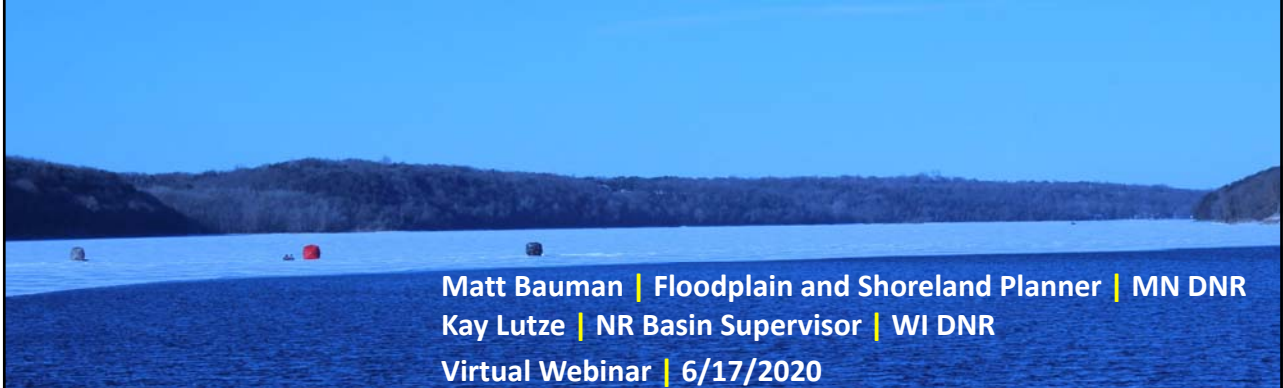




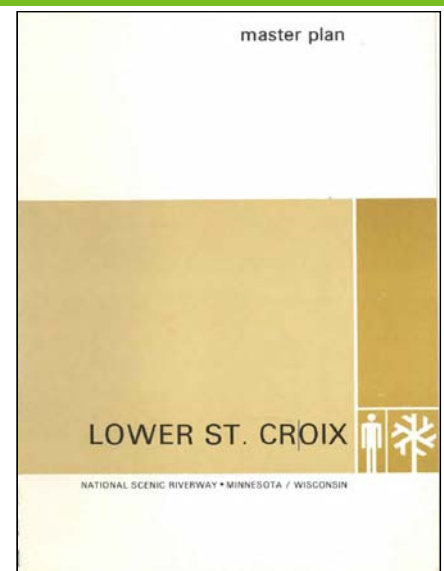
Basics of LSCR Riverway Ordinance Administration, Sticky Issues, & Key Topics



Matt Bauman | Floodplain and Shoreland Planner | MN DNR
 Kay Lutze | NR Basin Supervisor | WI DNR
 Virtual Webinar | 6/17/2020

Framework of LSCR Land Protections

- 1968** – Wild and Scenic Rivers Act
- 1972** – LSCR Act – Amended 1968 Act and added LSCR to the WSR program
- 1973** – NPS, WI, MN Cooperative Agreement
- 1973** – Master Plan - basis for state rules
- 1974** – Lower St. Croix Wild and Scenic River Act – MN Statutes 103F.351
- 1976** – Lower St. Croix National Scenic Riverway - MN Rules (6105.0351 – 6105.0550)



The Lower St. Croix Riverway (LSCR)

52 miles along the boundary of MN and WI from St. Croix Falls/Taylors Falls to the confluence with the Mississippi River

- Upper 27 miles – federally administered zone, managed by NPS – primarily through easements
- Lower 25 miles – state administered zone, managed through locally adopted ordinances

“to preserve the existing scenic and recreational resources of the Lower St. Croix River through controlled development.”

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How is it Enforced?

- 14 MN communities with LSCR zoning authority:

Chisago County	Stillwater	Lake St. Croix Beach
Washington County	Oak Park Heights	St. Mary’s Point
Taylors Falls	Bayport	Afton
Scandia	Lakeland	Denmark Township
Marine on St. Croix	Lakeland Shores	

- Washington County’s LSCR Bluffland and Shoreland Management Ordinance has unofficially served as the model ordinance. Some variation of it is used by most MN communities in riverway.

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Primary Regulatory Controls

Key Standards:

- Districts:
 - Rural
 - Urban – sewerd
 - Urban - unsewerd
- Dimensional standards:
 - Lot size/width
 - Setbacks
 - Height
 - Impervious surfaces
- Regulation of Land Uses
- Color of structures
- Vegetation Cutting
- Land Alterations



Land Use Districts in LSCR

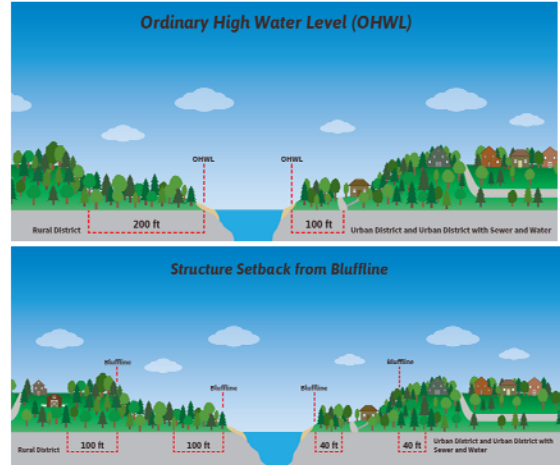
Lot size/width/setbacks determined by District

- **Urban**
 - Taylors Falls, part of Marine on St. Croix, Stillwater, Oak Park Heights, Bayport, Lakeland, Lakeland Shores, Lake St. Croix Beach, St. Mary's Point, part of Afton
 - **Sewered vs Unsewered** (as of 5/1/74) – further expands on lot size/width
 - Stillwater, Oak Park Heights, Bayport only sewerd cities
- **Rural**
 - Parts of Afton & Marine on St. Croix
 - All areas of Chisago and Washington Counties that were unincorporated on 5/1/74

**DNR MAP IN
PROGRESS**

Summary of Dimensional Standards

Regulation	Rural District	Urban District	Urban District with Public Sewer and Water
Minimum lot size above ordinary high water mark	2.5 acres	1 acre	20,000 sq ft
Lot width at building setback line	200 ft	150 ft	100 ft
Lot width at water line	200 ft	150 ft	100 ft
Building setback from ordinary high water mark	200 ft	100 ft	100 ft
Building setback from bluffline	100 ft	40 ft	40 ft
Maximum structure height	35 ft	35 ft	35 ft
Maximum total lot area covered by impervious surface	20 % (1/2 acre)	20 % (8,700 sq ft)	20 % (4,000 sq ft)



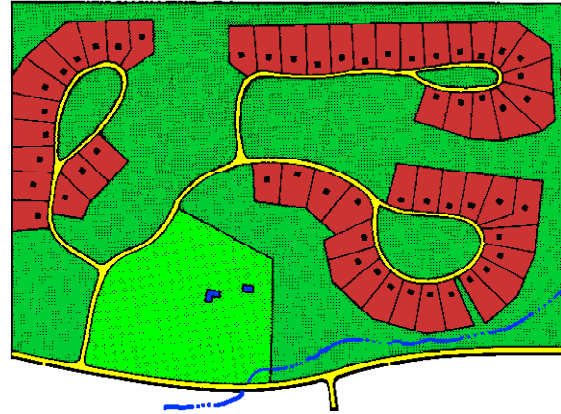
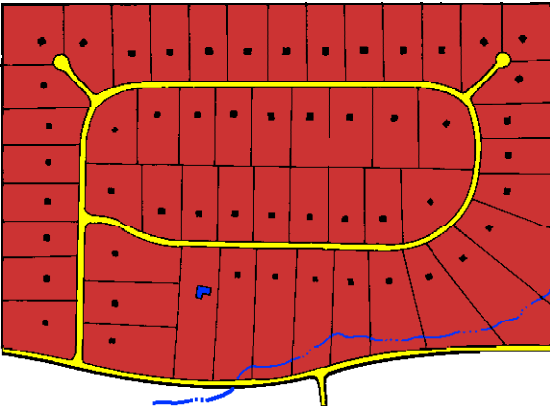
All Districts: No structures placed on or grading done on any slopes > 12%

Summary of WI Standards

Regulation	River Town	Small Town	Small Town Historic	Rural Residential	Conservation
Minimum Lot Size	By ordinance	By ordinance	By ordinance	1 acre	1 acre
Min. lot width building line	By ordinance	By ordinance	By ordinance	By ordinance	By ordinance
OHWM setback	100 ft	100 ft	100 ft	200 ft	200 ft
Bluff setback	40 ft	40 ft	40 ft	100 ft	200 ft
Maximum Height	45 ft	35 ft	35 ft	35 ft	25 ft

Planned Cluster Developments

Conventional Subdivision



Planned Cluster Subdivision

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Uses in the LSCR

- **Permitted uses:**

- Conservancy, agriculture, single family residential, accessory uses
- Commercial allowed through CUP – In urban areas primarily... if they were permitted by ordinance prior to 5/1/74.

- **Prohibited uses:**

- Sand and gravel operations, junk yards, mobile home parks, downhill ski areas, anything > 1 dwelling unit/lot (unless part of a cluster development), marinas outside of Stillwater area
- expansion of existing nonconforming uses is also prohibited

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WI Uses in the LSCR

Permitted uses:

- single family residential, accessory structures, piers if permit, signs, erosion control outside of slope preservation zone.
- Conditional uses: land divisions, planned cluster development, filling and grading w/in slope preservation zone, transmission and wireless comm. services, stairways and lifts, public and private roads, B&Bs, home occupations and nature oriented, non profit facilities.
- Other uses in certain districts allowed by ordinance provided: 1) Protect the natural and scenic qualities of the Lower St.Croix riverway. 2) Protect public health and safety 3) Prevent erosion and water pollution.

Prohibited uses:

- All structures and uses not listed as permitted or conditional.

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Color of Structures



The exterior color of new or renovated structures, including roofs, must be of earth or summer vegetation tones, unless completely screened from the river

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Encourage **HIGHER STANDARDS** in Your Communities!

- Standards that exceed statewide standards
- Standards that further clarify statewide standards

To address:

- Protection of views
- Runoff & Erosion
- Water quality
- Habitat loss
- Climate change



Vegetation Removal in the LSCR

Permit Required:

- Rural Districts – Within 200' of OHW
- Urban Districts – within 100' of OHW
- Bluffs – slopes >12% and 40' landward of bluffline

Applicable standards:

- minimum area necessary for properly permitted structure
- restricted to trees <6" diameter at breast height
- Diseased trees/shrubs may be removed
- Maintain character, quality, density, & canopy cover
- Vegetation screening structures shall not be cut or topped



HIGHER STANDARDS For Vegetation Removal

Lakeland (MN) Vegetation Ordinance

- Allows removal of dead, hazard, or noxious trees & shrubs
- Sets clearing limits when accommodating for development
- Details standards for restoration of vegetation

Consider codifying revegetation standards for:

- Riprap installation
- Extensive clearing of diseased/dead trees
- Clearing violations (how is this monitored???)

→ Many good provisions in the new MRCCA rules

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HIGHER STANDARDS For Monitoring of Vegetation Removal Violations

Monitoring of Clearing Violations?

- by complaint
- aerials
- shoreline pics



WI Vegetation Removal in the LSCR

Permit Required if below is met: (general overview)

1. Vegetation w/in OHWM setback, bluff setback and slope preservation zone shall be left undisturbed.
2. Vegetation may not be disturbed/removed if it would disrupt the visually inconspicuous character or structure, reduce the quality or diversity of plant community or increase potential for erosion
3. Lawns w/in OHWM setbacks, slope preservation zones and bluff setback may not be expanded.
4. Non-native invasive species, other vegetation removed shall be replaced with native vegetation.

Applicable standards:

- Small town historic: If fewer than 25 trees over 5 in. diameter between building line and the river – they shall be maintained.
- *No separate permit required for clearing to accommodate for properly permitted development or approved land disturbance < 10,000 sq. ft.

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Grading and Filling in the LSCR

Permit required for any change in topography

Applicable standards:

- No alterations on slopes >12% where erosion may result
- Disturbances and cutting is minimized
- Ground is exposed for as short of a period as feasible
- Stabilize soil, prevent erosion, and trap sediment.
- Permanent ground cover, such as ~~sod~~ deep-rooted woody vegetation is planted upon completion



*No separate permit required when accommodating for properly permitted development or right of way maintenance

WI Grading and Filling in the LSCR

Applicable standards:

- Permitted outside of slope preservation zone, Setback at least 40' from SPV
- Disturbance less than 10,000 sq. feet, No wetlands filled/drained
- Any vegetation removed is replaced w/ native
- F/G activities designed to minimize erosion, sedimentation and impairment fish and wildlife habitat. WI construction BMP are implemented.

CUP:

- w/in SPR that don't face or drain to river
- Outside of SPR when > 10,000 sq. feet
- w/in 40' of SPR

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Substandard Lots in LSCR

"Substandard" Lots

Lot is buildable (without variances) if:

- A sewage disposal system can be installed
- Lot has been in separate ownership from abutting lands since 5/1/74
- Ordinance "may...set a minimum size for substandard lots or impose other restrictions" ($\geq 60\%$ of conforming lot in Washington Co)

Also requires dimensional standards (septic/structure setbacks) are complied with to the greatest extent practicable

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WI Substandard Lots in LSCR

“Substandard” Lots of record on 1/1/76 or ordinance amendment

Lot is buildable (without variances) if:

- Lot has been in separate ownership
- The lot by itself or in combination with an adjacent lot or lots under common ownership in an existing subdivision has at least one acre of net project area. Adjacent substandard lots in common ownership may only be sold or developed as separate lots if each of the lots has at least one acre of net project area.
- All structures comply with LSCR ordinance/sanitary and any other zoning.

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Substandard Structures in LSCR

“Substandard” Structures (vs. Nonconforming)

- Expansions
 - Allowed (contrast with nonconforming structures)
 - Can extend, enlarge, or alter on side of structure facing away from river/bluff
 - Can extend vertically or laterally (parallel to river or bluff) **but only if visually inconspicuous** → **Incentive to keep shoreline well vegetated!!!**
- Replacements
 - Not allowed (contrast with nonconforming structures). Replacement shall comply with dimensional standards

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HIGHER STANDARDS for Substandard Structure Replacement

Replacement of Substandard Structures

- Could simply define “replacement”
- 13.3 of Washington Co Development Code prohibit replacement when destruction exceeds 50% of the appraised value of the original structure



HIGHER STANDARDS for Substandard Structure Expansions

Expansion of Structures

- Prohibit vertical expansions when the existing structure doesn't meet setbacks (Washington Co, MN)
- Limit expansions to no more than 50% of the river facing profile of the original structure (Washington Co, MN)
- Expansions only allowed if lot is at least 7,000 SF and visually inconspicuous (WI rules)

WI Nonconforming Structures Overview

NC Principal structures: ordinary maintenance and repair allowed in all zones

Structurally Altered or Reconstruction only if:

- Lot has at least 7,000 sq. feet, visually inconspicuous or rendered so through mitigation, same footprint, height complies w/ code or not any taller than pre-existing structure (flat roof may be replaced w/pitched roof), color complied, and mitigation plan approved, POWTS brought into compliance.
- FOUNDATION MAY NOT BE REPLACED, IMPROVED OR STRUCTURALLY ALTERED UNLESS being done in conjunction w/ reconstruction of structure and ENTIRE STRUCTURE is > 50 ' from OHWM and not located in slope preservation zone.
- No F/G allowed except minimum necessary
- If located in slope preservation zone, only can be reconstructed on existing foundation if stormwater technical standards are applied to steeper slopes.

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WI Nonconforming Structures Overview

Expansion of NC Principal structures:

Key Takeaways (not all provisions listed) :

- No expansion for structures wholly or partially w/in 50' of OHWM, wholly or partially located w/in slope preservation zone.
- If in OHWM setback, structure may not exceed 1500 sq. ft.
- If in bluff setback and not OHWM, structure may not exceed 2000 sq. ft and is at least 40' from bluffline, not in slope preservation zone, earth-tone materials
- Expansion on side farthest from river
- Mitigation plan required

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HIGHER STANDARD - Impervious Definition

A constructed hard surface that either prevents or retards the entry of water into the soil and causes water to run off the surface in greater quantities and at an increased rate of flow than prior to development. Examples include, but are not limited to, decks, rooftops, sidewalks, patios, permeable pavers, storage areas and concrete, asphalt or gravel driveways.

City of Otter Tail, Minnesota

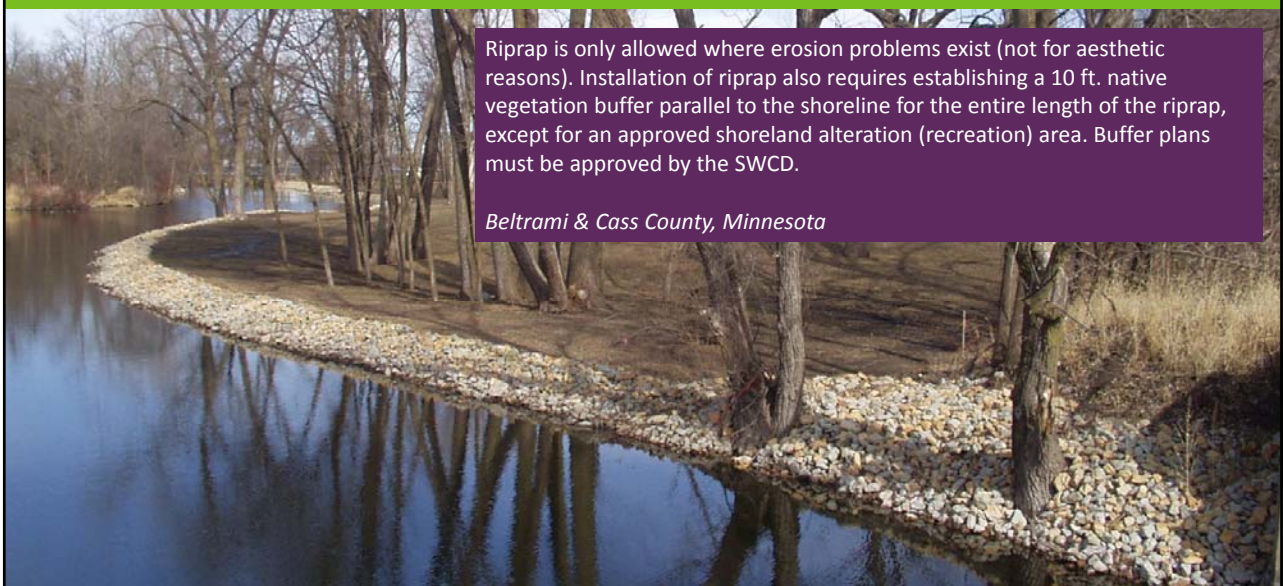


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HIGHER STANDARD – Riprap Design

Riprap is only allowed where erosion problems exist (not for aesthetic reasons). Installation of riprap also requires establishing a 10 ft. native vegetation buffer parallel to the shoreline for the entire length of the riprap, except for an approved shoreland alteration (recreation) area. Buffer plans must be approved by the SWCD.

Beltrami & Cass County, Minnesota



HIGHER STANDARD for Flood Protection

2 ways to elevate a structure:

On Fill



Alternative Elevation Methods



Impossible to elevate on fill without clearing vegetation. Consider requiring alternative methods only.

HIGHER STANDARD for Height Due to Flood Protection

35' from the average **NATURAL** ground level at building line





Questions?

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