

# *Creating an Effective Shoreland Zoning Ordinance*

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Creating an effective shoreland zoning ordinance is but one piece of the puzzle in land use planning. Before we can launch into a discussion of what an effective shoreland zoning ordinance encompasses, we should review how regulation fits into a community's planning efforts.

Community planning allows the coordination of individual actions or decisions, so that ensuing developments support, rather than detract from one another. By committing itself to planning, a community will realize benefits, including:

- defining the future character of the community by creating and maintaining a sense of place,
- protecting natural and agricultural resources,
- providing predictability for future development,
- promoting economic development,
- encouraging sustainable development, and
- protecting private property rights (Ohm 1999).

A well-constructed comprehensive plan reflects a community's values, and these values become law through zoning ordinances and other regulations. Before undertaking any major ordinance changes, a community may want to revisit its comprehensive plan. Important elements to consider from the comprehensive plan include land use and natural resources. The zoning ordinance should reflect the goals of the comprehensive plan and visa-versa.

Through the creation of use zones or districts, a zoning ordinance regulates the use of property to advance public health, safety and welfare concerns, which are linked into the comprehensive plan. Each district will have permitted uses which are desirable within that district. Additionally, each district usually has a list of special uses, also know as special exceptions or conditional uses. Special uses are generally allowed under certain circumstances and require approval by a local government body. All other uses are prohibited within a district.

Where the general zoning ordinances apply to the entire county, shoreland zoning ordinances apply to just the shoreland area. Chapter NR 115, Wis. Admin. Code, defines shorelands as land within the greater distance of:

- 1,000 feet of the ordinary high water mark of a lake, pond or flowage,
- 300 feet of the ordinary high water mark of a navigable river or stream, or
- the landward side of the floodplain.

Section 59.692, Wisconsin Statutes, requires counties to administer shoreland zoning ordinances which meet the minimum standards of Wisconsin's Shoreland Management Program in Chapter NR 115, Wis. Admin. Code. These standards are designed "... to further safe and healthful conditions; prevent and control water pollution; protect

spawning grounds, fish and aquatic life; control building sites, placement of structures and land uses; and reserve shore cover and natural beauty” (Section 281.31, Wis. Stats.).

When these standards were developed in the 1960’s, they were based on the best available scientific information, best professional judgment, and feasibility of implementation. Research over the last thirty years has shown however, that the minimum standards required by Chapter NR 115, Wis. Admin. Code, may not be adequate to meet the goals of Wisconsin’s Shoreland Management Program. Many counties, as a result, have recently started amending their shoreland zoning ordinances to provide the level of protection necessary to preserve their natural resources.

These local initiatives are often part of a larger planning effort by Wisconsin communities. Communities across the state are developing “vision statements” for themselves. The visioning process allows a community to envision the future it wants, and plans how to achieve it. The success of this process results in the implementation of goals and action plans that are firmly rooted in the purpose and values of the local community. This process is also heavily reliant on public participation, from the first stages through to the final planning processes.

The next step for many communities following the development of a vision statement, is updating comprehensive plans and ordinances, which leads us full circle. A shoreland zoning ordinance is a tool which a community can use to direct its future growth. Minimum statewide standards exist for shoreland zoning ordinances, but many counties have chosen to go beyond those requirements, out of a need to preserve the character of the communities they live in and the natural resources they depend on.

Zoning ordinances are often simply regarded as regulatory devices that prohibit property owners from using land in the manner they wish. However as more and more communities are discovering, zoning ordinances are a valuable tool with which citizens can preserve the features of the community they prize – the lakes, rivers and land around them.

#### ***BIBLIOGRAPHY***

Ohm, Brian. 1999. *Guide to community planning in Wisconsin*. Department of Urban & Regional Planning, University of Wisconsin – Madison. Madison, WI.

## ***CREATING AN EFFECTIVE SHORELAND ZONING ORDINANCE***

Wisconsin counties are using innovative strategies in their shoreland zoning ordinances to meet resource management objectives. This table summarizes techniques currently being used across the state. While many of these techniques may go above and beyond the requirements of Chapter NR 115, Wisconsin’s Shoreland Management Program, they reflect the value Wisconsin’s citizens place on the protection of their natural resources.

<b><i>OBJECTIVE</i></b>	<b><i>STRATEGIES</i></b>
<ul style="list-style-type: none"> <li>▪ <b>Match development to capacity of waters</b></li>   <li>▪ <b>Control development density and pattern of development</b></li>   <li>▪ <b>Preserve or restore shoreline buffers</b></li>   <li>▪ <b>Protect sensitive areas</b></li> </ul>	<ul style="list-style-type: none"> <li>▪ Classify waters</li>   <li>▪ Increase minimum lot sizes or provide a density standard (e.g. maximum number of units per number of acres)</li> <li>▪ Limit backlot water access</li> <li>▪ Encourage conservation subdivisions (cluster development)</li> <li>▪ Develop land division standards</li>   <li>▪ Increase structural setbacks</li> <li>▪ Define no cut/no land disturbance buffer with specific exemptions</li> <li>▪ Define limits on view corridors (size and vegetation removal)</li> <li>▪ Limit walkway construction and placement to areas essential to access of shoreline</li> <li>▪ Codify pier requirements</li> <li>▪ Control or prohibit new boathouse construction</li> <li>▪ Limit number and placement of accessory structures</li> <li>▪ Develop incentive programs for buffer restorations</li>   <li>▪ Provide wetland protection for smaller wetlands and/or non-shoreland wetlands</li> <li>▪ Establish buffers and setbacks for sensitive areas, such as wetlands, drainage ways, non-navigable streams, bluffs, etc.</li> </ul>

- Regulate construction on bluffs and unstable soils
  - Protect nonnavigable streams & drainageways
  
- **Control soil erosion and stormwater runoff**
  - Limit the amount of land disturbance based on area and/or slope
  - Establish no land disturbance zones
  - Require standardized practices for agriculture and forestry
  - Require erosion and stormwater control plans
  - Limit extent and/or location of impervious surface areas
  - Protect detention/infiltration areas
  - Require on-site stormwater management (zero increase in discharge)
  
- **Preserve or restore natural scenic beauty**
  - Limit shoreland lighting to that essential for safety and security; must be down focused
  - Limit signage size and location
  - Require restoration of shoreland buffers to mitigate development impacts
  
- **Manage nonconformities**
  - Address nonconforming uses, lots and structures separately
  - Adopt measurable provisions for nonconforming structures
  - Limit nonconforming structures based on area and/or distance from ordinary high water mark rather than financial value
  - Provide more restrictive regulations for nonconforming accessory buildings, small principal buildings and the most nonconforming buildings
  - Require shoreland mitigation with expansion of nonconforming structures.

These objectives and strategies are supplied solely for informational purposes. The Department of Natural Resources does not mandate the use of such techniques beyond the requirements of Chapter NR 115, Wis. Admin. Code., but recognizes the outstanding efforts of communities in developing and implementing innovative ordinances for the protection of natural resources.



## *General Resources*

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### **PRESENTATIONS**

**The Impacts of Urbanization.** (72 slides, no date). PowerPoint presentation documenting the impact of the land development process on the quality of our watersheds. This presentation outlines 22 model principles for land development and focuses on streets, parking lots, lot design, and conservation of natural areas in new developments to mitigate water quality impacts. Through better site design, local governments can review their zoning and ordinance codes to minimize impervious cover and promote conservation of natural areas. Available on a CD for \$25 from the Center for Watershed Protection, 8391 Main Street, Ellicott City, MD, 21043 or on-line at: [<http://www.cwp.org/>].

**Keeping Our Shores, Shoreland Best Management Practices.** (March 1996) Video introduces and explains activities called best management practices, or BMPs, that shoreland owners can use to protect the water quality in their lake or river. Uses actors and guest experts to stress easy and inexpensive BMPs that property owners can adopt to make a difference in water quality. Highlights the importance of shoreline filter strips, proper septic maintenance, and appropriate lawn care practices to protect water quality, ensure safe recreational use, and maintain property values. Available for \$15.00 from University of Minnesota – Extension at (800) 876-8636.

**Lake Classification for Shoreland Management.** (44 slides, July 1999). Powerpoint presentation explaining how lake classification can be used to protect water resources and how classification systems are developed. Available on-line from the Wisconsin Department of Natural Resources at: [<http://www.dnr.state.wi.us/org/water/fhp/papers/p3/index.htm>].

**The Living Shore.** (17 min., 1998). Video explains the importance of leaving a natural “buffer zone” between lakes and lake owners’ dwellings. It also provides information on selecting and planting shoreline plants. It is available from Wisconsin Association of Lakes, (800) 542-5253 for \$15.00 plus \$2.00 shipping. It also available at many public libraries.

**Margin of error? Human influence on Wisconsin shores.** (80 slides, June 1999). Powerpoint presentation which highlights the impacts of human development on lake shores, describes shoreland zoning, and explains a new management technique called lake classification. Available on-line from the Wisconsin Department of Natural Resources at: [<http://www.dnr.state.wi.us/org/water/fhp/papers/p2/index.htm>].

**Rivers: Ribbons of Life.** (22 minutes, 2000). Video illustrates the importance of land management practices along rivers and explains the critical significance of broader land use decisions within the river’s basin. Available for \$14.50 (includes shipping to MN or WI) from University of Minnesota – Extension Distribution Center at (800) 876-8636. Ask for item number VH-7542.

**Saving Our Shorelines.** (25 minutes, 2000) Video helps landowners understand why and how they can preserve their shorelines for multiple uses. Available for \$30 from Minnesota DNR at (651)-772-7945.

#### *EDUCATIONAL MATERIALS*

**A Citizens' Guide to Land Use in Wisconsin.** (unknown, no date). A layperson guide to how land use decisions are made in Wisconsin that explains what the legislation says, and how legislation can be used to truly affect responsible land use decision making and planning in the state. It also describes how to organize a grassroots effort around a land use issue or comprehensive plan, how to work effectively with the media and how to use creative tools used in other parts of the country to address land use challenges. Available for \$5.00 from 1000 Friends of Wisconsin, 16 North Carroll Street, Suite 810, Madison, WI, 53703. Order service also available on-line at: [[http://1000friendsofwisconsin.com/order\\_form.shtml](http://1000friendsofwisconsin.com/order_form.shtml)].

**Country Acres: A Guide to Buying and Managing Rural Property.** (58 pp., 1999). Guide takes prospective rural landowners through the process of selecting and managing property in rural Wisconsin. Covers the natural history of Wisconsin as well as zoning and sanitary regulations. Available for \$7.50 from county UW-Extension offices or Extension Publications, 45 N. Charter Street, Madison, WI, 53715 or by calling (608) 262-3346 (toll-free 877-947-7827). Ask for publication number G3309. Also available on-line at: [<http://www1.uwex.edu/ces/pubs/pdf/G3309.PDF>].

**A Guide for Buying and Managing Shoreland.** (24 pp., 1998). Booklet introduces waterbody classification system for Minnesota and describes how to evaluate a shoreland property for purchase. Available from Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN, 55155-4040 or by phoning (888) 646-6367. Also available on-line at: [[http://www.dnr.state.mn.us/waters/shoreland\\_management/index.html](http://www.dnr.state.mn.us/waters/shoreland_management/index.html)].

**Lakescaping for Wildlife and Water Quality.** (176 pp., no date). This book describes the issues facing waterfront owners who wish to protect their water quality and provides examples of how homeowners have dealt with those concerns. It focuses on native landscaping techniques and provides plant lists and nurseries sources. Available from Minnesota Department of Natural Resources, Minnesota's Bookstore at (800) 657-3757.

**The Shoreland Friends Guidebook.** (48 pp., 2000) A "how-to" guide for county zoning administrators and local groups that wish to educate shoreland property owners about shoreland stewardship practices and related regulations. Contains extensive lists of available publications and resources. Available at: [<http://www.dnr.state.wi.us/org/water/wm/dsfm/shore/friends.htm>].

**The Water's Edge.** (12 pp., 2000). Booklet describes how shoreland homeowners can improve fish and wildlife habitat on their property. Available from your local DNR

office or by calling the Wisconsin Department of Natural Resources, Lakes and Wetlands Section, (608) 266-2244 and ask for publication number PUB-FH-428 00.

#### ***TECHNICAL REFERENCES***

**Building Our Future: A Guide to Community Visioning.** (276 pp., undated). A design guide to lead a community through the visioning process, for either a general vision or around a specific issue. Also provides a framework for organizing a public participation process. Available for \$45.00 from county UW-Extension offices or Extension Publications, 45 N. Charter Street, Madison, WI, 53715 or by calling (608) 262-3346 (toll-free 877-947-7827). Ask for publication number G3708. Also available on-line at: [<http://www1.uwex.edu/ces/pubs/pdf/G3708.PDF>].

**The Citizen's Guide to Zoning.** (242 pp., 1983). Text covers everything from the history of zoning, to developing ordinances, to explaining variances. Available for \$25.95 from Planners Book Service, 122 S. Michigan Ave., Suite 1600, Chicago, IL 60603, or by phone at (312) 786-6344 (phone) or (312) 431-9985 (fax). Order service also available on-line at: [<http://www.planning.org/bookstore/default.asp>].

**Conservation Design for Subdivisions: A Practical Guide to Creating Open Space Networks.** (184 pp., 1996). Book provides a four-step process for laying out residential development around a central organizing principle of land conservation. Examples include a lakefront site in the northern woods and other sensitive sites. Book also suggest regulatory improvements for conservation subdivision designs. Published by Island Press, available at bookstores, ISBN1-55963-489-8.

**The Economics of Watershed Protection.** (11 pp., August 1999). Article examines the costs and benefits of watershed management tools. Available on-line from the Center for Watershed Protection at:  
[[www.cwp.org/Articles/economics\\_of\\_watershed\\_protectio.htm](http://www.cwp.org/Articles/economics_of_watershed_protectio.htm)].

**Effectiveness of Shoreland Zoning Standards to Meet Statutory Objectives: A Literature Review with Policy Implications.** (66 pp., December 1997). Companion piece to *Shoreland Management Program Assessment*, focuses on program policy implications from scientific and planning literature. Available from Wisconsin Department of Natural Resources, Dam Safety, Floodplain/Shoreland Zoning Section, (608) 266-8030. Ask for publication number PUBL-WT-505-97.

**Getting in Step: A Guide to Effective Outreach in your Watershed.** (78 pp., no date). Guide provides a step-by-step process for developing and implementing an effective watershed outreach project. Available from the Council of State Governments, 2760 Research Park Drive, PO Box 11910, Lexington, KY, 40578-1910 or by phoning (859) 244-8000. Also available on-line at:  
[<http://www.statesnews.org/clip/policy/step.pdf>].

**Guide to Community Planning in Wisconsin.** (275 pp., 1999). Guide provides a comprehensive overview of the planning process, state statutes, and court cases related to

land use. Also summarizes state programs and resources available to local governments engaged in the planning process. Available from county UW-Extension offices or Extension Publications, 45 N. Charter Street, Madison, WI, 53715 or by calling (608) 262-3346 (toll-free 877-947-7827). Ask for publication number B3697.

**Public Perceptions of the Impacts, Use and Future of Minnesota Lakes.** (31 pp., 1999). Report summarizes the results of the 1998 Minnesota Lakes Survey, including the public perceptions about overall conditions of lakes, water recreation, aquatic resources and natural scenic beauty. The report also gives responses to various solutions including regulation, education and incentive programs. Available from Minnesota Sea Grant Publications, 2305 East Fifth Street, Duluth, MN, 55812-1445 or by phoning (218) 726-6191. Ask for product number SH 1. Also available on-line at: [<http://www.dnr.state.mn.us/omb/reportsum.pdf>].

**Shoreland Management Program Assessment.** (97 pp., December 1997). Companion to *Effectiveness of Shoreland Zoning Standards to Meet Statutory Objectives: A Literature Review with Policy Implications*, and incorporates findings of literature review within a broad assessment of the program's effectiveness in light of current waterfront development patterns and trends, issues of administrative effectiveness, and program history. Available from Wisconsin Department of Natural Resources, Dam Safety, Floodplain/Shoreland Zoning Section, (608) 266-8030. Ask for publication number PUBL-WT-506-97.

**Shoreland Zoning Resource Guide: An Annotated Model Shoreland Zoning Ordinance.** (131 pp., October 1997). Model shoreland zoning ordinance language. Available from Wisconsin Department of Natural Resources, Dam Safety, Floodplain/Shoreland Zoning Section, (608) 266-8030. Ask for publication number PUBL-WT-508-97.

**The Small Town Planning Handbook.** (305 pp., 1995). Guide describes practical tools that are sensitive to local character and the reality of limited financial and personnel resources. The authors explain how to develop a comprehensive town plan, draft and apply land-use regulations, and craft a capital improvements program. Available for \$35.95 from Planners Book Service, 122 S. Michigan Ave., Suite 1600, Chicago, IL 60603, or by phone at (312) 786-6344 (phone) or (312) 431-9985 (fax). Order service also available on-line at: [<http://www.planning.org/bookstore/default.asp>].

**Voices of the Watershed: A Guide to Urban Watershed Management Planning.** (90 pp., no date). Handbook provides a glimpse into the watershed planning process using the North Branch of the Chicago River Watershed as a case study. Available from Friends of the Chicago River, 407 South Dearborn Street, Suite 1580, Chicago, IL, 60605 or by phoning (312) 939-0490.