

## **Potential Impacts of the Wild River Proposal For the Totogatic River and Headwaters of the St. Croix**

The Totogatic River flows through five northwest Wisconsin counties: Bayfield, Burnett, Douglas, Sawyer and Washburn. The Headwaters of the St. Croix River are located in Douglas County. These five counties already have zoning ordinances in place to protect their waterways.

If the Totogatic and St. Croix Headwaters are designated as state “wild rivers”, their names would be added to the list in Section 30.26 of the state statutes that presently gives wild river protection to only three rivers: the Pike River in Marinette County and the Pine and Popple Rivers in Florence and Forest Counties. County zoning ordinances would continue to protect the Totogatic and St. Croix Headwaters, along with the supplemental state protections specified in Wisconsin Administrative Code NR 302.04. In addition, NR 102 lists all state Wild Rivers as Outstanding Resource Waters (ORWs), providing further protection.

The purpose of this document is to summarize relevant provisions of the county zoning ordinances that are already in place to protect the Totogatic and St. Croix Headwaters so that they may be more easily compared to the current Wild River provisions in NR 302 and NR 102. *Anyone who needs to know the details of a particular county’s shoreland zoning provisions should consult that county’s official zoning ordinances.*

### **A. Building Setbacks**

County zoning rules specify building setbacks along rivers as shown below. NR 302 does not set specific dimensional setbacks for structures on property along a wild river. However, note that setbacks can also be affected by grading restrictions shown on the next page.

<b>County</b>	<b>Zoning Ordinance Minimum Building Setbacks from a River’s Ordinary High Water Mark (OHWM)</b>
<b>Bayfield County</b>	100 ft.
<b>Burnett County</b>	100 ft.
<b>Douglas County</b>	
Property along the St. Croix (including the Headwaters), Brule, and Eau Claire Rivers	200 ft.
Property along other rivers and streams (including the Totogatic)	125 ft.
<b>Sawyer County</b>	75 ft.
<b>Washburn County</b>	
Resource Conservation (RC)	300 ft.
Any property not zoned as RC	125 ft.

## B. Grading

### 1) Wild River Status

Grading along the Pike, Pine, and Popple Rivers is limited by NR 302 to 10,000 sq. ft. *on the bank* of property in common ownership. This includes all contiguous grading on the property under common ownership and is not related to the number of lots.

“On the bank” of an ORW means at least 300 ft. back from the Ordinary High Water Mark (OHWM). If at 300 feet or less from the OHWM the slope is 10% or greater, the bank shall extend further landward to where the slope of the land becomes less than 10% for at least 50 ft.

### 2) County Zoning Grading Protections

<b>County</b>	<b>Zoning Provisions for Grading in Shoreland Area</b>
<b>Bayfield County</b>	Class A special use permit shall be required for grading or filling 1,000 sq. ft. or more within a strip paralleling the shoreline of a navigable waterway and extending inland 300 ft. from the OHWM. 13-1-24(d)
<b>Burnett County</b>	Clearcutting, filling, grading, and other land disturbing activities not permitted.
<b>Douglas County</b>	Section 7.21 requires a permit for any filling or grading of any area which is within 300 ft. landward of the OHWM of navigable water and which has surface drainage toward the water and on which there is either: (1) Any filling or grading on slopes of more than 20%; (2) Filling or grading of more than 2,500 sq. ft. in addition to the minimum necessary for the construction of the principal building and the installation of on-site waste treatment systems on slopes of 12%-20%; or (3) Filling or grading of more than 5,000 sq. ft. in addition to the minimum necessary for the construction of the principal building and the installation of on-site waste treatment systems on slopes of 0%-12%.
<b>Sawyer County</b>	Filling or grading of an area > 10,000 sq. ft. within 300 ft. of the OHWM requires a land use permit.
<b>Washburn County</b>	Land disturbing activities are prohibited in the protection area, which extends from the OHWM to a line that is 25 feet less than the required shoreline setback.

### C. Shoreline Buffers

**Wild River Status: On Department-owned or controlled lands,** no cutting is allowed under NR 302 within the first 150 ft. from the ordinary high water mark except for silvicultural activities in accordance with the Department’s Silvicultural and Forestry Aesthetics Handbook.

**On privately-owned lands,** NR 302 doesn’t restrict cutting, but private landowners are encouraged to help preserve the wild nature of the river. *However, cutting on the banks would have to continue to meet the local zoning ordinances as shown below.*

County Ordinance	Zoning Requirements for Buffer Areas	Can a buffer area be clear cut or graded and replanted?
<b>Bayfield County</b>	<p><b>Vegetation Protection Area:</b> From OHWM to a line that is 25 ft closer to the OHWM than the required shoreline setback.</p> <p><b>Viewing/Access Corridor:</b> One per lot may be established by pruning and selective removal of trees and shrubbery; no more than 30 ft wide, or 30% for lots less than 100 ft, and set back at least 10 ft from each side lot line. May not be established if there is a naturally occurring opening. No fences. 13-1-23 (a)</p>	No clear cutting, filling, grading or other land disturbing activities.
<b>Burnett County</b>	<p><b>Vegetation Protection Area:</b> From OHWM to a line 25 ft less than the required setback, but in no case less than 35 ft. landward from the OHWM.</p> <p><b>Viewing/Access Corridor:</b> One per lot may be established by pruning and selective removal of trees and shrubbery; no more than 30 ft wide, or 30% for lots less than 100 ft, and set back at least 10 ft from each side lot line. May not be established if there is a naturally occurring opening.</p>	<p>Clear cutting, filling, grading and other land disturbing activities are not permitted in the vegetation protection area.</p> <p>Vegetation removal (including trees, shrubs, and crown cover) and land disturbing activities are prohibited except that limited pruning and mowing will be allowed in the area greater than 35 ft. from the OHWM and limited tree removal, pruning and mowing will be permitted in the viewing/access corridor.</p>

<b>Douglas County</b>	<b>Vegetation Removal:</b> In the strip 50 ft. inland from the OHWM, no more than 30 ft in any 100 ft. shall be clear cut. In other areas, trees and shrub cutting shall be governed by consideration of the effect on water quality and should be in accord with accepted management practices.	Natural shrubbery shall be preserved as far as practicable and, where removed, shall be replaced with other vegetation equally effective in retarding runoff, preventing erosion, and preserving natural beauty. No more than 30 ft. in any 100 ft. may be clear cut to the depth of the 35 ft. protection area.
<b>Sawyer County</b>	<b>Vegetation Protection Area:</b> 35 ft. landward from OHWM. <b>Use Corridor:</b> 30 ft. width in 100 ft of shoreline, or 30% for narrower lots, and set back at least 10 ft from side lot line. Not allowed where the absence of vegetation provides a similar naturally occurring opening. 4.410	May clear vegetation within a 30 ft. wide use/viewing corridor. No grading or land disturbing allowed.
<b>Washburn County</b>	<b>Vegetation Protection Area:</b> No disturbance to a distance of 25 ft. from the dwelling (275 ft. for property zoned Resource Conservation or 100 ft for other property along a river and stream) except for limited vegetation removal within a 30 ft wide view/access corridor.	Clear cutting, filling, grading and other land disturbing activities are not permitted.

#### D. Walkways, Stairs, and Similar Structures to Provide Access to River

Wild River status has no impact on the construction of walkways, stairs, and similar structures on the shore to provide access to the river unless the total grading exceeds 10,000 sq. ft. Generally the county zoning rules prohibit grading within the vegetation protection area but do allow such structures as shown in the table below.

<b>County</b>	<b>Zoning Provisions for Walkway or Stairway Access to River</b>
<b>Bayfield County</b>	Stairways, elevated walkways and that portion of piers landward of the OHWM allowed if the structure is necessary to access the shoreline because of steep slopes or wet, unstable soils, and meets other specified standards. 13-1-22(a)
<b>Burnett County</b>	Stairways and elevated walkways are a permitted use exempt from setback requirements provided that they are necessary to access the shoreline because of steep slopes or wet, unstable soils and meet specified standards. 4.4.1(d)
<b>Douglas County</b>	Uses the 1999 DNR guidance regarding permits for walkways and steps; i.e. no more than 4 feet wide, no decks, landings no more than 40 sq. ft., etc. .
<b>Sawyer County</b>	One pathway, elevated walkway or stairway will be allowed, plus one additional powered lift, if it is located and constructed so as to avoid erosion and meets other specified standards. 4.49
<b>Washburn County</b>	Stair access permit required for any stairway, walkway, or lift structure greater than 65 sq.ft. Sec. 38-596

### E. Summary of NR 302's Impact on Private Lands

What is Allowed Now?	What Is Allowed Along the Pike, Pine and Popple Rivers?
Piers	No new piers
Ponds within 500 ft.	No new ponds within 400 ft.
Grading on the bank to extent allowed by county zoning rules	No grading on the bank of an area over 10,000 sq. ft.
Dams by permit only	No new dams
Structures and deposits in the river by permit only	No structures or deposits in the river
Shore protection by DNR permit	Shore protection allowed by DNR permit if natural materials are used in areas of erosion caused by human disturbance
Bulkhead lines by permit	No bulkhead lines
Channel changes by permit	No channel changes
Bridges by permit	No new bridges except foot bridges, bridge access to residential dwellings, and highway bridges
Removal of obstructions	No removal of natural obstructions by DNR staff
Utility corridors	Impact of utility corridors must be minimized