

## **SECTION 231 FOREST LAKES OVERLAY DISTRICT**

(Rev. 12/8/08, 10/25/16, 6/12/17, and 10/8/18)

1. **INTENT.** The inland lakes of East Bay Charter Township are a defining characteristic of the community. The Township’s future land use plan clearly establishes the protection of natural features as a key goal of the Plan. That goal states,

“The citizens of East Bay Township will continue to enjoy the rural character of the community as manifested in the expansive views of the Bay, the rolling hills, inland lakes and woods. The rural character will be defined by clean lakes and streams, clear air, native wildlife and the clarity of the star-filled night skies. A central purpose of this Comprehensive Plan is the preservation of these valuable assets for current and future residents.”

Accordingly, this section is intended to promote the preservation of natural features around and near lakefronts that are characterized by their current natural state, to protect water quality, and regulate development and the use of property which has water frontage along an inland lake through the application of land use and development standards which shall apply in addition to any and all standards within the underlying zoning district.

2. **APPLICABILITY.** (Rev. 10/8/18) The standards of this **Section 231** apply to all lands in the Township meeting both of the following requirements:
  - a. Located within an area five hundred (500) feet or less from the ordinary high watermark of Arbutus Lake, Spider Lake, Rennie Lake, High Lake, Chandler Lake, Vandervoight Lake, Indian Lake, Perch Lake, Spring Lake, George Lake, Tibbets Lake, and Bass Lake; and
  - b. Containing topographic contours such that stormwater from the parcel drains directly or indirectly into such lakes.
3. **PERMITTED USES.** All uses permitted by right or as special land uses permitted within the underlying zoning district shall be permitted pursuant to said underlying standards; provided, however, that within the Forest Lakes Overlay, residential subdivisions consisting of two or more residential building sites or two or more residential structures under any lawful form of ownership, including but not limited to ownership subject to or created under the Land Division Act or the Michigan Condominium Act, whether undertaken as cluster or traditional form shall be treated as special land uses Subject to the terms of **Article 6, pursuant to Section 231.**
4. **DISTRICT REGULATIONS.** Except as modified by the terms of this **Section 231**, all district dimensional and development standards of the underlying zoning district shall apply in the Lakes Area Overlay district.
5. **APPLICATION REQUIREMENTS.** In addition to the requirements of **Section 820**, site plans for residential subdivisions consisting of two (2) or more residential building sites or two or more residential structures under any lawful form of ownership, including but not limited to ownership subject to or created under the Land Division Act or the Michigan Condominium Act, or any special land use, within the overlay area as described in **Section 231, 2**, shall include:
  - a. **Survey.** A topographic survey rendered at not greater than two (2) foot contours for all portions of the site which is proposed to be developed or disturbed together with the

Section 231, 5 (a) continued

adjoining area for a distance of not less than one hundred (100) feet from any area of development or disturbance. Said survey shall be sealed by a surveyor licensed to practice in Michigan.

- b. Tree Inventory. An inventory of all trees with a diameter at breast height of at least eight (8) inches existing within all portions of the site which is proposed to be developed or disturbed together with the adjoining area for a distance of not less than one hundred (100) feet from any area of development or disturbance. For the purposes of this inventory a cluster of trees standing in close proximity of five (5) feet or closer may be designated as a “stand” of trees, and the predominant species, estimated number, and average size shall be indicated.
  - c. Environmental Assessment. Unless waived, in whole or in part, by the Township Engineer, an environmental assessment meeting the requirements of this section. The Township Engineer may waive all or any part of the requirement for an environmental assessment upon a finding that
    - ◆ The degree of environmental impact presented by the proposed development is comparable to that from existing development patterns and thus so inconsequential as to make the environmental assessment unnecessary, and;
    - ◆ The site clearly does not include any sensitive areas, such as, but not limited to, wetlands, hydric soils, steep slopes, or similar features, and;
    - ◆ The proposed development would not involve any land form change or disturbance within one hundred (100) feet of any body of water, or;
    - ◆ The proposed development would be regulated by any federal or state regulation or statute which would require the preparation of an environmental assessment substantially equivalent to the requirements of this Section.
- 1) An Environmental Assessment shall be a summary review of the environmental impacts of a project. Its purpose will be to provide relevant information to the Planning Commission on the potential environmental impact of applications for site plan approval related to larger projects that may have a substantial impact on the Forest Lakes Area Overlay District.
  - 2) Guidelines. When required by this ordinance, an applicant for site plan approval shall prepare an Environmental Assessment in accordance with these guidelines. An Environmental Assessment is not an Environmental Impact Statement, but rather a summary review of the site in question considering the past and present land uses and the proposed development. The analysis is intended to determine how the proposed development will meet the goals of the community as they are expressed in the Comprehensive Plan, this ordinance and, specifically, this Overlay District. The complexity of the Environmental Assessment will depend on the scope of the project and the magnitude of the potential impact. In preparing the Environmental Assessment, judgment should be exercised to keep the form and extent of responses in proportion to the scope of the project. Each answer is to be as brief as practicable, although the Planning Commission may request further elaboration. The Township Engineer may waive elements of these guidelines as

Section 231, 5 (c)(2) continued

either not applicable or previously addressed in other submittals, on a case-by-case basis. All information must be submitted in the following format and shall not merely reference a study or report completed previously, rather whenever possible, the Environmental Assessment report shall incorporate a summary of the findings of such study or report in addition to such cross-references. In addition, any cross-referenced study or report shall be submitted with the Environmental Assessment.

- 3) Content. The following material may be required and/or addressed in the Environmental Assessment, unless specifically waived by the Township Engineer, as not applicable:
  - (a) A description of the site in its current condition. This shall indicate any buildings to be preserved and those to be removed along with an indication of what will be done with the demolition debris. This must also include information on:
    - i Flora and fauna (be sure to list any endangered species on-site)
    - ii General topography and drainage patterns including any regulated features such as wetlands, high risk erosion areas or other features
    - iii Adjacent waterways
    - iv Existing wells, approximate depth and use
    - v Existing topography of the site rendered by a land surveyor at not more than two-foot intervals
    - vi A characterization of soil types and slopes
  - (b) A description of any existing contamination on-site. This should include a description of any Phase I and/or Phase II Environmental Site Assessment conducted pursuant to ASTM-E1527 Standard Practice for Environmental Site Assessment. It must describe the nature of the contamination on-site and what will be done on this project to mitigate or contain it, including the proposed methodology and any state or federal regulatory agency reviews that may apply. If the project includes work that may disturb or displace existing contaminated soils or water, this should include a description of proposed methods to contain and/or dispose of the generated waste.
  - (c) If the proposed project will impact any shoreline areas or floodplain or involve riparian work along adjacent waterways, a description of the proposed work and the methodology proposed to protect waterways shall be provided.
  - (d) A description of the existing soils on-site and a statement as to the suitability of these soils for the proposed use. At a minimum, in areas that will be disturbed by construction activities, hand auger borings will be conducted with sufficient depth and frequency to evaluate potential erosion and sedimentation risk.
  - (e) A description of any known historical or archeological significance associated with the site. If any such areas are present, this shall include a description of methods to protect and preserve any historic or archeological resources.
  - (f) A description of any emissions from the proposed development as it relates to air quality. This will include any construction-related impacts from dust or

Section 231, 5 (c)(3)(f) continued

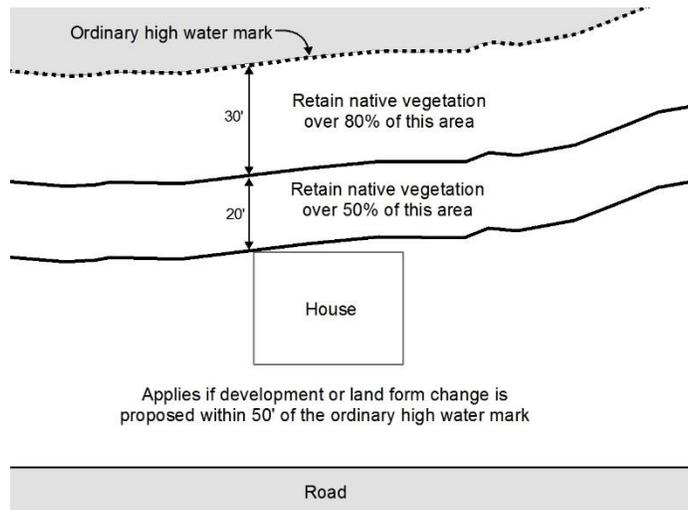
- burning. If any emissions are proposed, this shall include a description of each constituent and the effects of each constituent to nature and human life.
- (g) A description of significant hazardous materials or waste to be generated or stored on-site, as defined in part 201 of Act 451 of 1994. This shall include a description of proposed methods to contain such materials and prevent any migration into adjoining soils or groundwater or into the atmosphere.
  - (h) A description of any storm water discharges from the site. This shall include a characterization of such discharge in terms of the quantity, quality and chemical constituents and temperature and a description of the possible effects this discharge may have on the receiving waters.
  - (i) If a Federal, State, or local regulatory authority has conducted an Environmental Assessment, Environmental Impact Statement, or a preliminary assessment/site inspection or environmental survey of the site, a brief description of the findings and provide a copy of the report or results.
  - (j) A description of the anticipated noise levels to be generated at all property lines of the proposed use. This shall include a description of measures proposed to mitigate noise.
  - (k) A description of the anticipated traffic to be generated by the proposed use.
  - (l) A description of plans and timetable for site restoration after construction.
  - (m) A description of methods to handle sanitary waste for the project both during construction and after completion.
  - (n) A description of how potable water will be provided to the site. If any on-site wells are proposed or any lake-draw systems are proposed for the project, this shall include a description of the type of well or lake draw system, any regulatory requirements that may apply and the status of such regulatory approval. It shall also address mechanisms to contain runoff and sedimentation resulting from a well drilling operation to prevent sedimentation impacts on surface water or vegetation.
  - (o) A description of any additional items as needed to relay the potential environmental impacts of the proposed project.
  - (p) Chain of title history from abstract company detailing easements, deed restrictions or other encumbrances.
- 4) The professional resume of the preparer shall be included with the submitted document.
  - 5) The Zoning Administrator may submit the study to a recognized consultant(s) in the field for review and independent comment. The cost of any such review shall be borne by the applicant.

Section 231, 5 (d) continued

- d. Landscape Plan. A landscape plan incorporating the provisions of **Section 229** together with proposed finished grade contours and detail on all species to be installed and protected on the site.
6. DEVELOPMENT STANDARDS. (Rev. 10/10/16 and 10/8/18) In addition to the development requirements for the Lakes Area and Natural Area Zoning districts, the following standards shall apply to all properties located within the Forest Lakes Overlay District.

- a. Impervious Surface. Impervious surfaces, including roof tops, concrete or asphalt pavement and similar materials shall comprise not more than twenty percent (20%) of the gross site area. Provided, however, that the Planning Commission may permit greater areas of imperviousness where measures acceptable to the Drain Commissioner or pursuant to the Stormwater Control Ordinance are proposed
- b. Slope Protection. No development or disturbance shall be permitted on slopes of 80% or more regardless of soils type nor on slopes of 50% to 79% consisting of highly erodible soils, as defined in the Grand Traverse County Soil Survey. Development on moderately erodible soils slopes of up to 79% shall conform to the requirements of the Stormwater Control Ordinance.

- c. Vegetation Filter and Buffer. (Rev. 10/10/16 and 10/8/18) For any new development or any parcel where development, tree removal, or land form change is proposed within 50 feet of the ordinary high water mark, natural native vegetation shall be retained over 80% of the area extending 30 feet inland from the ordinary high watermark and running the width of the lot, and over 50% of the area beginning 30 feet inland from the ordinary high water mark and extending inland an additional 20 feet to the rear setback line.



The removal of live deciduous trees of eight (8) inches diameter at breast height (dbh) or greater or live evergreen trees exceeding ten (10) feet in height within the vegetation filter and buffer strip without prior approval shall be deemed a violation of this section and subject to a fine of up to \$500 per day of violation until the replacement trees are planted.

Replacement of the removed tree(s) shall be completed within 60 days, weather permitting, with a native species of tree measuring a minimum three (3) inches caliper for deciduous trees and six (6) feet in height for evergreens, in approximately the same location as the removed tree.

Section 231, 6 (c) continued

If a tree has been removed, the diameter of removed trees may be estimated by measuring the remaining stump or logs, review of prior plans/permits, or by use of photographs.

Those found in violation of this section may file an appeal of the decision to the zoning board of appeals, subject to the requirements and procedures of Article X.

- d. Landscaping. New development or redevelopment involving the disturbance of more than ten thousand (10,000) square feet of a site shall include a landscape plan meeting the following standards.
  - 1) All proposed plantings to be incorporated or retained shall be identified and listed. Preferred species shall include native hardwoods, conifers and shrubs, as set forth in the New Designs for Growth Development Guidebook.
  - 2) Invasive, non-native and exotic plantings shall be prohibited.
  - 3) Turf grass areas shall be limited to no more than 20% of the area extending thirty (30) feet inland from the ordinary high watermark and no more than 50% of the area beginning thirty (30) feet inland from the ordinary high water mark and extending inland an additional twenty (20) feet.
  - 4) There shall be no limitation on the use of annual plant species.
- e. Artificial Beaches. The installation of artificial beaches proposed as part of new development in the Forest Lakes Area Overlay shall be regulated by the Drain Commissioner and may not exceed fifteen (15) feet in depth as measured perpendicular to the ordinary high water mark and equal in width to ten percent (10%) of the length of the water frontage of the lot or ten (10) feet, which ever is greater. Any such artificial beach area shall not reduce the extent of native vegetation that may be required under subparagraph 6, c, hereof.
- f. Shoreline Structures. Any permitted new accessory structure, such as accessory buildings, stairways, docks, decks or other man-made structure permitted under this section, shall be constructed of wood, or if constructed of metal or composite material, shall be finished with a non-glossy or non-reflective surface, paint or powder coat material to prevent glare and to blend well with the natural surroundings. Docks, boat lifts and similar structures shall be located in conformance with the sideyard setback requirements and such sideyard setback lines shall be extended to include bottom lands on any waterfront lot. (Rev. 2/8/10 and 4/24/11).
- g. Subject to the terms of subparagraph 6, c, of this Section, stairways, stairway landings, deck paths and similar accessory structures may be located between the ordinary high water mark and the required 50-foot waterside setback line. The walking surface of such structures shall be not more than five (5) feet in width measured generally perpendicular to the path of travel. Stairways shall be constructed in accordance with the requirements of the Michigan Building Code for exterior stairways. Such structures shall be located in conformance with the required side yard. (Rev. 2/8/10).

Section 231, 6 continued

- h. Waterside decks may be permitted to be located less than fifty (50) feet of the ordinary high water mark, under the following conditions: (Rev. 2/8/10).
  - 1) Such waterside deck shall be mounted on pillars or posts with the deck surface placed at an elevation of at least six (6) inches and not more than sixty (60) inches above the mean grade beneath such deck,
  - 2) Such waterside deck shall be located not less than ten (10) feet from any side lot line.
  - 3) The maximum area of a waterside deck shall be two hundred (200) square feet and any such waterside deck shall not reduce the percentage of native vegetation required to be established and maintained pursuant to **subparagraph 6, c, of this Section.**
  - 4) A waterside deck shall not have a roof or other permanent impervious surface. This section shall not be interpreted to prohibit roll-up canopies, umbrellas or other temporary shade-providing furnishings.
  - 5) A proposed waterside deck shall not be constructed until a site plan meeting the requirements of **Section 820**, has been submitted and a land use permit has been issued therefore by the Zoning Administrator, subject to **Section 803.**
- i. Fences and walls shall be prohibited from being either constructed, installed, or extended into the required 50-foot filter and buffer strips of the Forest Lakes Overlay District. (Rev. 6/12/17)