap. 236) or other county zoning ordinance establish lot size standards or other general zoning standards that are more restrictive than the “minimum” standards in NR 115?
  - *i.e.*, what happens to setback, building, expansion and other requirements found in the general zoning code?

## What's Left?

- Can previously established conditions associated with a CUP or variance be enforced if they are arguably inconsistent with Act 55?

# WCA's Approach

- Creation of Shoreland Zoning Task Force
  - Charged with creating common questions and issues surrounding interpretation of Act 55 changes
  - Create set of enforcement “best practices”
  - Inform WCA lobbying effort