

# 10 Things Owners of Vacant Waterfront Property Should Know About The Proposed Changes to Wisconsin's Shoreland Zoning Regulations

The Wisconsin Department of Natural Resources (DNR) is proposing new changes to the state's shoreland zoning regulations (NR 115). These new changes attempt to protect water quality, wildlife, and natural scenic beauty around our water resources, but do so by placing stricter standards on new development and construction within 300 feet of the water. As a result, the use and value of waterfront property will be impacted (positively or negatively). Below is a list of 10 proposed changes that will have the most significant impact on owners of vacant property.

**1. New impervious surface standards will limit the size of new homes and remodeling projects within 300 feet of the water.** For all new construction within 300 feet of the water, no more than 10% of the lot can be covered in impervious surfaces (concrete, black top, footprint of structure, etc.). This includes roof tops, sidewalks, driveways, patios, and any other surface that will not allow water to infiltrate the ground. The impervious surface limit is raised to 20% of the entire lot if the property owner meets mitigation standards established by the county.

**Example –** On a typical 10,000 sq. foot lot (65'x154'), no more than 20% of the lot can be covered with impervious surfaces (w/ mitigation). This means that only 2,000 sq. ft. of impervious surface is allowed. If you assume that the average driveway is 200 sq. ft. (25'x8'), this means that you have 1,800 sq. ft. to build a house, garage, driveway, patio and other impervious surfaces. (Note – a driveway, patio and sidewalk can be pervious if designed

using the appropriate materials. However, these materials can be expensive.)

**2. New lots must be bigger for all new single-family and commercial development.** Under the proposed changes, all buildable lots must be (a) a minimum of 20,000 square feet, and (b) at least 100 feet wide at the OHWM and the building setback line (75 ft. from OHWM). Current law allows sewered lots to be a minimum of 10,000 square feet with a minimum width of 65 feet (can be measured anywhere). (Unsewered lots must be 20,000 square feet and 100 feet wide). This will result in larger, more expensive lots (serviced by sewer) that even fewer Wisconsin residents will be able to afford.

**3. New homes cannot be more than 35-feet high.** All residential structures within 300 feet of the OHWM must be no taller than 35 feet. This applies only to structures constructed after the effective date of the rule. The rule does not specify where the height must be measured from (the road, lowest point on the lot, base of the structure), so it is seemingly left to the counties to make this determination.

**4. Counties may establish smaller minimum lot-size requirements for multi-family and planned-unit developments.** Counties may create smaller lot size requirements for multi-family development. Also, counties may create smaller lot size requirements for planned residential developments in exchange for larger shoreland buffers, larger lot sizes or larger setbacks on those lots adjacent to the water.

**6. Setbacks cannot be reduced unless the lot would otherwise be unbuildable.** The 75-foot setback may be reduced (i.e., buildings can be built closer to the water than 75 feet) only if, among other things, there is no other place on the lot to build a home or building that is 30 feet deep. Under current law, the setback may be reduced if existing development pattern exists (i.e., if the surrounding properties are built closer to the water)

**7. New mitigation requirements are triggered when setback and impervious surface standards are not met.** Property owners must perform mitigation if they want to exceed the impervious surface standards or expand existing nonconforming structures. All mitigation must be proportional to the anticipated impacts of the project. Mitigation standards will be established by the counties, but must meet goals established by the DNR including controlling rainfall runoff to the maximum extent practicable.

**8. New vegetation and removal requirements will create smaller views to water for some lots.** Within 35 feet of the water, vegetation can be removed only within the “view and access corridor.” “View and access corridor” is defined as “40 ft. or 30% of lot width at OHWM (whichever is less) for lots with 200 ft. of frontage or less” or “20% of lot width at OHWM for lots with more than 200 ft of frontage.” Current law allows trees and The limits on tree removal are more restrictive than current law. Lots with less than 150 ft of frontage will have a smaller access corridor through which they can view and access the water. For example, a 65-foot wide lot, would now have only a 19.5 foot view access corridor, rather than 30 feet.

**9. Vegetation can be removed outside of view and access corridor**

**only in limited circumstances.**

Vegetation cannot be removed outside of view and access corridor (w/in 35 of the OHWM), unless the vegetation qualifies as one of the following: (a) exotic or invasive species; (b) damaged vegetation; (c) vegetation that must be removed to control vegetation; or (d) Vegetation that poses imminent safety hazard. Under current law, trees and shrubs can be removed as long as the area is not clear cut.

**10. Dry boathouses over 250 square feet are prohibited.** All dry boat houses above 250 square feet are prohibited. (Note – Wet boat houses are regulated by Chapter 30 of the Wisconsin Statutes, not NR 115.)