

Article 4: Overlay Districts

4.1 OVERLAY DISTRICTS

In addition to the restrictions and requirements of the base zoning district applicable to a particular site, the restrictions of the applicable Overlay District or Districts shall also apply. Overlay districts are tools for dealing with special situations or accomplishing special zoning goals. As the name implies, overlay zoning districts are "overlaid" on base zoning classification to alter some or all the underlying district regulations. Overlay districts are shown on the Official Zoning Map as dashed lines labeled with the overlay map symbol or with the overlay district name.

4.2 FLOODPLAIN OVERLAY DISTRICT

4.2.1 Intent and Purpose

- A. The floodplains of the City are subject to periodic inundation of floodwaters which result in loss of property, health, and safety hazards, disruption of commerce and governmental service, and impairment of tax base.
- B. It is the purpose of this section to comply with the provisions and requirements of the Federal Insurance and Mitigation Administration, as constituted in accordance with the National Flood Insurance Act of 1968, and subsequent enactments and rules and regulations promulgated in furtherance of this program by the Federal Emergency Management Agency (FEMA), as published in the Federal Register, Vol. 41, No. 207, October 26, 1976, and re-designated at 44FR 31177, May 31, 1979.
- C. The provisions of this section are intended to:
 1. Help protect human life, prevent or minimize material losses, and reduce the cost to the public for rescue and relief efforts;
 2. Restrict or prohibit uses which are dangerous to health, safety, or property in times of flooding or cause excessive increases in flood heights or velocities;
 3. Require that uses vulnerable to floods, including public facilities which serve such uses, shall be protected against flood damage at the time of initial construction;
 4. Protect individuals from buying lands which are designated to be unsuited for intended purposes because of flooding;
 5. Permit reasonable economic use of property located within a designated floodplain area.

[INSERT OVERLAY MAP]

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4.2.2 Applicability

- A. Designated floodplain areas shall overlay existing zoning districts delineated on the Zoning District Map of the City. The boundaries of the floodplain areas are identified in the FEMA Floor Insurance Rate Maps (FIRM) panels, numbered 26047C0338D, 26047C0339D, 26047C0426D, and 26047C0427D.
- B. The standard applied to establishing the floodplain area is the base floodplain delineated by the Design Flood Elevation. In areas associated with ravine flooding, a floodway is designated within the floodplain area.
- C. Where there are disputes as to the location of a floodplain area boundary, the Zoning Board of Appeals shall resolve the dispute in accordance with Article 11.

4.2.3 Application of Regulations

- A. In addition to other requirements of this chapter applicable to development in the underlying zoning district, compliance with the requirements of this section shall be necessary for all development occurring within designated floodplain areas. Conflicts between the requirements of this section and other requirements of this chapter or any other ordinance shall be resolved in favor of this section, except where the conflicting requirement is more stringent and would further the objectives of this section. In such cases, the more stringent requirement shall be applied.
- B. Upon application for zoning permits, the Zoning Administrator shall determine whether said use is located within a designated floodplain area. The issuance of a land use permit within the floodplain area shall comply with the following standards:
 - 1. The requirements of this section shall be met;
 - 2. The requirements of the underlying districts and all other applicable provisions of this chapter shall be met; and
 - 3. All necessary development permits shall have been issued by appropriate Local, State, and Federal authorities, including a floodplain permit, approval, or letter of authority from the Michigan Department of Environment, Great Lakes, and Energy under authority of Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968. Where a development permit cannot be issued prior to the issuance of a zoning compliance permit, a letter from the issuing agency indicating intent to issue contingent only upon proof of zoning compliance shall be acceptable.
- C. Floodplain management administrative duties.
 - 1. With regard to the Federal Insurance and Mitigation Administration, and the regulation of development within the flood hazard area zone as prescribed in this section, the duties of the Zoning Administrator shall include, but are not limited to:

- a. Notification to adjacent communities and the Michigan Department of Environment, Great Lakes and Energy of the proposed alteration or relocation of any watercourse, and the submission of such notifications to the Federal Insurance Administration;
- b. Verification and recording of the actual elevation in relation to mean sea level of the lowest floor, including basement, of all new or substantially improved structures constructed within the flood hazard area, and in the case of flood proofed structures, the elevation to which the structure was flood proofed; and
- c. Recording of all certificates of flood proofing, and written notification to all applicants to whom variances are granted in a flood hazard area zone indicating the terms of the variance. A record of all variance notifications and variance actions shall be maintained together with the justification for each variance.

- 2. All records and maps pertaining to the Federal Insurance and Mitigation Administration shall be maintained in the office of the Zoning Administrator and shall be open for public inspection.
- 3. It shall be the responsibility of the Zoning Administrator to obtain and utilize the best available flood hazard data for purposes of administering the Ordinance in the absence of data from FEMA.

4.2.4 Floodplain Standards and Requirements

- A. The following standards and requirements shall be applied to all uses proposed to be located within the floodplain area:
 - 1. All new construction and substantial improvements within a floodplain, including the placement of prefabricated buildings and mobile homes, shall;
 - a. Be designed and anchored to prevent flotation, collapse, or lateral movement of the structure;
 - b. Be constructed with materials and utility equipment resistant to flood damage;
 - c. Be constructed by methods and practices that minimize flood damage.
 - 2. All new and replacement water supply systems shall minimize or eliminate infiltration of flood waters into the systems.
 - 3. All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of flood waters into the systems and discharges from systems into flood waters.

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4. All public utilities and facilities shall be designed, constructed, and located to minimize or eliminate flood damage.
 5. Adequate drainage shall be provided to reduce exposure to flood hazards.
 6. The Department of Public Works shall review development proposals to determine compliance with the standards in this section and shall transmit his/her determination to the Zoning Administrator.
 7. Land shall not be divided in a manner that creates parcels or lots that cannot be used in conformance with the requirements of this article.
 8. The flood-carrying capacity of any altered or relocated watercourse not subject to State and Federal regulations shall be designed to ensure flood-carrying capacity shall be maintained.
 9. Available flood hazard data from federal, state, or other sources shall be reasonably utilized to meet the standards of this section. Data furnished by FEMA shall take precedence over data from other sources.
 10. All new construction and substantial improvements of non-residential structures shall meet the Flood-Resistant Construction provisions of the Michigan Building Code.
- B. Mobile home standards. The following general standards and requirements shall be applied to mobile homes located within floodplain areas:
1. Anchoring must meet the Michigan Residential Code or the Michigan Building Code.
 2. An evacuation plan indicating alternate vehicular access and escape routes shall be filed with the City of Petoskey Public Safety for mobile home parks and mobile home subdivisions.
- C. The following standards shall be applied to all new uses proposed to be located within the floodway portion of the floodplain area.
1. Encroachments, including fill, new construction, improvements, and other developments, shall be prohibited. An exception to this prohibition shall only be made upon certification by a registered professional engineer or the Michigan Department of Environment, Great Lakes and Energy that the development proposed will not result in any increases in flood levels during a base flood discharge and compliance with Act 245, Public Acts of 1929, as amended by Act 167, Public Acts of 1968.
 2. The placement of mobile homes shall be prohibited.

184 3. The uses of land permitted in an underlying zoning district shall not be construed as
185 being permitted within the regulatory floodway, except upon compliance with the
186 provisions of this section.
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188 4.2.5 Warning and Disclaimer of Liability

189 A. The degree of flood protection required by provisions of this section is considered reasonable
190 for regulatory purposes and is based on engineering and scientific methods of study. Larger
191 floods may occur on rare occasions.
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193 B. These provisions do not imply that areas outside the floodplain or land uses permitted within
194 such districts will be free from flooding or flood damages nor shall the City or any officer or
195 employee thereof be liable for any flood damages that result from reliance on the provisions
196 of this section or any administrative decision lawfully made there under.
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198 4.3 DOWNTOWN OVERLAY (DO) DISTRICT

199 4.3.1 Intent and Purpose

200 A. The purpose of the Downtown Overlay District is to encourage infill development,
201 redevelopment, and re-investment in areas with existing infrastructure investments as a
202 means of achieving balanced growth, efficient land use and cost-effective delivery of urban
203 services. The provisions of this district recognize the economic challenges inherent in
204 developing successful infill properties and provide an alternative zoning option to promote
205 private re-investment within the downtown area.
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- 207 B. The specific objectives of the Downtown Overlay District are:
- 208 1. Provide tailored development regulations and design standards that will set the
209 downtown area apart from other commercial areas within the city, consistent with
210 the vision of the City’s Community Master Plan;
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 - 212 2. Accommodate growth within the downtown area by encouraging and facilitating new
213 development on vacant, bypassed and underutilized land within areas that already
214 have infrastructure, utilities, and public facilities;
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 - 216 3. Allow and encourage a mixed-use pattern of development in the downtown area;
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 - 218 4. Provide development standards and incentives that stimulate infill and
219 redevelopment within the downtown area;
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 - 221 5. Create a compact mixture of land uses, including shops, workplaces, civic buildings,
222 entertainment uses, and upper floor residences that satisfy market demand within
223 the downtown area;
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 - 225 6. Provide an environment that promotes safe pedestrian access and connections
226 between developments, more pedestrian-scale amenities and an identifiable
227 downtown core area;
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229 7. Create the opportunity to improve the quality of development and retail services
230 within the downtown area;

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232 8. Create the opportunity to enhance property values and increase economic and
233 financial benefits to the city, business owners and property owners;

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235 C. The Downtown Overlay District is created as an overlay district to be applied to properties
236 that are designated in the Overlay Map.

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238 4.3.2 Required Standards

239 1. The required standards for the Downtown Overlay District shall comply with the
240 Downtown Petoskey Design Guidelines.

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242 4.4 HISTORIC NEIGHBORHOOD OVERLAY DISTRICT

243 4.4.1 Intent and Purpose

244 A. The purpose and intent of the Historic Neighborhood Overlay District is to protect the City's
245 character and charm by ensuring that the historical assets of the community are preserved
246 and enhanced. The Overlay is intended to base the site-specific property dimensional
247 regulations on the historical development patterns of the residential neighborhoods,
248 encourage the preservation of historic architecture, prevent the demolition of historic
249 structures, encourage the appropriate renovation of existing structures, encourage the
250 building of new structures that complement the overall historic character of the
251 neighborhoods, preserve and increase property values, and make the City's historic districts
252 highly desirable places to live, visit, and do business.

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254 4.4.2 Applicability.

255 A. The Overlay shall apply within any portion of the City that is listed on the National Register of
256 Historic Places. A map of the district boundaries is included in this section. In the event that
257 additional areas are added to the National Register of Historic Places, they shall be subject
258 to the Overlay as well. Any boundary amendments shall be included on the Overlay district
259 map.

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261 B. The following actions shall be subject to the regulations of the Overlay.

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263 1. New construction of any structure, including accessory structures.
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265 2. Additions to any principal building.
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267 3. Demolition of a principal structure.
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269 4. Exterior renovations including but not limited to, replacing windows, replacing roofs,
270 painting, and re-siding.
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4.4.3 Requirements and Standards

A. Existing Structures.

1. All structures within the boundaries of the Historic Neighborhood Overlay District existing at the time of adoption of the Overlay shall be considered conforming regarding their dimensional standards such as setback and height. Any structure existing at the time of this Overlay that is damaged by fire, flood, weather event, or accident may be rebuilt with the same dimensions, location, and building height.

B. Dimensional Requirements

1. The following requirements shall apply to all new construction or building additions within the Overlay District. Existing structures shall be considered to be conforming dimensions in all respects, unless they are being expanded, in which cases, the standards of this section shall apply.

Table XX: Neighborhood Residential Dimensional Requirements

	Type of Structure	
	Principal Structures	Accessory Structures
Front Building Line (Front Yard Setback)	The average setback of all principal structures on the block may be used. In no case shall the front building setback be less than the average.	Accessory structures are prohibited in front yards.
Front Porches	Open porches (porches without enclosures) shall not project closer to the front property line than the average of all front porches on the block.	
Side Building Line (Side Yard Setback)	The side building line setback shall meet the minimum average of all principal structures on the same side of the street and block. However, the distance between buildings cannot be less than ten (10) feet.	The side building line for any new accessory structure shall comply with the setback requirements for the district in which it is located.
Rear Building Line (Rear Yard Setback)	The rear building line for any principal structure shall be no closer to the rear lot line than the average setback of all principal structures on the same street and block.	The rear building line for any accessory structure shall meet the minimum average of all accessory structures on the same side of the street and block.
Structure Height	The maximum height of a principal structure shall not exceed the average height of the	The maximum height of an accessory structure shall not exceed the average height of the tallest accessory structure on the

	tallest structure on the block, or 35 feet, whichever is less.	block and street, or the primary structure, whichever is less.
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4.4.4 Review and Approval Process

1. An application shall be submitted outlining the proposed project shall including site plan, architectural drawings, and type of materials. There shall be no fee for this application.
2. The Zoning Administrator and/or the Administrative Review Committee shall review the application and related materials and provide a recommendation to the applicant regarding the proposed project.
3. Projects exceeding 5,000 square feet of building footprint will be referred to the Planning Commission for review.

4.4.5 Administration and Enforcement

1. Appeals shall be to the Zoning Board of Appeals.
2. The Zoning Board of Appeals shall have the power to grant variances from this Overlay using the criteria and process in Article 11 of this ordinance.

4.5 SHORELINE PROTECTION STRIP (SPS)

4.5.1 Intent and Purpose

- A. The purpose of the SPS is to protect Little Traverse Bay from soil erosion and to provide a filter to remove pesticides, fertilizers and other pollutants, and enhance habitat and shoreline stabilization.
- B. A Shoreland Protection Strip (SPS) shall be required for all properties not covered by a bottomland lease or public-owned property extending inland thirty-five (35) feet depending on the grade from the established 1985 Ordinary High Water Mark (OHWM) demarcated at 580.5 feet above sea level as established by State Statute, bank, or delineated wetland.

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4.5.2 When is the Waterfront Review required:

Type of Work	Zoning Administrator	Administrative Review Committee
Construction of a new residence or major reconstruction. Major reconstruction determined if the construction cost of the major reconstruction exceeds 50% of the state equalized valuation of the property.		<input checked="" type="checkbox"/>
Modification of the height dimension of existing structures without changing the footprint	<input checked="" type="checkbox"/>	
Modification of spatial (height, length and width) dimensions of existing structures less than 50%, or an additional accessory structure .	<input checked="" type="checkbox"/>	
Addition or modification of a walkway, retaining wall or patio/deck within the 100ft setback .	<input checked="" type="checkbox"/>	

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A. General Standards: The following standards shall apply within the SPS:

1. Existing Vegetation: Existing vegetation shall remain in a natural state and shall not be altered or removed except under the following conditions:
 - a) Dead, dying, or diseased vegetation may be removed but it shall be required that root systems remain in place for soil stability.
 - b) Invasive species, as identified by the Michigan Natural Shoreline Partnership shall be removed.
 - c) Existing trees and shrubs may be selectively trimmed to improve views.

B. Allowed Structures:

1. Walkways and stairs 6 ft or less in width, to the waters' edge, permeable materials preferred.
2. Shoreline retaining structures permitted by appropriate state and federal agencies.

C. Prohibited Activities: The following activities and uses shall be prohibited within the SPS:

1. Storage or use of pesticides, herbicides, and fertilizers.

- 349 2. Storage or burning of compost, grass clippings, leaf litter, or other yard and garden
350 debris.
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- 352 3. Septic tanks and septic drainage fields.
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- 354 4. The placement of earth fill such as rocks, sand, and soil unless permitted by the
355 appropriate state and federal agency

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357 D. Restoration of Shoreland Protection Strip: Any SPS altered or disturbed beyond the limits
358 established in this Section shall require a zoning permit and shall be restored by the
359 following corrective measures:

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- 361 1. The SPS shall be replanted only with native species as identified by the Michigan
362 Natural Shoreline Partnership (<https://www.shorelinepartnership.org/>).
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- 364 2. Where ground cover does not exist, native ground cover vegetation shall be
365 incorporated on the balance of the SPS.
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- 367 3. Restoration of an altered or damaged SPS shall require a landscape plan meeting the
368 requirements in Article 5 and shall be approved by the Administrative Review
369 Committee.
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371 E. Nonconforming Shoreland Protection Strips: A nonconforming SPS shall comply with this
372 Ordinance as a condition of a zoning permit to establish a new or altered principal structure
373 on a parcel or lot containing property within the SPS. Compliance shall be established by
374 meeting the following standards:

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- 376 1. Trees and shrubs shall meet the minimum size standards in Article 6.
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- 378 2. Native ground cover vegetation shall be incorporated on the balance of the SPS.
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- 380 3. Only native species identified by the Michigan Natural Shoreline Partnership
381 (<https://www.shorelinepartnership.org/>) shall be permitted.
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- 383 4. Nonconforming Shoreland Protection Strips shall require a landscape plan and shall
384 be approved by the Administrative Review Committee.
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