

Article 14

Lake Michigan Shoreline Overlay District

Based on well-established precedent in the laws of the State of Michigan, the State of Michigan enjoys a public trust doctrine that establishes a public trust interest in reasonable public access to and use of Great Lakes foreshore beaches and dunes lakeward of the ordinary high water mark and imposes a duty upon shoreland property owners not to modify their shoreland properties in such a way that would impose a nuisance upon the general public or neighboring shoreland property owners, which townships are empowered to prosecute and enjoin.

Section 14.1 Purpose and Intent

The Lake Michigan Shoreline Overlay District is established to minimize the adverse effects of development on lands adjacent to Lake Michigan and its purpose is in recognition that:

- A. The economic and environmental well-being and health, safety, and general welfare of the Township is dependent on, and connected with the preservation of, its Lake Michigan shoreline areas.
- B. The shoreline zone has unique physical, biological, economic, and social attributes.
- C. Future land development and redevelopment should not be conducted at the expense of these attributes.
- D. Property values will be enhanced when the natural features of the shoreline zone are preserved.
- E. Pollution, impairment, or destruction of the shoreline of Lake Michigan should be prevented or minimized.
- F. Development constructed without proper respect for the dynamics of waves, erosion, and shifting sands can be vulnerable to damage and destruction by natural forces.

Section 14.2 Location

The Lake Michigan Shoreline Overlay District includes every parcel along the Lake Michigan lakefront in Ganges Township and extends three hundred (300) feet landward of the Ordinary High Water Mark, as defined in this Ordinance.

Section 14.3 Definitions

- A. Bluff Line – The line which is the edge or crest of the elevated segment of the shoreline above the beach which normally has a sloping front inclining on the lakeward side. The bluff line setback distance shall be construed as running from the most landward bluff point toward the back (street side) setback line.
- B. Ordinary High Water Mark – The Ordinary High Water Mark of Lake Michigan as defined by the State of Michigan under Part 325 of the Michigan Natural Resources and Environmental Protection Act (Public Act 451 of 1994). It is an elevation above sea as determined by the International Great Lakes Datum of 1955, as amended, which at the time of the adoption of this Ordinance was 580.5 feet.
- C. Readily Moveable Structure – A structure with a total first floor size less than 3,500 square feet which is designed, sited, and constructed to allow relocation at a reasonable cost.
- D. Permanent Structure – A structure which does not meet the definition of a readily moveable structure.

- E. Shoreline Protection Structure – A man-made construction designed to prevent or mitigate erosion and other damage caused by waves, currents, and storm surges along coastlines.
- F. Nonpermanent Shoreline Protection Structure – A shoreline protection structure intended for temporary use. Examples include sandbags and fiber logs.

Section 14.4 Uses

The uses permitted in the Lake Michigan Shoreline Overlay District are the same as those permitted in the underlying zoning district, except that:

- A. Walkout basements are prohibited on the lakeward side of the bluff line, and within 250 feet of the bluff line.
- B. In ground pools are prohibited on the lakeward side of the bluff line, and within 130 feet of the bluff line on the landward side.
- C. Underground irrigation is prohibited on the lakeward side of the bluff line, and within 70 feet of the bluff line on the landward side.
- D. For readily movable structures, access to and from the site shall be of sufficient width and acceptable grade to permit their relocation.

Section 14.5 Setbacks

- A. As described in Section 2.13, the Lake Michigan waterfront shall be considered the front lot line for all parcels abutting Lake Michigan, and the lot line farthest from Lake Michigan and/or those abutting streets shall be considered rear lot lines. All other lot lines shall be considered side lot lines.
- B. All applicable setbacks from lot lines shall apply within the Overlay, except when they are in conflict with the provisions of this section, in which case the larger setback requirement shall apply.
- C. No readily moveable structure or any portion of it shall be erected or located between the shoreline and a line 70 feet landward of the bluff line.
- D. No permanent structure or any portion of it shall be erected or located between the shoreline and a line 130 feet landward of the bluff line.
- E. Elevated walkways, along with decks or landings, that meet the standards of the State of Michigan to be constructed in a High Risk Erosion Area are exempt from this section, and shall instead be subject to the following:
 - 1. Elevated walkways are permitted to be shared by two, or more, adjacent property owners, and do not have setback requirements, meaning they can cross lot lines. In such instances, a cross-access easement must be recorded on any lots containing the shared structure.
 - 2. Landings, defined as flat areas of the walkway that are longer than a stair but not wider than the stairwell they connect to, are considered part of the elevated walkway and are not required to be set back from property lines.
 - 3. Decks, defined as flat areas of the walkway that are longer than a stair and wider than the stairwell they connect to, shall meet the setback requirements of Accessory Buildings and Structures found in Section 3.8.
 - 4. Elevated walkways do not count towards the maximum number of accessory structures on a lot.

Section 14.6 Excavation, Earth Moving, Land Contouring

Within 250 feet of the bluff line:

- A. Excavating, moving earth, amending, or contouring land is prohibited, except for the purposes of constructing a permitted building or structure.
- B. Filling or removing earth or other materials to an elevation above or below the established grade of adjacent development land is prohibited.
- C. Natural water courses which provide drainage from or through a proposed site shall be maintained in a natural state.

Section 14.7 Shoreline Protection

- A. **Purpose.** The Township believes the most appropriate, effective, and reasonable method to further the public interests of protecting natural resources, preserving the economic and environmental well-being of the community, protecting the health, safety and general welfare of the community, and promoting the general preservation or enhancement of property values along Lake Michigan is to restrict the construction of structures so near the water's edge as to: (1) prevent unencumbered access for emergency vehicles; (2) create an increased threat of erosion or damage on adjacent properties; (3) be susceptible to damage resulting from inundation or erosion; (4) be detrimental to the spirit and character of the public trust property; (5) be detrimental to vistas from neighboring properties, or (6) be potentially built in a location that will render the structure non-conforming under future Federal or State floodplain protection regulation.
- B. **Details of Seawall Prohibition.** For the reasons set forth in Subsection A above, the installation, construction and operation of shoreline protection measures, including seawall, exposed riprap, breakwater, bulkhead, groins, and sandbags, are subject to the following:
 - 1. Shoreline protection structures shall not be allowed unless the structure to be protected on the elevated segment of the shoreline existed before the date this overlay went into effect and lies wholly or partially within a 70 foot setback of the bluff line.
 - 2. No shoreline protection structure shall extend any further towards Lake Michigan than 15 feet from the toe of the bluff lakeward.
 - 3. The only shoreline protection measure allowed along the shore of Lake Michigan is temporary fencing not more than four feet (4') in height and with openly spaced slats or weaves, placed seasonally between October 1 and May 1 to influence the accumulation of sand and/or snow that does not prevent public passage across the public trust property as defined by the State of Michigan.
 - 4. To the extent of any conflict between the regulatory provisions contained in this section and other provisions of the zoning ordinance, the restrictions contained in this section shall control with respect to all lots that abut Lake Michigan.
 - 5. A professional engineer from the State of Michigan, associated with an engineering firm from the State of Michigan and who is familiar with the eastern shore of Lake Michigan, shall certify that the structure has been designed and will be constructed in accordance with these standards. All equipment and material must be brought in by barge.

Section 14.8 Septic/Sewage Overflow

No development on or near this Overlay District shall ever discharge sewer, drainage, or product that is in any way a pollutant into the Lake Michigan shoreline waters.

Section 14.9 Restoration of Nonconforming Structures

- A. A nonconforming structure which has been damaged or has deteriorated may be repaired or restored to its original footprint if the cost of repair is not more than 60 percent of the structure's replacement value.

- B. If the cost of repair is more than 60 percent of the replacement cost or if the structure is declared a total loss for insurance purposes, the provisions for new permanent or readily moveable structures, as the case may be, shall apply.

Section 14.10 Permits

- A. All construction activities, including placement of elevated walkways, stairs, decks, driveways, accessory buildings, principal buildings, and retaining walls, as well as revetments and shoreline protection activities on any parcel within the Lake Michigan Overlay District requires a zoning permit and building permit from Ganges Township.
- B. A grading plan signed and sealed by an engineer licensed in the State of Michigan and associated with an engineering firm licensed in the State of Michigan shall accompany any building permit using best management practices for high risk erosion areas and the soil types in the Township.
- C. All other permits and approvals necessary from appropriate state and county agencies such as the State of Michigan, Army Corps of Engineers, Allegan County Drain Commission, Allegan County Health Department, and the Allegan County Road Commission shall be obtained prior to commencement of work.