

PENINSULA TOWNSHIP

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**PENINSULA TOWNSHIP
PLANNING COMMISSION – SHORELINE REGULATION STUDY GROUP
AGENDA**

January 29, 2024

Township Hall

5:00 pm

This meeting will not be recorded, and no minutes will be taken.

1. **Call to Order**
2. **Attendance**
3. **5:00 pm - Business**
 - a. Introductions – Name and Interest in Shoreline Regulations
 - b. Current Issues Related to Shoreline Properties
 - i. Dock and Hoist Location for Single Waterfront Ownership
 - ii. Dock and Hoist Location and Number of Hoists for Shared Waterfront Ownership
 - iii. Development Standards and Natural Resource Protection
 - c. Purpose and Intent of Shoreline Regulations
 - d. Existing Peninsula Township Zoning Ordinance Regulations
 - e. Process for Amending Zoning Ordinance
 - f. Role of Shoreline Regulation Study Group
 - g. Study Group Meeting Schedule
4. **Public Comments**
5. **6:30 pm – Adjournment**

Exhibits:

1. Existing Peninsula Township Zoning Ordinance Regulations



Jenn Gram, Planning & Zoning Director

Posted January 29, 2024, 12:30 pm

Exhibit 1

Section 6.2 R-1A Districts: Rural and Hillside Residential:

Section 6.2.1 Intent and Purpose: This section establishes the R-1A Rural and Hillside Residential District to set standards for the continued development of: (1) rural areas suited to very low density residential development; (2) fragile hillside areas; and (3) interface areas between more intensive residential uses and agricultural land uses. This district includes existing low density residential developments as well as areas within which such development appears both likely and desirable.

Section 6.2.2 Uses Permitted by Right:

(1) Single Family Dwellings:

(2) Customary Uses and Structures

(a) Accessory Buildings: Accessory buildings such as farm buildings and a detached garage for the storage of automobiles shall be permitted with a single-family dwelling; provided, however, that the farm buildings and garage shall comply with the setback restrictions and side yard requirements.

(b) Guest Houses: A guest house detached from the dwelling shall not be permitted on the same lot with a single-family dwelling unless the lot has a width twice the normal width, and the guest house is so located as to be qualified as a single-family dwelling in its own right on one-half the width of the lot of the principal dwelling.

(c) Boat Hoists and Docks:

1. A maximum of one (1) dock per parcel plus one boat hoist, is permitted per fifty (50) feet of shore line, measured at the ordinary high water line, provided that a pre-existing lot of record is allowed at least one dock and one boat hoist.
2. Boat hoists and docks are allowed on properties of insufficient size for a single-family dwelling, provided the lot is a pre-existing lot of record or has a minimum width of fifty (50) feet and also provided that provision is made for a minimum of two (2) parking places off the adjacent road right-of-way. In the event of properties owned by the same party being separated by a thoroughfare, parking may be provided on the inland parcel and need not be in excess of that required for a single-family dwelling.
3. No dock shall be wider than seven (7) feet and no longer than necessary to provide adequate water depth for the boat using the dock or boat hoist.
4. Shared waterfront ownership is allowed pursuant to Section 7.4.2.
(REVISED BY AMENDMENT 109C)

(d) **Decks and Storage: (REVISED BY AMENDMENT 140)**

1. **Intent** It is the intent of this section to allow reasonable use of shoreline property by allowing decks with attached seating and enclosed storage to be located in front yard and ordinary high water line setback areas. It is also intended to only allow decks in locations where shoreline vegetation can be retained to protect scenic beauty, control erosion, reduce septic tank effluent and reduce other nutrients from entering the water. It is recognized that there are shoreline areas where decks and/or storage are not appropriate or reasonable because of the limited area between the road right-of-way and the Ordinary High Water Line. It is also recognized that the levels of the Great Lakes vary over time, and it can be hazardous to build structures where they may be damaged by high water or become a hazard to boats if they are destroyed by wave action.
2. Decks (including attached seating and/or attached storage) shall be allowed within the Ordinary High Water Line and the Front Yard setbacks in the case of properties located along the Great Lakes shoreline, provided:
 - (a) All parts of the deck, attached seating, storage and railing shall be constructed within a building envelope as provided below: (See Figure 6-1)
 - i. Located a minimum distance of 35 feet from the Ordinary High Water Line which is 581 feet above sea level (USGS).
 - ii. Located above the Flood Elevation Line which is 584 feet above sea level (USGS).;
 - iii. Located outside the fifteen foot side yard setbacks;
 - iv. The floor of the deck at any point shall not have a height greater than thirty (30) inches above the finished grade of the site and no higher than the center of the traveled surface of the adjacent roadway.
 - v. Attached Seating shall be no higher than 34 inches above the floor of the deck and no higher than 34 inches above the center of the traveled surface of the adjacent roadway.
 - vi. Enclosed storage shall be no higher than 34 inches above the floor of the deck or 64 inches above finished grade, whichever is higher, provided that it is no higher than 34 inches above the center of the traveled surface of the adjacent roadway.
 - (b) There shall be no walls, roofs or other construction attached to a deck other than the allowed seating, storage and railings required to meet the minimum requirements of construction codes.
 - (c) Unattached items such as umbrellas, grill, swing or hammock are allowed as accessories to a deck.
 - (d) Enclosed storage areas shall be constructed so as to conceal all stored material.
 - (e) The total area of land covered by the deck, seating and storage shall not exceed ten (10%) percent of that land area within the side yard setbacks extending: a) from the road right-of-way to the ordinary high water mark; or b) where there is a residence on the

parcel, from a line parallel to the road right-of-way and touching the closest part of the foundation of the residence to the ordinary high water line.

(f) No deck shall be constructed within a road right-of-way.

(e) Rental of Non-owner Occupied Dwelling: (REVISED BY AMENDMENT 182)

1. Intent -This is a clarifying amendment that confirms the determination by the Zoning Board of Appeals on September 9, 1999, that the minimum length of time that a dwelling may be rented and be in conformance with the intent of the ordinance is one month and reaffirmed by the Zoning Board of Appeals on September 11, 2008 as 30 days. This is also to distinguish between rental of a "non-owner occupied dwelling" and "Bed and Breakfast" which is rental of a owner occupied dwelling.
2. A property owner may rent a non-owner occupied dwelling, provided that the minimum length of time that the dwelling may be rented is 30 days.

(3) Public Recreation:

(4) Storage of Trailer Units:

(5) The Keeping of Domestic Pets: Provided that all pets are so maintained as to not constitute a public nuisance and provided further that in the event the same are horses or livestock, then the sheltering structure shall be at least two hundred (200 feet) from any lot line and the pasturing area shall be at least one hundred (100 feet) from any lot line; and both the pasturing area and the sheltering structure shall be at least two hundred (200 feet) from any well or residence.

(6) General Farming and Horticultural Uses: Including the carrying on of usual soil practices of cultivation, spraying and fertilization including the use of barnyard and poultry manure, and also including migrant workers' quarters and roadside stands for the sale of agricultural products, but excluding the raising and grazing of farm animals and fowl excepting as permitted in (5) above.

(7) Family Day Care Homes and Group Day Care Homes:

- (a) Such uses shall be duly licensed by the State Department of Social Services.
- (b) Fencing of outdoor play areas may be required should it be determined by the Zoning Administrator that conditions exist in the immediate vicinity which could be hazardous to the user children or that objectionable trespass could occur onto neighboring properties by the user children. The Zoning Administrator shall make such determination by contacting adjacent property owners by U.S. Mail and allowing a ten (10) day response time to receive comments from the neighbors regarding such probability.
- (c) The Zoning Board of Appeals may, at any time, limit the hours of operation of a family day care home should they receive any written complaints regarding operating hours.

Section 7.3 Supplementary Height and Area Regulations:

Section 7.3.1 Permitted Exceptions: When a given use is permitted in any District, the following kinds of structural appurtenances shall be permitted to exceed the otherwise required height limitations for authorized uses, provided that they shall not be used for human occupancy:

- (1) Ornamental church steeples and cupolas.
- (2) Functional chimneys, ventilators, television aerials and ham radio antenna.

(REVISED BY AMENDMENT 159)

Section 7.3.2 Permitted Exceptions, Agricultural Districts: In the agricultural district, traditional agriculture related buildings, such as barns and silos, may be constructed to heights in excess of that specified for the district, provided they are first granted a special use permit for such exception under the procedures and requirements of Section 8.1 of this Ordinance.

Section 7.3.3 Individual lot areas in plats abutting certain agricultural lands described in Section 4.7.10 of the Township Subdivision Control Act recorded subsequent to the date of this amendment may be less than the required minimum PROVIDED the average lot size in the recorded plat is not less than the required minimum and PROVIDED FURTHER that any reduced lot size is not less than Seventy (70) percent of the required lot area. Provision for reduced lots shall be stated on the recorded plat so that minimum average lot sizes will be maintained in the event of any subsequent amendments to the plat. No more than twenty (20) percent of the total lots in the plat shall contain less than the required minimum lot area.

Section 7.3.4 Any lot existing and of record on the effective date of this original Ordinance may be used for any permitted use specified for the District in which such lot is located whether or not such lot complies with the lot area and width requirements of this Ordinance, PROVIDED that all other requirements of this Ordinance are complied with, and PROVIDED FURTHER that not more than one (1) dwelling unit shall occupy any lot except in conformance with the required lot area for each dwelling unit.

Section 7.4 Supplemental Great Lake Shoreland Regulations:

Section 7.4.1 Intent and Purpose: It is the intent and purpose of this Ordinance to protect water quality and land resources related to the Great Lakes Shoreland for the future health, safety and welfare of Township residents.

Section 7.4.2 Shared Waterfront Ownership: Any waterfront land that is to be used by more than one family shall meet the following requirements:

- (1) Intent It is the intent of this section to reduce the conflicts that occur between residential single family use and shared waterfront use, such as a number of families using the beach, making noise, trespassing, temporarily storing boats, boat hoists and other equipment.

(2) Land Use Permit Where more than one family has Shared Waterfront Ownership in the waterfront property, a land use permit shall be obtained from the Zoning Administrator. The application for land use permit shall indicate the number of families with access rights, the name and address of a principal family member for each family, the name and address of one person who shall receive the tax bill in the event that all families do not have taxable real property in Peninsula Township and a site plan showing compliance with the minimum requirements of this Section 7.4.2. The Zoning Administrator shall be notified of any change in ownership.

(3) Minimum Lot Widths and Vehicle Parking Space Requirements:

<u>No. of Families</u>	<u>Minimum</u>
<u>With Access Rights</u>	<u>Lot Width</u>

Two Families	100
Three Families	150
Four Families	200
Over Four Families (Five additional feet per family)	

(b) One parking space for each boat hoist shall be provided off the traveled portion of the road such that all portions of a parked vehicle are at least five (5) feet from the driving lane to provide safe egress from the vehicle.

(c) Each parking space shall be a minimum of twenty-three (23) feet in length. The parking space does not have to be paved or graveled. **(REVISED BY AMENDMENT 122) REVISED BY AMENDMENT 190)**

(4) Group docking, hoist and other related facilities and boat hoists shall not exceed one dock per parcel and one boat hoist per fifty (50) feet of shore line, measured at the ordinary high water mark, and shall be located as near as possible to the center of the parcel.

(5) No dock shall be wider than seven (7) feet and no longer than necessary to provide adequate water depth for the boat using the dock or boat hoist.

(6) No dwelling units or clubhouses are allowed on shared waterfront parcels.

- (7) The area within fifteen (15) feet of side lot lines shall not be used for the permanent or temporary placing or storage of boats, boat hoists and other equipment, nor for locating fire pits or decks flush with the ground.
- (8) A portable toilet is allowed, provided it is not placed within a road right-of-way, and not closer than twenty (20) feet from the water's edge. Also provided that screened shall be between the toilet and the nearest property line, the road and the water.
(REVISED BY AMENDMENT 109B)

Section 7.4.3 Filling and Grading Within 200 feet of Normal High Water Mark: The following rules shall apply to any filling, grading or other earth movement within 200 feet of the normal high water mark to prevent harmful erosion and related sedimentation:

- (1) The smallest amount of bare ground shall be exposed for as short a time as feasible.
- (2) Temporary ground cover such as mulch must be used as soon as possible and permanent cover such as sod be planted.
- (3) Diversions, silting basins, terraces and other methods must be used to trap any sediment.
- (4) Fill must be stabilized according to accepted engineering practices.
- (5) The Zoning Administrator may issue a land use permit for a sea wall without regard to the Minimum yard setback from the ordinary high water mark otherwise required in Section 6.8.1 when a sea wall is necessary to protect or prevent structures on the premises from erosion damage caused by high water.

Section 7.4.4 Removal of Shore Cover: Regulation of tree cutting along the Great Lakes shoreline is necessary to protect scenic beauty, control erosion and reduce effluent and nutrient flow from the shoreland. These provisions shall not apply to the removal of dead, diseased or dying trees at the discretion of the landowner, or to silvicultural thinning upon recommendation of a forester. Tree cutting in a strip paralleling the shoreline and extending thirty-five (35) feet inland from all points along the normal high water mark of the shoreline shall be limited in accordance with the following provisions:

- (1) No more than 30% of the length of this strip shall be clear cut to the depth of the strip.
- (2) Provided, further that cutting of this 30% shall not create a clear cut opening in this strip greater than thirty (30) feet wide for every one hundred (100) feet of shoreline.
- (3) In the remaining 70% length of this strip cutting shall leave sufficient cover to screen cars, dwellings, accessory structures, as seen from the water; to preserve natural beauty and to control erosion.
- (4) Natural shrubbery shall be preserved as far as practicable, and where removed it shall be replaced with other vegetation that is equally effective in retarding runoff, preventing erosion and preserving natural beauty.

- (5) Paths - any paths, roads or passages within the strip shall be so constructed or surfaced as to be as effective in controlling erosion.
- (6) Cutting Plan - as an alternative to the above requirements a special cutting plan allowing greater cutting may be permitted by the Board of Appeals. In applying for such a permit the Board may require the lot owner to submit a sketch of his lot including the following information: location of all structures, location of parking, gradient of the land, existing vegetation, proposed cutting and proposed replanting. The Board may grant such a permit only if it finds That such special cutting plans:
 - (a) Will not cause undue erosion or destruction of scenic beauty, and
 - (b) Will provide substantial shielding from the water of dwellings, accessory structures and parking areas. The Board may condition such a permit upon a guarantee of tree planting by the lot owner. Such an agreement shall be enforceable in court.
- (7) Commercial Forestry - from the inland edge of the thirty-five (35) foot strip to the outer limits of the shoreland the commercial harvesting of trees shall be allowed when accomplished under accepted forest management practices. The maintenance and improvement of water quality shall be emphasized in all timber harvesting operations. The purpose of this provision will favor long-lived species.

Section 7.4.5 Review by Michigan Water Resources Committee If it is determined by the Zoning Administrator that any proposed structure may adversely effect, deteriorate or alter the shoreland resource, preliminary plans and specifications shall be transmitted to the staff of the Michigan Water Resource Commission for review and approval. If it is determined by the Water Resources Commission staff that such development would adversely affect public and private rights, impair the public trust or otherwise deteriorate the unique shoreland resource, such determination shall be considered sufficient justification for denying a building permit.

Section 7.4.6 Deleted by Amendment 61(10) 8/13/85

Section 7.4.7 Flood Plain and Wetland Controls: (REVISED BY AMENDMENT 195)

(A) Wetland

Definition of Wetland: Land characterized by the presence of water at frequency and duration sufficient to support, and that under normal circumstances does support, wetland vegetation or aquatic life, and is commonly referred to as a bog, swamp, or marsh. A wetland may or may not be contiguous to the Great Lakes, an inland lake or pond, or a river or stream. This applies to public, commercial, and private lands regardless of zoning or ownership. Wetlands are regulated per Part 303 of the Natural Resources and Environmental Act, 1994 PA 451, as amended.

Development: There shall be no development or modification of any kind within a wetland area without there first having been issued a wetlands permit by the Michigan Department of Environmental Quality (MDEQ) and/or an Earth Change and Storm Water Permit from Peninsula Township. Any such approved development shall be subject to the following:

- (1) A setback of 25 feet shall be maintained between any structure or impervious (including but not limited to parking lot, driveway, paths, etc.) surface and wetland.
- (2) Except as specified in subsection (3), there shall be no development or modification of any kind within a wetland or wetland setback. Wetlands may be used for density calculations and incorporated in Storm Water Management Plans.
- (3) Boardwalks 3 feet or less in width shall be permitted following issuance of a Land Use Permit and subject to MDEQ approval, upon finding there will be no adverse impact on ground or surface waters of the wetland. The Zoning Administrator or Planning Commission, as applicable, may require the applicant to obtain a formal determination of the wetland boundary by the MDEQ.
- (4) Wetland Identification: In the event of reasonable doubt as to the presence of a wetland, the Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a State of Michigan certified wetland delineator showing the existence, extent, and location of wetland areas. The Zoning Administrator shall use such information provided in making a final determination of the presence of a wetland.
- (5) Compliance with Part 303, Wetlands Protection of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended.

(B) Flood Plain

Intent and Purposes: The purpose of these regulations is to protect those areas of the Township which are subject to predictable flooding in the flood plain of the Great Lakes. All land included in the flood plain shall be subject to the requirements and prohibitions specified herein, in addition to the normal zoning district requirements in which the land is located.

- (1) Notwithstanding anything to the contrary in this entire Ordinance, any request to fill in a flood plain of a parcel or a portion thereof, must be evaluated together with the proposed use of the land after the filling in of the flood plain or portion of the flood plain, and such proposed use must be a permitted use as set forth in Section 7.4.7 (B) (3). A request to fill in the flood plain or a portion thereof will not be considered alone and is not permitted.
- (2) Flood Plain Area Identification: Flood plain areas shall be those areas falling below elevation 584 feet North American Vertical Datum of 1988 or in accordance with all FEMA FIRM panel maps effective 8/28/2018 . Such flood plain areas may not be filled in except as specifically set forth and subject to Section 7.4.7 (B) (1) and (3), and (5). The Zoning Administrator shall obtain, review and reasonably utilize, flood elevation data available for federal, state and or local resources. The most recent flood evaluation data received from FEMA shall take precedence. In the event of reasonable doubt as to the location of a flood plain, the Zoning Administrator may require the applicant to submit detailed engineering studies prepared by a professional engineer, licensed surveyor, plant ecologist, hydrologist, soils scientist or other relevant professional. showing the extent and location of the flood plain areas per Part

31 of the Act, 451 PA 1994, as amended.

(3) Permitted Uses: In conformity with Section 7.4.7(B)(1), no uses shall be permitted to occur within a flood plain or to occur on a parcel for which a request has been made to fill in the flood plain or a portion thereto, except the following:

- (a) Gardens, preserves, and low intensity use areas in parks.
- (b) Boardwalks and paths no wider than 3 feet.
- (c) Yard and setback areas or other open space portions required for any District.
- (d) Access drives for utility uses, when designed so as not to increase the possibility of flood or be otherwise detrimental to the public health, safety, and welfare.

(4) Restricted Uses: Any structure where human habitation is contemplated either as a place of residence, place of work, or place of public gathering shall be prohibited from locating in the flood plain as provided by 7.4.7(B)(1). These structures shall be installed above the Base Flood Elevation (BFE).

(5) Required Conditions For Permitted Uses: To the extent that a request to fill in the flood plain on a parcel or a portion of a parcel along with the permitted use as set forth in Sections 7.4.7 (B)(1) or (3) has been granted, such granting of the request is subject to the following conditions:

(a) Any work, construction, or filling in the flood plain shall conform to the requirement of Section 7.4.7 of this Article, and permits for such work, construction, or filling in the flood plain shall not be issued unless they receive review and approval by the Zoning Administrator and the Township Engineer.

(b) Any work, construction, or filling in the flood plain shall be so fixed to the site as to withstand the force of the expected velocity of flood water. The Zoning Administrator may require professional engineering, licensed surveyor, landscape architect, plant ecologist, hydrologist, or other professional review of any such construction.

(c) The Zoning Administrator may request additional information prepared by a registered professional engineer, licensed surveyor, plant ecologist, hydrologist, soils scientist or other relevant professional. Information may include: topographic information, studies to determine the effects of flooding or flow of water, determination that the use will not adversely affect floodplain capacity, and that the use will not generate storm water, sedimentation or other water quality concerns.

(d) All of the conditions set forth herein must be fully satisfied before applicant may

proceed with the work, construction, or filling in the flood plain, or a portion thereof.

(e) Compliance with Part 31, Water Resources Protection, of the Natural Resources and Environmental Protection Act, 1994, PA 451, as amended.

(6) Vegetated Buffer Protection: All shoreline properties including flood plain areas shall have a vegetated strip inland of the beach area to filter nutrients and storm water and give protection from lake waves. Use of deep rooted shrubs, tree, and native plants provide greater protection than man-made structures.

(7) Retaining Wall or Seawalls: Notwithstanding Section 7.4.3(5), There shall be no retaining walls or seawalls in any flood plain area.

Section 7.5 Non-Conforming Uses and Structures: (REVISED BY AMENDMENT 171B)

Section 7.5.1 Intent and Purpose:

Non-Conforming Use. At the discretion of the owner, the lawful use of any building, structure, land or premises existing prior to the effective date of this Ordinance, although the use does not conform to the provisions of this Ordinance, may be continued; and such use of any building may be extended throughout such building, provided no structural changes be made therein except those required for safety and sanitation.

Non-Conforming Structure. It is the intent to allow the continued use of a non-conforming structure. It is also the intent that the Zoning Board of Appeals may grant a variance to move or reconstruct a non-conforming structure where the structure was legally built on parcels that would be otherwise unbuildable due to overlap in the yard requirements. It is not the intent to allow significant increases in the intensity of previously established residential use on otherwise unbuildable lots. It is not the intent to allow the construction of a residence on a vacant parcel where yard requirements meet or overlap such that there is no buildable area on the parcel.

Section 7.5.2 Change of Use: Whenever the non-conforming use of any structure or land is changed in whole or in part to a conforming use, such use shall not thereafter be reverted to any non-conforming use. If the non-conforming use of any building, structure or land is discontinued through vacancy, lack of operation or otherwise for a continuous period of twelve (12) months, then any future use of said building, structure or land shall conform, in its entirety, to the provisions of this Ordinance; provided, however, that the Board of Appeals may, upon application within six (6) months of the termination of said period, permit the resumption of such non-conforming use.

Section 7.5.3 Reconstruction of Damaged Non-Conforming Structure: Nothing in this Ordinance shall prevent the reconstruction, repair or restoration and the continued use of any non-conforming building or structure damaged by fire, collapse, explosion, acts of God or acts of the public enemy, subsequent to the effective date of this Ordinance, wherein the non-conforming user has first obtained the approval of the Board of Appeals, wherein the Board of Appeals has first determined that the continued use will be substantially the same as the previous non-conforming use and that such continued use will not be detrimental to the health, safety and welfare and that substantial justice is achieved.