

Sawyer County Zoning Department: Zoning Ordinance - Shoreland Zoning

The previous article dealt with a brief history of County zoning and the comprehensive zoning requirements contained within the Sawyer County Zoning Ordinance. If you recall, shoreland zoning consists of regulating those land areas that are located within 1,000 feet of lakes, ponds and flowages and those land areas within 300 feet of rivers and streams. Comprehensive zoning pertains to all other land areas. The basis of comprehensive zoning is the creation of zone districts that prescribe the allowable uses that can take place on a particular property.

The determination of the ordinary high-water mark (OHWM) is a critical element of shoreland zoning. The ordinance defines the OHWM 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, destruction or prevention of terrestrial vegetation, predominance of aquatic vegetation, or other easily recognized characteristics.” The OHWM is seldom the water’s edge and in fact may be many feet from open water. While it is the responsibility of department staff to make this determination, in difficult situations we will request assistance from the DNR.

Shoreland zoning differs from comprehensive zoning in that it does not prescribe land uses. Regardless of shoreland zoning requirements, a proposed use of a property must still meet that property’s zone district requirements. Shoreland zoning establishes criteria for back lot access to navigable waters (“key holing”), island development, the creation of new resorts and the expansion of existing resorts; the expansion, maintenance and repair of those structures located closer than 75’ to the OHWM (i.e., buildings, decks, patios, screen porches, boathouses etc.), grading requirements, buffer zone mitigation and impervious surfaces requirements.

Included within the shoreland zoning provisions are the “Lakes Class Development Standards and Lists of Lakes by Classification.” The current classification criterion was adopted on April 15, 1997 and consists of four general lakes classifications: General Development – most developed lakes (i.e., Chippewa Flowage, Grindstone and Round Lake), Recreational Development – some development but not fully developed (i.e., Blueberry, Hayward and Moose lakes), Natural Development – minimal development (i.e., Callahan/Mud, McClain and Osprey lakes) and Rivers and Streams. Lakes and flowages were assigned a lake classification based on a numerical scoring system (“vulnerability score”) related to lake surface area, maximum depth, type of lake (seepage, spring or drainage), watershed size in square miles and shoreline development factor. Minimum requirements within each classification are established for lot width, lot depth and lot area; shoreline setback, side yard setbacks and the creation of use corridors within 35’ of the OHWM. Below is an extract from the ordinance as it pertains to “Natural Development” lakes.

4.417 (Sub Para)	Classification	LAKE CLASS DEVELOPMENT STANDARDS					
		Lot Size (Square Feet)	For each Single Family Dwelling Unit - Lot Width (Feet)	Shoreline Setback (Feet)	Lot Depth (Feet)	Vegetation Removal	Side Yard Setback for all Structures
(3)	Natural Development 3	40,000	200 *400	75	200	30' corridor within 35' of the ordinary high-water mark	30' minimum - 60' minimum total

The following is a summary of those questions that are regularly addressed to department staff concerning shoreland zoning and the issue of permits.

What can I do with my cabin (i.e., construct an addition, repair/replace the roof, walls etc.)? (Section 4.421 STRUCTURES WITH NONCONFORMING SHORELINE SETBACKS) This is probably the most common question that is posed to us by property owners. Our response is “It depends on how close the building is to the OHWM.” The closer that a cabin is to the OHWM, the greater are the restrictions that apply to that cabin. As an example, if any part of a cabin (i.e., roof eave, deck, balcony etc.) is closer than 40’ to the OHWM, then only ordinary maintenance and repair, internal improvement – those modifications that take place within the cabin’s exterior walls and the replacement of foundation and roof support systems are allowed. Any addition to the cabin is allowed only by the granting of a variance by the Sawyer County Board of Appeals.

Why do I have to mitigate/restore my shoreland vegetation protection area (also known as the buffer zone, buffer strip and buffer area) if I want a permit to construct something on my property? Section 4.419 MITIGATION REQUIREMENTS) The rationale for mitigation as a requirement for a permit is that an intact buffer zone contributes significantly to the protection of our lakes and waterways by minimizing erosion through shoreline stabilization, trapping and filtering sediments and improving the water quality of adjacent waters. Additionally, an intact buffer zone provides habitat for wildlife and some studies have indicated that an intact buffer zone may also result in increased property values. The department utilizes a part-time summer employee to visit all shoreland properties for which permits have been issued. While onsite she verifies the condition of the buffer zones and follows-up on the progress of any required mitigation. She also will determine whether any construction that has taken place on the property has been accomplished in accordance with the issued permit and that a permit has been issued for that construction.

Why are you concerned about impervious surfaces on my property when deciding to issue my permit? (Section 4.422 IMPERVIOUS SURFACE LIMITATIONS) As stated in the ordinance, “Extensive research shows that shoreland development results in increased quantities and velocities of runoff that may overwhelm infiltration capacity and transport sediment, nutrients and other pollutants directly to surface waters if proper

management is not employed.” Impervious surfaces are those surfaces that prevent or impede normal water infiltration and/or cause runoff to other areas. Examples include roofs, asphalt, concrete, brick and paver stone surfaces. Decks, stairways and walkways containing gaps are not considered to be impervious. However, if they are constructed above or on an impervious surface, then that surface must be included in the calculations.

Since most construction activities take place within a few hundred feet of the shoreline, the ordinance restricts the amount of impervious surfaces to not more than 15% of that part of a parcel within 300’ of the OHWM. This percentage may be increased to not more than 25% with a conditional use permit approved by the Sawyer County Zoning Committee. The Committee may attach conditions to its approval such as requiring gutters and downspouts, that runoff be diverted away from the shoreline and requiring the use of rain barrels and rain gardens.

Obviously, an article this short cannot possibly address every shoreland zoning issue. Please contact the department if you have any questions or comments. Department staff will perform an onsite inspection of your property and advise you of those options that are available to you. Currently, there is a \$50.00 fee for this visit. The next article in the series will deal with the Subdivision Control/Condominium Ordinance.