

ARTICLE 18 LOTS NEAR WATER

INTENT:

For the purpose of preventing and controlling water pollution, preserving shoreland cover, natural beauty and to further the maintenance of safe and healthy conditions on shorelands of streams, rivers, lakes and flowages of water that appears on the U.S. Geological Survey Quadrangle maps of Otsego County.

SECTION 18.1 SHORELAND DEFINITION

Shoreland shall be considered in this Ordinance as the land paralleling the lake shoreline, fifty (50) feet wide as measured from the ordinary high water level and the land paralleling the banks of all rivers, streams and flowages of water in the County that appear on the most Geological Survey Quadrangle maps, one hundred fifty (150) feet wide, measured at right angles to the shoreline or bank, on a horizontal plane.

SECTION 18.2 SHORELAND BUILDING SETBACKS

Buildings and structures, excepting satellite dishes, shall not be constructed or placed within the shoreland.

SECTION 18.3 MAINTENANCE OF SHORELAND

18.3.1 At the discretion of the landowner, dead, diseased, or dying trees within the shoreland area may be removed and/or the trimming and pruning of live trees and shrubs may be undertaken to improve the view and aesthetic appearance of the shoreline. Such trimming or pruning may not remove so much of the tree or shrub that the life of the plant is endangered. Provided further, that if a tree must be removed because it is dead or diseased, the stump may be cut flush with the ground, but the roots shall not be removed.

18.3.2 Natural shrubbery and ground cover vegetation shall be preserved as far as practicable and where removed it shall be replaced with other vegetation that does not require fertilization and is equally effective in retarding run off, preventing erosion and preserving natural beauty. Lawn grasses are not a suitable substitute for natural ground cover vegetation in the shoreland zone. It is recommended that the property owner seek advice on pruning and plantings from the Cooperative Extension Service, Soil Conservation Service or professional nursery personnel.

SECTION 18.4 CONSTRUCTION WITHIN SHORELANDS BY PERMIT

Construction within the Shoreland shall be limited to minimal landscaping features necessary to enable use and enjoyment of the Shoreland and/or access walkways. No structures, other than decks or walkways or landscape features as noted in this section, shall be constructed within the Shoreland. Construction may be permitted only following site plan review by the Zoning Administrator under the following conditions:

Site plan application procedures as provided in [Section 18.8](#) must be followed.

To minimize erosion, construction must be the minimum required. No steps or walkway within the shoreland area shall have a clear width of more than five (5) feet or an overall width of more than six (6) feet, including handrails if required by the building code. Landscape features must be the minimum necessary to permit use and enjoyment of the Shoreland. Retaining walls necessary as a result of step slopes shall not exceed thirty percent (30%) of the lot width; patios shall not exceed sixty-four (64) square feet in area.

On lots without suitable beach front, a raised platform not larger than sixty-four (64) square feet may be constructed. In addition to the raised platform, steps or a walkway may be constructed.

[Table of Contents](#)

The platform shall be constructed of wood or other suitable material approved by the Zoning Administrator. This platform shall have a length not more than one and one-half (1½) times its width, except that where slopes are greater than one (1) foot vertical on three (3) feet horizontal, more length may be allowed to offset the shallow width, so long as the overall square footage is not increased. On slopes greater than one (1) foot on three (3) feet, dry-stacked platforms and retaining walls of earth-colored stones, brick or other suitable material approved by the Zoning Administrator, may be substituted for raised wooden platforms.

Erosion control measures shall be incorporated into any design, including permanent stabilization of soils beneath the platform, which will no longer support vegetation due to lack of natural light. Where slopes are greater than one (1) foot on three (3) feet, stone riprap placed over a geotextile fabric or other permanent stabilization shall be required. The maximum allowable total area of all walks and stairs within the shoreland shall not exceed four hundred fifty (450) square feet on lakes and one thousand fifty (1,050) square feet on rivers and streams.

No part of any improvement in the shoreland shall extend more than eighteen (18) inches above any part of the surrounding terrain, except hand rails as required by the Building Department and water pump enclosures which may be a maximum of thirty (30) inches tall and forty-eight (48) inches wide. Boardwalks, decks, and pathways through regulated wetlands will require a permit from the DNR.

SECTION 18.5 TREE CUTTING WITHIN THE SHORELANDS BY PERMIT

In order to protect the natural character, environment and ecology of the waters of Otsego County, the shorelands shall be maintained in a natural condition. Vegetation shall be retained and tree cutting shall only be permitted following site plan approval by the Zoning Administrator as noted in Section 18.8.

Clear cutting of trees shall not create a clear cut swathe wider than thirty percent (30%) of the lot width, and in no case shall clear cutting exceed a total width of thirty (30) feet for each one hundred (100) feet of shoreline. Provided further, that the stumps may be cut flush with the ground but the roots shall not be removed. Any soil disturbance associated with the clearing of vegetation must be adequately protected from erosion and sedimentation in accordance with the standards of the Soil Erosion and Sediment Control Act.

SECTION 18.6 EXCAVATING, FILLING OR GRADING OF SHORELANDS

Excavation, filling or grading of shorelands shall only be permitted following site plan approval by the Zoning Administrator as noted in Section 18.8 and as guided by regulations set forth in Section 18.4.

The purpose of the Shoreland area is to prevent and control water pollution, preserve shoreland cover, natural beauty and to further the maintenance of safe and healthy bodies of water within Otsego County therefore, Excavation must be the minimum required for use of the shoreland. Landscaping and Lawns are not considered natural vegetation and shall not be permitted within fifty (50) feet of a Lake or one hundred fifty (150) feet of a lake or stream.

Unless due to steep slopes which make use of the Shoreland impossible, retaining walls shall not be permitted within the Shoreland. In the event of steep slopes, a retaining wall shall not exceed thirty percent (30%) of the lot width and shall be the minimum height possible to permit use of the Shoreland.

In addition to County Zoning Administrator approval, appropriate permits from the County Soil Conservation Office and from the Department of Natural Resources shall be obtained.

SECTION 18.7 BEACH IMPROVEMENTS

Improvements and/or maintenance of existing beaches that do not require any excavation or removal of soil is permitted.

Any improvements and/or maintenance of existing beaches involving excavation or removal of soil shall be permitted only following site plan approval by the Zoning Administrator as noted in Section 18.8 and as regulated by Sections 18.4, 18.5 and 18.6.

The depth of the beach area shall not exceed fifteen (15) feet from the normal high water level inland and the beach area shall not exceed six percent (6%) slope. In developing a new beach area, the procedures in this section and Section 18.5 shall be followed.

SECTION 18.8 SHORELAND SITE PLAN APPLICATION PROCEDURES

A Site Plan Review application must be completed and a site plan meeting all of the provisions of Article 23 and this Section shall be provided.

In addition to a Site Plan that complies with Article 23, Shoreland site plans shall show the following additional information:

18.8.1 Property lines at the waterline back to a depth of at least sixty (60) feet for lakes and one hundred sixty (160) feet for rivers.

18.8.2 Existing vegetation and trees within the shoreline area.

18.8.3 Existing grade elevations represented by contour lines at five (5) foot intervals from the normal high water level inland to a depth of ten (10) feet beyond the landward extent of the Shoreland Zone.

18.8.4 Existing structures, docks, walls, steps or any man-made improvements.

18.8.5 Complete the plan by showing the proposed change that would be made if the application is accepted and approval granted by the Planning Commission.

SECTION 18.9 NON-PUBLIC LAKEFRONT ACCESS SITES

INTENT:

This Article establishes development standards for "Non-Public Lakefront Access Sites" to inland lakes. Non-Public Lakefront Access Sites are a Permitted Use Subject To Special Conditions on riparian shoreland of inland lakes.

The intent of this Article is to protect the property values, riparian rights and recreational qualities of lakefront property in Otsego County. The regulations guide the development and reasonable use of shoreland areas adjacent to inland lakes while seeking to prevent water pollution, retain vegetative cover, preserve the natural aesthetics of waterfront properties and prevent the recreational overuse and abuse of inland lakes in the County.

The following standards are applicable to "Non-Public Lakefront Access Sites" located on shorelands of inland lakes and are not applicable to rivers, streams, creeks or other surface waters not classified as an inland lake.

The standards do pertain to the development of a "Non-Public Lakefront Access Site" for the common use of person(s) (family) who own, rent or lease residential lots, dwellings(s) and room(s).

Further, the design standards of the open land area and shoreline length of the lakefront access site, Section 18.11, are based on the number of lots and/or dwellings and/or rooms having access rights to the lakefront site. A marina shall follow applicable state law, including the Inland Lakes and Streams Act of 1972, as amended.

Table of Contents

XVIII-3

Otsego County Zoning Ordinance September 2016

SECTION 18.10 DEFINITIONS AND GENERAL PROVISIONS

For the purpose of administering this Article, the following definitions of terms and provisions are provided:

- 18.10.1 Dwelling Unit as defined in this Ordinance
 - 18.10.2 Room(s): a dwelling unit primarily for transient use and/or as is usually associated with motels, hotels and motor lodges
 - 18.10.3 Nonpublic Lakefront Access Site is a private waterfront facility with water-related recreational areas, co-owned and/or caused by a selected group of persons owning, renting or leasing residential and/or commercial real estate which may be used in conjunction with the private waterfront facility
 - 18.10.4 Recreational area such as parks, beaches, camping facilities, parkways and similar activities operated by any governmental agencies, and located in lakefront property with riparian rights, are not subject to the standards set forth in this Article, provided they are intended for the use of the general public
- No riparian property providing non-public lakefront access to a commonly owned riparian parcel of land shall have these rights only by deeded conveyance assigned to the non-riparian property. These riparian rights to the waterfront property shall not be sold, rented or leased to others unless such rights are conveyed by the selling, leasing or renting of the non-riparian property.
- 18.10.5 A private parking area for vehicles and/or boat trailers shall be permitted provided: these areas must be at least one hundred sixty (160) feet from the ordinary high water mark, and used only by those having privileges to the lake access.
 - 18.10.6 Camping by tents, motor homes, trailers or other means, shall not be permitted within the boundaries of the "Non-Public Lakefront Access Sites," nor shall private property, whether owned, leased, rented or borrowed, be stored overnight or kept on the site when the user is not present. Neither shall vehicles be parked on the access site except for those areas more than one hundred sixty (160) feet from the ordinary high water mark as outlined in 18.11 S-2.

SECTION 18.11 SITE DESIGN STANDARDS

The following standards shall be used for development and use of non-public lakefront access sites. These standards do not preclude, and are in addition to, standards set forth by the zoning districts established and other Articles contained within this ordinance.

- S-1 There shall be a minimum setback line of two hundred thirty-five (235) feet, as measured from the ordinary high water mark, landward, at ninety degrees (90°) and/or radial to the shoreline, to any property line, dwelling unit or room. [Refer to Rule 3 for increase of setback line.]
- S-2 There shall be a minimum of one hundred sixty (160) feet, as measured from the ordinary high water mark, landward, at ninety degrees (90°) and/or radial to the shoreline. This shall be the minimum depth of open land.
- S-3 The area between number one (1) and two (2) of this section, may be used as a parking area, as required in Section 18.10.6.
- S-4 The following components, equations and rules shall be used in determining the minimum open land area in square feet, minimum lake frontage in lineal feet, and maximum number of dwelling units or rooms to utilize the non-public lakefront access site.

Table of Contents

XVIII-4

Otsego County Zoning Ordinance September 2016

FORMULA COMPONENTS

- A. Number of dwelling units, condominium dwelling units and motel/hotel rooms
- B. Eight thousand (8,000) square feet (8,000 sq. ft. is the minimum amount of open land area per dwelling unit or room)
- C. Fifty (50) feet (required amount of lake shoreline per dwelling unit or room)
- D. Total amount required of lake shoreline in linear feet
- E. Total amount required of open land area in square feet

Rule 1 In instances where the number of dwelling units or rooms is known, the following equations shall be used to determine minimum amount of open land area in square footage (E), and the minimum amount of lake shoreline in linear feet (D).

$$\text{Equations: } A \times B = (E) \quad A \times C = (D)$$

Rule 2 In instances where the amount of open land area (square footage) and lake shoreline (linear feet) is known, the following equations shall be used to determine the maximum number of dwelling units or rooms (A) permitted to use the open land area. The lesser of either equation shall be used as the maximum number of dwelling units or rooms permitted.

$$\begin{array}{ccc} & D & E \\ \text{Equation:} & \frac{D}{C} = (A) & \frac{E}{B} = (A) \end{array}$$

Rule 3 In instances where a lakefront access site is a combination of open land area (S-6) per dwelling unit or room, it shall not be permitted to include Wetlands (S-7); the setback line as in (S-1) shall be increased in the following manner:

$$\begin{array}{l} (A \times 11,750 \text{ sq. ft.}) + (\text{Wetland sq. ft.}) \\ \text{Equation:} \frac{\quad}{(A \times C)} = \text{Setback line (ft.)} \end{array}$$

S-5 When determining the minimum square footage of open land area (S-6) per dwelling unit or room, it shall not be permitted to include Wetlands (S-7) (Refer to Rule 3).

S-6 OPEN LAND AREA shall be defined as land which is not identified as Wetlands and may be graded and/or filled and maintained in accordance with provisions set forth in "Soil Erosion and Sedimentation Control Part 91 of PA 451, as amended". Such grading and filling shall not commence prior to approval of the Otsego County Enforcing Agency (Otsego County Zoning Administrator). Furthermore, the open land area shall be unobstructed by structures/buildings, unless permitted by the Planning Commission by the review procedures set forth in Article 18.12.

S-7 WETLANDS are defined in Article 2. Wetlands shall not be disturbed for any purpose, unless prior approval is granted by the State Enforcing Agency (DNR) of Public Act 203, of 1979, known as the Goemaere-Anderson Wetland Protection Act.

Table of Contents