
Sec. 40-422. SA. Sensitive Areas Overlay district.

Sec. 40-422.01. Intent.

The SA Sensitive Areas Overlay district is intended to protect, conserve and promote specific areas within the city on which there are elements of environmental significance that comprise some of the city's natural heritage and contribute to the character and identity of the city, and therefore are deserving of protection, preservation and conservation.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-422.02. Application.

The SA Overlay district, as it appears on the city's official zoning map mylar and SA Overlay district maps, reflects the SA Sensitive Areas within the city as depicted on the city's adopted future land use strategic land use master plan map. The SA Overlay district as portrayed on the city's zoning map is an overlay district, which extends across other zoning districts described in this chapter. The criteria utilized to designate Sensitive Areas are as follows:

A. *Floodplain.*

Sensitive because:	It provides water recharge areas and natural water retention basins during periods of heavy precipitation, snowmelt and riverflow. Harmful pesticides and other chemicals can leach into waterways, and homes and property can be damaged during periods of heavy precipitation, snowmelt and riverflow
Defined by:	100-year and 500-year floodplain as defined by FEMA mapping on streams and International Great Lakes Datum (IGLD) elevation on Lake Michigan
	Boundary at which there is a 1% chance in any year of a 100-year flood occurring
	Boundary at which there is a 0.2% chance in any year of a 500-year flood occurring
Comments:	Development requires permit from EGLE and sometimes USACE
	Often contains wetlands regulated under the Michigan Resources and Environmental Protection Act (Act No. 451 of the Public Acts of 1994, as amended), Part 303, Wetland Protection

B. *Wetlands/streams.*

Sensitive because:	It provides flood and storm control, wildlife habitat, pollution treatment, water recharge and storage areas, erosion control, water quality benefits
Defined by:	Criteria set by state/federal law: state definitions outlined in the Michigan Natural Resources and Environmental Protection Act. Part 303, Wetland Protection
	All wetlands subject to regulation by the City, including: A. Wetlands two (2) to five (5) acres in size, whether partially or entirely contained within the site of proposed alteration, which are not contiguous to any lake, stream, river or pond B. Wetlands smaller than two (2) acres in size which are not contiguous to any lake, stream, river or pond and are determined to be consistent with the intent of the Sensitive Areas Overlay District
	And criteria set by state/federal law: state definitions outlined in the Michigan Natural Resources and Environmental Protection Act. Part 301, Inland Lakes & Streams
	Delineated by site inspections, including investigation of plants, soils, and hydrology

	May include springs, seeps, rivers
	May exclude manmade ponds

C. *Dunes/Lake Michigan shoreline.*

Sensitive because:	Value includes rare ecosystem, part of the largest stretch of fresh-water dunes in the world; areas of high erosion; very specialized habitat for plants and animals, containing several state and federal-listed species; beaches for recreation
Defined by:	State and federal statutes (Shoreline) (Section 10 and part 325 of PA 451 of 1994 as amended) and Part 323 of 451 of 1994 as amended (High Risk Erosion Areas)
	Geomorphologic features and interrelated habitat zones (dunes); Shoreline that has been determined to annually erode by one foot or more for a minimum of fifteen (15) years
	Delineated by site inspections
	Existing urbanized areas may be excluded where density is high and/or habitat value is limited
Comments:	May contain areas designated by the State as Critical Dune Areas (CDAs) and subject to regulation under Part 353, Sand Dune Protection and Management, and Part 323, Shoreland Protection and Management
	May contain sensitive slopes

The city will apply criteria letters D—F for consideration only when occurring in conjunction with (within or immediately adjacent to) one or more of criteria letters A—C. The criteria, which do not stand-alone as Sensitive Areas are:

D. *Vegetation/habitat.*

Sensitive because:	Quality of life, aesthetic value, habitat value, provide buffer zone to other Sensitive Areas which are immediately adjacent and may contain species of concern
Defined by:	Sensitivity of area within or immediately adjacent to another Sensitive Area; areas in a natural vegetated condition; areas where impact could adversely affect the adjacent Sensitive Area
	Areas of sufficient size, connection, and/or diversity, to currently support wildlife communities
	May provide biodiversity in combination with an adjacent Sensitive Area
	Delineated by site inspections
Comments:	Likely to be a component of all floodplains, wetland/stream and dune classifications
	May also provide justification for excluding other areas from Sensitive Area designation
	Not labeled separately on mapping, but identified in documentation if present

E. *Species of concern.*

Sensitive because:	Some plant and animal species are identified as rare within the State of Michigan and are protected by State and /or federal laws
Defined by:	Known occurrences of species listed as endangered, threatened, or of special concern (source: State of Michigan database)
	Assessment of habitat; May include habitat suitable for state or federal listed endangered or threatened plant or animal species (may include areas where there are no documented occurrences)
	Direct observation of species not otherwise mapped or known to occur

F. *Slopes.*

Sensitive because:	In proximity to other Sensitive Areas, there is potential for impact to adjacent Sensitive Areas if slopes are disturbed because of potential for destabilization/erosion, altered drainage patterns
Defined by:	Delineated by site inspections, including consideration for degree of slope, soil type, vegetative cover, erodibility, buffering value and adjacent use or community

All other provisions of the ordinance notwithstanding, wherever the SA district extends over part or all of another zoning district, the standards of the SA district shall control.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-422.03. Use provisions.

A. *Permitted uses.*

1. Public parks and public open-space areas.
2. Quasi-public reserves or open-space areas.
3. Non-motorized bicycle, hiking, horseback riding, exercising, or nature trails.
4. Shelter houses.
5. Management, enhancement, or stabilization protection structures.
6. Single-family dwelling construction projects in zoning districts that permit this use.

B. *Principal uses permitted to special conditions:* The following uses shall be permitted subject to special conditions in the SA Overlay District. All such uses shall be subject to review and approval by the planning commission as well as site plan review by the planning commission. Such uses shall be subject to the procedures and requirements of sections 40-422.04 and 40-115 site plan process. If a special land use and the standards for which conflict with section 40-422.04, section 40-422.04 shall apply. All such uses shall be reviewed under section 40-422.04 and shall not be permitted if they would unacceptably impact any Sensitive Area:

1. Any use permitted in the underlying zoning district, subject to all requirements in the underlying district and all requirements of this section.
2. Uses permitted subject to special conditions in the underlying zoning district, subject to any applicable requirements for such uses in such zoning district.
3. For any parcel for which the underlying zoning district is a PD Planned Development, any use permitted within the PD district subject to all requirements of the PD district.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-422.04. Required conditions.

Application to develop land within the SA Overlay district for any use permitted in that district shall require compliance with the following conditions:

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- A. No person shall undertake any activity such as grading, clearing, cutting and filling, excavating, or tree removal in preparation for a use subject to special conditions in the Sensitive Area Overlay unless approved by the planning commission and any other review agency such as the department of environmental quality.
 - B. The construction, expansion of or change in a permitted use of land shall meet all building height, bulk, and setback requirements applicable to the use district in which it is located and where applicable to the use district in which it is located and, where applicable, shall meet the numerical off-street parking and off-street parking layout standards of this chapter.
 - C. One single-family detached dwelling erected on a single lot of record shall comply with the building height and building setback requirements of the residential district in which the lot is located.
 - D. No existing or new use of land permitted in the SA Overlay district shall be allowed unless it complies with the high-risk erosion area setback requirements of part 323 entitled "Shorelands Protection and Management" of the Natural Resources Environmental Protection Act, Act No. 451 of the Public Acts of Michigan of 1994, as amended, and the shoreline protection measure requirements stated in section 40-423.03 of the Beach Overlay district, if applicable.
 - E. The disposal of sanitary sewage from any expanded use or new use of land within the SA Overlay district shall be by means of the city's public sanitary sewer system, or, if not available, shall be by approval of the Ottawa County Health Department.
 - F. All land within the SA Overlay district affected during development, shall be stabilized during construction to minimize soil erosion conditions. Upon completion of development, said land shall be:
 - 1. Restored so as to establish permanent drainage patterns with no greater adverse effect on adjacent properties;
 - 2. Replanted to prevent soil erosion; and
 - 3. Restored to the natural appearance and contours of the land to the extent possible, in compliance with part 91, entitled "Soil Erosion and Sedimentation Control" of the Natural Resources Environmental Protection Act, Act No 451, of the Public Acts of Michigan of 1994, as amended.
 - G. All development and redevelopment located within 250 feet of a critical dune area which is designated on the Michigan Department of Natural Resources "Atlas of Critical Dune Area" dated February 1989 or any amendments thereto with the SA Overlay district shall comply with requirements of Part 353 entitled "Sand Dunes protection and Management" of the Natural Resources Environmental Protection Act, Act No. 451, of the Public Acts of Michigan of 1994, as amended.
 - H. Any use of a wetland located within a SA Overlay district shall comply with the requirements of Part 303, entitled "Wetland Protection" of the Natural resources Environmental Protection Act, Act No. 451, of the Public Acts of Michigan of 194, as amended.
 - I. Any use of an area designated as a floodplain by the Michigan Department of Natural Resources or the National Flood Insurance Program Flood Insurance Rate Map dated February 15, 1978, shall comply with requirements of Part 31, entitled "Water Resources Protection," Part 301 entitled "Inland Lakes and Streams," Part 303 entitled "Wetland Protection," Part 323 entitled "Shorelands Protection and Management," and Part 325 entitled "Great Lakes Submerged Lands" of the Natural Resources Environmental Protection act, Act No. 451 of the public Acts of Michigan of 1994, as amended.
 - J. Reasonable efforts shall be made to protect and preserve natural and native vegetation within the SA Overlay district. Significant trees (six (6) inches and larger in diameter) measured at four (4) feet from grade shall be preserved, wherever possible. Reasonable pruning and trimming of existing vegetation is allowed. Vegetative cover that is removed outside of the building envelope shall be cut flush with the

ground and the stumps and roots shall not be removed. Pruning of dead and native cover is permitted, however, the stumps and roots shall not be removed.

- K. Improvements located within the SA Overlay district, including parking lots, driveways, and storm water management structures, shall be designed to minimize negative impacts on sensitive natural features. Examples include use of pervious pavers, depressed parking lot islands, native plantings, and bioswales.
- L. For construction or expansion of any use subject to special conditions on any parcel in the SA Overlay district, a site plan shall be prepared and submitted for review and approval by the planning commission and, where applicable, the Michigan Department of Environment, Great Lakes & Energy (EGLE). All site plans shall be prepared in accordance with Section 40-115 and with applicable standards of Part 323 entitled "Shorelands Protection and Management" and Part 353 entitled "Sand Dunes Protection and Management" of Natural Resources Environmental Protection Act, Act No. 451, of the Public Acts of Michigan of 1994, as amended.
- M. The proposed use, expansion or improvement will not unacceptably impact the Sensitive Area or surrounding property or uses. In determining such issues, staff (if subject to staff review) or the planning commission (if subject to planning commission review) shall, at a minimum and not by limitation, consider at least the following factors:
 - 1. Traffic generation and traffic flows, including any hazardous conditions;
 - 2. Noise generation;
 - 3. The effects of vehicles and paved driveways on the premises including, without limitation, run-off, snow removal, noise, etc. resulting from the presence and use of vehicles and paved driveways as they relate to the Sensitive Area and the vegetation or animal life thereon;
 - 4. Lot coverage;
 - 5. Impacts upon wildlife and native plant species habitat;
 - 6. Landscaping;
 - 7. Compatibility with other uses and zoning in the vicinity;
 - 8. Compatibility with neighboring properties;
 - 9. The use of any herbicides, insecticides, other pesticides or hazardous substances on the site, including, without limitation, the effects of any run-off;
 - 10. Native vegetation removal
 - 11. Any mitigation of any effects upon the sensitive area;
 - 12. Long-term shoreline erosion estimates;
 - 13. Other factors deemed by the planning commission to be important in the protection of the Sensitive Area.
- N. For the purposes of this district, uses of land not specifically allowed in section 40-422.03 shall be prohibited in the SA Overlay district.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-422.05. Environmental survey.

If the planning commission, upon initial review of any application and site plan filed pursuant to this Article, deems it necessary and appropriate to its review of the application and site plan, may require the applicant to conduct an environmental survey of the subject property which specifically identifies and delineates the locations and presence of sensitive areas, floodplains, wetlands/streams, dunes, Lake Michigan shorelines, slopes, species of concern, habitat for vegetation and wildlife, and other issues listed in section 40-422.02.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-422.06. Reconsideration and designation as sensitive area.

The owner of any parcel of property part or all of which is designated as lying within the SA Overlay district and containing a Sensitive Area or any person of interest with the owner's written consent, may apply to the planning commission for reconsideration of that designation or redefining of the areas on the property designated as a Sensitive Area. Such an application shall be supported by an environmental survey meeting the requirements in section 40-422.05, in the case of wetland areas previously mitigated under an approved EGLE wetland mitigation permit, prior to the adoption of this ordinance, shall suffice for reconsideration of designation as Sensitive Area. If the planning commission, after a public hearing noticed and held in the same manner as is required for any rezoning and after reviewing and considering the information submitted by the applicant, together with any other information the planning commission deems relevant, determines that the Sensitive Area designation should be modified (which modification could include the elimination of the property from the SA Overlay district, the decrease of the portion designated as Sensitive Area or the increase of the portion designated as Sensitive Area), the planning commission shall recommend such a change to the city council in the same manner as for any other rezoning request.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-423. Beach Overlay district.

Sec. 40-423.01. Intent.

The Beach Overlay district (B-OD) is an overlay district intended to prevent damage to private property along the shore of Lake Michigan, to prevent damage to public trust shorelands, and to preserve the character of those public trust shorelands, which constitute a valuable public resource and an important part of the identity of the community.

The city finds that during periods of low Lake Michigan water levels, sand accretion in this district tends to significantly enlarge the beach and to enlarge affected parcels in this district. This additional land area can be seen by property owners as permanent and attractive for development. The character of the shorelands along this portion of the Lake Michigan shoreline, as well as viewsheds along the shoreline from public parks in this district can be compromised by development in immediate proximity to the water's edge.

The city further finds that the beach and property area near the shoreline is subject to submergence and erosion during periods of higher Lake Michigan water levels and resulting from severe weather conditions. It has been demonstrated that current state and federal development standards for the Lake Michigan shoreline, such as those imposed based on the ordinary high water mark (OHWM) and the base flood elevation, do not ensure that property shoreward of those locations is protected from erosion, inundation, or damage during such periods of time and/or weather events. The OHWM is not intended to reflect these periods of peril, and the base flood elevation is the still-water elevation that does not take into account the effect of wave action. The city further

understands that revised federal floodplain regulations are being developed to take into account additional environmental factors such as waves and to provide an improved standard of floodplain development protection, but implementation of these regulations will not likely occur for several years.

When erosion threatens a structure legally built near the shoreline, owners may wish to construct a seawall or implement similar shore protection measures. Such actions may pose an increased threat of erosion and damage to adjacent private properties and to public trust shorelands more broadly, and may significantly diminish the character of those public trust shorelands.

Given the physical, environmental and developmental characteristics of the B-OD, including generally large lots that need not be developed near the water's edge to be economically viable, and given that the area generally benefits from accretion, the city believes that construction of seawalls and similar structures in this area can be detrimental to the public health, safety, and welfare. This finding is supported by the 2017 City of Grand Haven, Building Coastal Resiliency Report developed by the University of Michigan, a copy of which is on file with the city.

The city 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) be susceptible to damage resulting from inundation or erosion; or (2) create an increased threat of erosion or damage on adjacent properties; (3) be detrimental to the spirit and character of the public trust property; (4) be detrimental to vistas from neighboring public parks; or (5) be potentially built in a location that will render the structure non-conforming under the future federal floodplain protection regulations currently under development.

These regulations are intended to prevent the construction of structures and implementation of other measures that would have deleterious effects on neighboring private properties and on public trust shorelands more broadly, to preserve the character of public trust shorelands along the Lake Michigan shoreline, and to protect vistas from neighboring public parks.

These regulations are supported by the master plan.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-423.02. Description of district.

The B-OD, as it appears on the city's official zoning map mylar and Beach Overlay district map, is an overlay district covering certain land along Lake Michigan. It specifically includes all lands situated lakeward of a line sequentially connecting the following points as well as the distance and bearing of each line segment, described by Michigan State Plan Grid Coordinates, South Zone, Grid NAD 83 international feet. This line, which does not track existing lot lines, is defined by the sum of two (2) measurements: (1) the line commonly referred to as the elevation contour, which represents the fifty-year flood elevation (583.7 feet) in 1992, as established by the State of Michigan for the purpose of identifying shorelands at risk of inundation and high-energy waves during a relatively high-probability storm event, plus the sixty-year projected recession distance (one hundred fifteen (115) feet), as established by the State of Michigan for high risk erosion areas.

Point	Northing	Easting
A	579225.99	12619765.36
B	579049.41	12619790.83
C	578679.58	12619871.22
D	578267.11	12619936.88
E	577896.31	12619976.95
F	577229.62	12620047.64
G	576590.75	12620053.34

H	575792.14	12620032.51
I	575154.57	12619982.43
J	574544.89	12619889.28
K	573875.48	12619803.34
L	573646.32	12619886.67
M	573279.97	12620122.56
N	572952.10	12620173.23
O	572598.74	12620366.71
P	572477.53	12620498.89
Q	572044.16	12620786.27
R	571757.22	12620899.96
S	571458.53	12621094.06
T	571148.42	12621217.45
U	570975.79	12621308.75
V	570520.99	12621478.05
W	570250.16	12621594.71
X	570103.87	12621688.10
Y	569454.72	12621850.64
Z	569175.38	12621936.64
AA	568586.22	12622095.66
BB	568381.03	12622131.70
Line	Distance	Bearing
AB	178.41'	N 8.2088° E
BC	378.47'	S 12.2634° E
CD	417.66'	S 9.0453° E
DE	372.96'	S 6.1675° E
EF	670.43'	S 6.0521° E
FG	638.89'	S 0.5115° E
GH	798.88'	S 1.4943° W
HI	639.54'	S 4.4905° W
IJ	616.76'	S 8.6874° W
JK	674.90'	S 7.3155° W
KL	243.85'	S 19.9831° E
MN	331.8'	S 8.7838° E
NO	402.9'	S 28.7032° E
OP	179.3'	S 47.4775° E
PQ	520.0'	S 33.5503° E
QR	308.6'	S 21.6131° E
RS	356.2'	S 33.0176° E
ST	333.8'	S 21.6971° E
TU	195.3'	S 27.8748° E
UV	485.3'	S 20.4175° E
VW	294.9'	S 23.3031° E
WX	175.6'	S 32.5573° E
XY	669.2'	S 14.0563° E
YZ	292.3'	S 17.1123° E
ZAA	610.3'	S 15.1050° E

AABB	208.3'	S 9.9619° E
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The city shall review the location of the line commonly referred to as the elevation contour every ten (10) years or if the fifty-year flood elevation is updated by the State of Michigan for the purpose of identifying shorelands at risk of inundation and high-energy waves during a relatively high-probability storm event, and determine if it should be adjusted.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)

Sec. 40-423.03. Shoreline protection measures.

For the reasons set forth in section 40-423.01, the installation, construction, and operation of shoreline protection measures, including but not limited to breakwater, groins, riprap, revetment, bulkhead, seawall, and sandbags, within the B-OD shall be subject to the following:

- A. No shoreline protection measure shall be installed or constructed in the B-OD, except for temporary fencing not more than four (4) feet 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, and except for temporary geotextile tubes or equivalent large sandbags placed at the toe of the slope during periods of extreme high water, which must be dismantled immediately when water levels recede to below the State of Michigan Ordinary High Water Mark (OHWM), and which are permitted by USACE and EGLE. All artificial materials must be completely removed from the site when the geotextile tubes are dismantled. This shall not be construed or used as support to install permanent armoring of the shoreline.
- B. In the event the provisions of this section effectively prevent the development or use of a lot existing on the effective date of this amendment for all purposes permitted in the underlying zoning district, or create an unnecessary hardship for the use of such a lot, the property owner may seek a variance.
- C. If any lot within or partially within the B-OD is divided or the subject of a boundary adjustment after the effective date of this amendment such that any resulting parcel is nonbuildable due to the regulations of this section, except for a boundary adjustment that has the effect of lessening a nonconformity with respect to this section, it will be deemed a voluntary action of the property owner and will disqualify the resulting nonbuildable parcel from receiving a variance.
- D. In the event the provisions of the B-OD render nonconforming a structure which is existing or under construction pursuant to a valid building permit on the effective date of this amendment, completion of the permitted project shall not be deemed a voluntary action of the property owner that would disqualify the parcel from receiving a variance if on lands within and adjacent to the B-OD.
- E. 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 include land within the B-OD.

(Ord. No. 2021-02 , § 1(Exh. A), 1-4-21)