



Shoreland zoning history



WCCA Spring Conference March 31, 2016

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~230 years ago

Northwest Ordinance established the Public Trust Doctrine saying "The navigable waters ... shall be common highways, and forever free."



~170 years ago

1848-

WI Constitution said "The navigable waters ... shall be common highways, and forever free."



~120 years ago

1899- WI Supreme Court said

"The legislature has no more authority to emancipate itself from the obligation resting upon it...to preserve for the benefit of all people forever the enjoyment of the navigable waters within its boundaries, than it has to donate the school fund or the state capitol to a private purpose."

Priewe v. WI Land & Improvement Co.

~50 years ago

1966 – Wisconsin Legislature passed Water Resources Act, which included shoreland zoning

Purposes of shoreland zoning include...

- Prevent and control water pollution
- Protect spawning grounds, fish and aquatic life
- Reserve shore cover and natural beauty

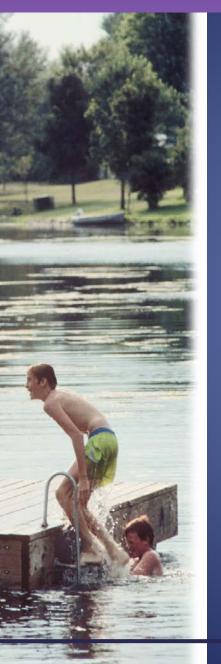


Shoreland Zoning History

 1968 – set minimum standards
 Counties could be more protective or restrictive with the standards to effectively manage the resources relevant to their geographical location and development pressures.

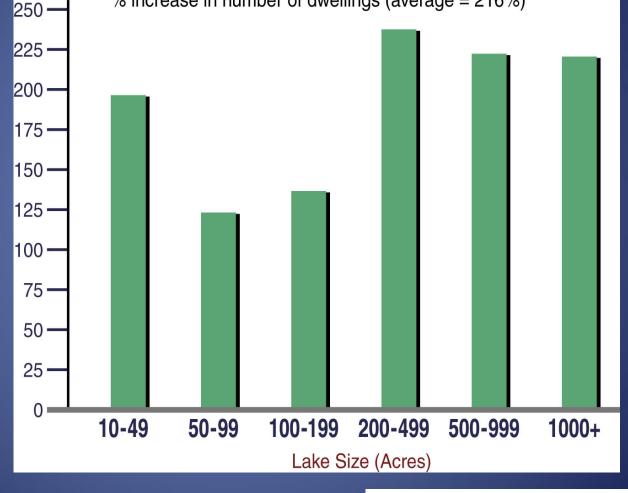
Many counties had the minimums until...

Shoreland building increase, 1965-1995





% increase in number of dwellings (average = 216%)



Source: Wisconsin Dept. of Natural Resources

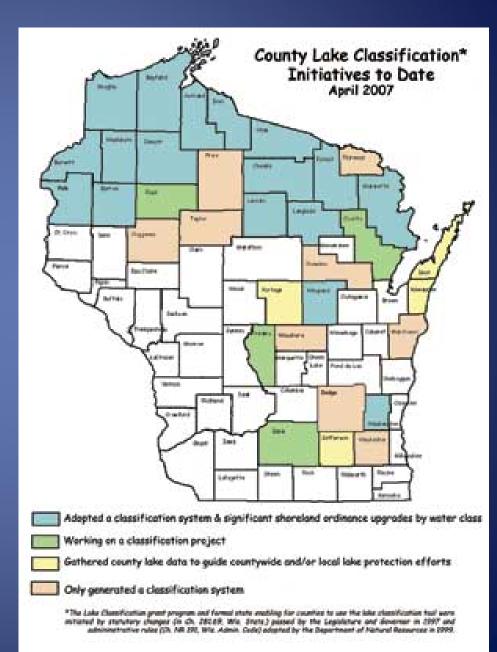
The Wisconsin Lakes Partnership



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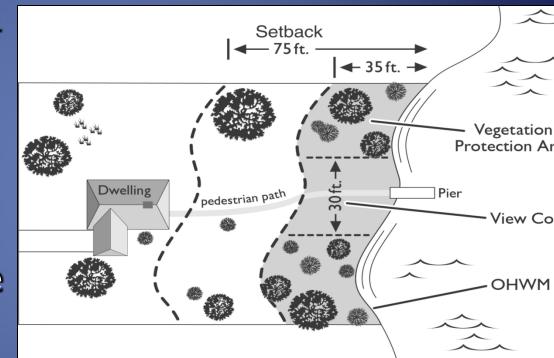
Counties led...

- Many counties recognized inadequacies in 1968 state SL zoning law
 - Local experienceNew science
- Starting in 1990s, counties adopted higher standards



Higher standards adopted by counties...

- Larger lot sizes: 44
 Larger shoreland setbacks: 25
- Larger shoreland buffer sizes: 13
- Impervious surface standards: 17
- NC structures regs
- Mitigation



Does shoreland zoning work? Can we develop a lakeshore <u>and</u> protect the lake?

	9 measures of lake health	Statewide shoreland zoning standards (Maine)	No statewide shoreland zoning standards (Vermont)	Why are these measures important?
	Shoreline trees	\checkmark		Trees, shrubs and ground cover near the shoreline provide: • Erosion control • Shade in water near shore • Food for deer and other wildlife
	Large woody structure			 Fallen trees in the water (woody structure) provide: Cover for fish to hide from birds and bigger fish Places for turtles to bask in the sun to digest their food Structure where frogs attach their eggs
	Medium woody structure			
	Small woody structure			
	Leaves in the water	\checkmark		Leaves in the water feed water insects (fish food)
	Variety of lake bottom types, not covered in sand	\checkmark		Lake bottoms not covered in sand & sediment provide: • Valuable nesting sites for fish, where their eggs aren't buried • Habitat for water insects (fish food)
	Structure not covered in sediment	\checkmark		
1.	Small animals and plants growing on structures	\checkmark		Small animals and plants growing on rocks and other structure provide food for fish, snails and other animals
	Dragonflies & damselflies			Dragonflies & damselflies rely on healthy shorelines & lakes and are voracious predators of mosquitoes

Full report: Determining if Maine's Mandatory Shoreland Zoning Act Standards are Effective at Protecting Aquatic Habitat, March 14, 2013 by the Vermont Department of Environmental Conservation. www.anr.state.vt.us/dec/waterq/lakes/docs/lp_mainezoning.pdf

*In the table, a checked box means there was no significant difference (a =0.05) between the developed and reference (undeveloped) lake sites, while an unchecked box means there was a significant difference between the developed and reference (undeveloped) lake sites.

In the last 15 years...

- 2002-2010: After 8 years of public input, 19 public hearings around the state, and over 14,000 public comments, statewide minimum shoreland zoning standards changed. Changed nonconforming structure standards and added impervious surface standards.
- 2012: State legislature said in Act 170 that counties could not be more restrictive than state standards regarding the regulation of NCS and substandard lots.
- 2013: NR 115 was changed requiring counties to allow lateral expansion of nonconforming structures and greater levels of impervious surfaces based on input from county zoning staff and a few state legislators.

In 2015

- 2015: State legislature said in Act 55 counties can no longer have shoreland zoning standards that are any more protective or restrictive than the state standards for any of their lakes and streams.
 - No approval, fee or mitigation to rebuild or expand nonconforming structures to a height of 35 feet if the footprint is not expanded.

Setback averaging required.

In 2016

- 2016: Act 167 says no approval, fee or mitigation to repair or replace exempt structures in the same footprint and within the existing 3D envelope. Higher levels of impervious surfaces (30-60%+) allowed in more shoreline areas. Changes to setback averaging.
- 2016: AB 582 says a professional land surveyor may determine the ordinary high water mark for regulatory purposes if DNR doesn't have the OHWM on the web. No approval, fee or mitigation to rebuild or expand up to 35 feet in height structures within setback by a variance granted before July 13, 2015 if footprint is not expanded.



Regulations provide lake protection

Other tools are needed to achieve optimum performance

←Lake goals

Fishable, swimmable, etc.

County-tailored shoreland standards. Lake/river classification and other matters (1968-2015)

State min. SL stds (1968)
 Act 55 one-size-fits-all stds (2015)
 2016 legislative changes

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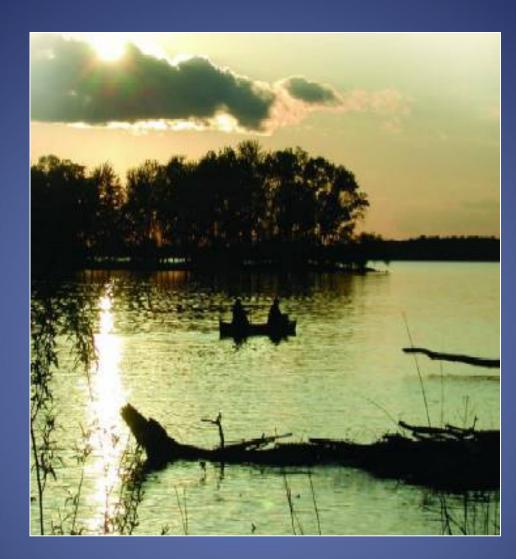
Different approaches to shoreland zoning

- State-local shared control
- State min stds + local tailoring by counties
- More ability to protect lakes, fisheries, habitat & investments



- One-size-fits-all statewide
- More jobs? Construction?





Natural shorelands contain a lush mixture of native grasses, flowers, shrubs and trees that help to filter polluted runoff and provide important habitat for animals in the water and on the land. A mature native buffer represents many years of nature at work.

Healthy shorelands provide some of the most effective protection for the lakes and streams of Wisconsin.

Questions? Comments?

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