

Recent Changes to State Shoreland Zoning Minimum Standards

Pursuant to Wisconsin Statutes, all counties in Wisconsin must adopt shoreland zoning ordinances to protect the navigable waters of the state. Chapter NR 115 of the Wisconsin Administrative Code (NR 115) establishes the minimum standards for shoreland zoning ordinances that every county must implement in order to control the use of its shorelands, including minimum standards governing building setbacks, wetland protection, lot sizes and filling and grading permits. A county may enact shoreland zoning ordinances containing standards more restrictive than the NR 115 standards, but not less restrictive.

The minimum standards for shoreland zoning ordinances set forth in NR 115 have recently been updated in an effort by the state to better protect and safeguard Wisconsin shorelands. Shorelands are defined as the area within 1,000 feet of a navigable lake or pond or within 300 feet of a navigable river or stream. The revised minimum standards described in NR 115 went into effect in February 2010 and all Wisconsin counties are required to adopt shoreland zoning ordinances that meet or exceed the minimum standards by February 1, 2012. If such deadline is not met, the Wisconsin Department of Natural Resources may either adopt a shoreland zoning ordinance meeting the minimum standards or obtain a court order forcing noncompliant counties to adopt an ordinance and enforce the minimum standards set forth in NR 115.

The recent revisions to NR 115 will require Dane County, for instance, to amend its shoreland zoning ordinances to:

- establish impervious surface area limits for development in shoreland areas;
- adopt stricter standards governing removal of vegetation within 35 feet of the shore;
- change the way legal, nonconforming structures are regulated; and
- in certain situations, provide a mitigation plan to be implemented by the property owner to establish or maintain measures to offset any negative impacts on water quality, habitat and natural scenic beauty.

Dane County is currently planning to amend its shoreland zoning ordinance as

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part of the Dane County Waterbody Classification Project being undertaken by the Dane County Lakes and Watershed Commission. This project is funded by the state and is intended to create and implement water resource management policies tailored to the different classifications of waters in Dane County. The plan contemplated by this project proposes that the Dane County shoreland zoning ordinances governing lakes, ponds, rivers and streams within urban areas of the county contain the minimum standards set forth in NR 115, while the ordinances applicable to lakes, ponds, rivers and streams in developing and rural areas of the county impose additional restrictions above and beyond the NR 115 standards. These changes proposed to the Dane County shoreland zoning ordinance would apply to all shorelands located within Dane County (including those within cities, towns, and villages).

For a full explanation of these shoreland zoning changes, or advice as to how they may impact your property or one of your projects, please to contact any Reinhart real estate attorney.

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