

Where is the Ordinary High Water Mark?

and other Shoreland Zoning questions

How far do I have to build from the water?

Most new structures must be 75' from the Ordinary High Water Mark (OHWM). This includes buildings, decks, eaves, patios, retaining walls, gazebos, and travel trailers. The exceptions to this rule are: Setback Averaging for principal structures, Boathouses, Stairways and Walkways that meet ordinance requirements, certain Open Sided Structures and replacement of Legal Pre-Existing Structures. See handouts for these topics for more information. In areas that are in floodplain, greater setbacks may be required.

Where is the Ordinary High Water Mark?

The OHWM is defined as "the point on the bank or shore up to which the presence and action of surface water is so continuous as to leave a distinctive mark such as by erosion, vegetation, or other easily recognized characteristic". When measuring from the OHWM, it is important to make horizontal measurements from the nearest point of the shoreline.

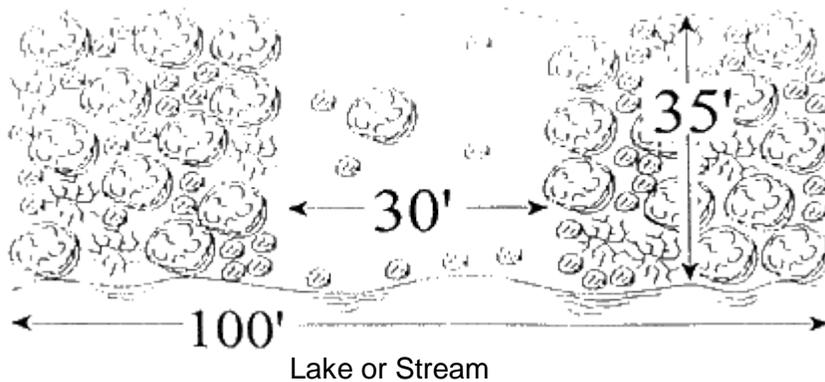
How far do I have to be from the lot line?

There are many setbacks that need to be met on shoreland properties. Side yard setbacks need to be a minimum of 10' for principal dwellings. Accessory structures, such as garages, only require a 5' side yard setback. Remember that all setbacks include eaves and overhangs. Setbacks from roads depend on where you are located. The setback from town and private roads is 63' from the centerline, county highways are 75', and state highways are 110'.

Can I take down trees on my lake property?

Yes. In the area more than 35' from the OHWM, there are no restrictions about tree cutting. It is recommended, however, that on steeply sloped sites, tree cutting is done in a careful manner so as to not create an erosion problem and if stump removal/leveling is being done, a permit is required. The area 35' from the OHWM is called the Vegetative Buffer Area. This area is to remain vegetated with trees, shrubs and grass or wildflowers. The buffer area helps to protect the water quality because the roots of the plants and trees control erosion and filter pollutants before they enter the water. Only a 35' wide area is allowed to be cleared of trees and shrubs for access to the water. Contact our office for information.

SHORELAND VEGETATIVE BUFFER



Can I build a boathouse?

Maybe. See the Boathouse Requirements handout for more information.

Can I level out my lake property?

Maybe. Permits may be required depending on the amount of excavated area, distance from the water and slope. Earth moving activities are not allowed within the Shoreland Buffer Area which is 35' from the shoreline. Earth moving is also not permitted on slopes $\geq 45\%$. **ANY** filling in floodplain requires a permit. Any filling or dredging in wetlands requires a permit from the Army Corps of Engineers and/or WI DNR. Any grading of more than 10,000 square feet in areas that drain to navigable waters or filling or dredging in navigable waters requires a permit from the DNR. The biggest concern when doing any type of earth moving activities is erosion. It is always important to install silt fence during construction and seed the area as soon as possible after grading. See the Land Disturbing Requirements handout for more information.

If I have a nonconforming structure, can I add onto it?

Maybe. Nonconforming structures are structures that do not meet required setbacks from the water, lot lines or roads, but existed prior to the ordinance or amendments, thereof. Nonconforming structures are allowed to remain and are allowed ordinary maintenance and repair, such as replacement of same size windows and doors, skylights, vents, siding, insulation, shutters, gutters, flooring and shingles, or replacing or repairing internal walls and floors. Ordinary maintenance and repair does not include external alterations and additions, internal improvements or replacement of existing structures. Any additions or improvements, other than ordinary maintenance, require a permit and are reviewed based on the distance of the structure from the water, the use of the structure and the size of the structure. See the Legal Pre-existing Structure handout for more information.

Can I put up steps down to the water?

Maybe. Steps and walkways may solve some of your lake access problems on steep slopes or in wet areas. When installed properly, they can prevent erosion and allow vegetation to grow underneath them. Since dredging or filling is not allowed in wetlands along the shore, boardwalks can offer easier access to the water in these areas. Permits are required for steps and walkways and they must meet certain dimensional and structural requirements. See the Stairways and Walkways handout for more information.

Can I install a retaining wall or riprap on the shore?

Maybe. Retaining walls that meet setback requirements are permitted. Riprap along the shore is permitted with certain requirements. See the Land Disturbing Requirements handout for more information.

What are "Impervious Surfaces"?

Impervious surfaces means "the footprint of structures or land areas where precipitation is essentially unable to infiltrate into the soil. Such surfaces include but are not limited to roadways and pathways which are paved or graveled, roofs, patios, decks and similar areas." Impervious surfaces are limited because of the concerns and negative impacts that unfiltered stormwater has on our lakes and rivers. Hard surfaces prevent water from infiltrating through the soil and increase the velocity and often the duration of runoff. Impervious surfaces may also cause negative impacts by diverting runoff to neighboring properties. Studies have shown that once the area around a waterway reaches 10-15% impervious surfaces, water quality is greatly and noticeably reduced.

Most of the older shoreland lots in Rusk County were created for smaller, seasonal cabins. Because of present economical and social standards, however, many people are able to afford, and wish to have, larger homes and garages. Unfortunately many of the small lots were not meant to accommodate large buildings. It is much like owning a small compact car and trying to fit a family of 6 and luggage inside of it. It can't be done while also offering comfort and safety. A larger vehicle is required if the needs of the family are larger. The same is true of lake lots. If an owner needs to have a larger house, garage, etc..., it may be necessary to have a larger lot, as well.

No more than 15% of each shoreland lot **WITHIN 300 FEET OF THE OHWM** shall be covered by buildings and other impervious surfaces. However, if the area is between 15% and 30%, mitigation can be done. See the Impervious Surfaces packet for more information.

What is a variance?

A variance is a relaxation of the rules pertaining to setbacks. It is an authorization granted by the Board of Adjustment to construct, alter or use a building or structure in a manner that deviates from the dimensional standards of the ordinance. After a variance application is submitted by a property owner, a public hearing is held and the property owner must prove three points in order to receive a variance. The three points are:

- (1) Unnecessary Hardship – Unnecessary hardship is a situation where, in the absence of a variance, an owner can make no reasonable use of a property. Self imposed hardships and financial hardships are not grounds for a variance. The variance must be peculiar to the parcel in question.
- (2) Unique Property Limitations – Unique property limitations must prevent the applicant from developing in compliance with the zoning ordinances. They may include wetlands, steep slopes and/or parcel shape.
- (3) Protection of the Public Interest – The granting of a variance must neither harm the public interest nor undermine the purposes of the ordinance. Lack of local opposition does not in itself mean that a variance will not harm the public interest.

*** The answers indicated in this handout do not represent the entire contents of the Rusk County Shoreland Zoning Ordinance or other applicable rules. They are meant to give you a brief overview of commonly asked questions. For more detailed requirements, contact the Rusk County Zoning Office or refer to the Rusk County ordinances.

Any questions or concerns may be addressed to the

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