

DRAFT
BENZIE COUNTY BUFFER PROVISIONS TO PROTECT WATER QUALITY:
BENZIE COUNTY WATERBODIES OVERLAY DISTRICT

DEFINITIONS FOR ARTICLE II:

1. Riparian buffer is defined as:

The area surrounding all natural waterbodies including creeks, rivers, intermittent waterways and lakes that attenuate and filter overland runoff, provide space for water storage and natural alterations in the pattern and profile of streams, supply natural organic litter that supports downstream aquatic ecology, controls water temperature and provide necessary wildlife habitat.

2. Waterbodies Overlay District

Provides protective regulations for all those lake, rivers, and streams in Benzie County under Benzie County Zoning authority excepting those within the Crystal Lake Overlay District and th Betise River Natural River designation (a designated Michigan Natural River), which have their own buffering provisions.

SECTION 12 ___ BENZIE COUNTY WATERBODIES OVERLAY DISTRICT STANDARDS

1. Description and Purpose. The purpose of this Overlay District is to preserve and protect watersheds in Benzie County not otherwise already protected through other overlay districts or Natural Rivers Ordinance. These regulations seek to balance the protection of the ecosystem while enabling low-intensity development where appropriate. The regulations are designed to prevent soil erosion along the banks of waterbodies, prevent sedimentation from entering the waterbodies, preserve and enhance vegetation along the waterbodies, and to ensure adequate setbacks for buildings, structures, impermeable surfaces, and septic treatment systems.

The overlay district consists of a two (2) tier system of protective zones:

The purpose of the first zone is to filter polluted runoff from the developed portions of the site, provide shade, and maintain soils in a stable state to prevent shoreline or bank erosion and subsequent sedimentation of the adjacent waterway. Maintaining native vegetation, most notably trees, provides the greatest benefit in

reducing the velocity of erosive overland flows, filtering of sediment laden or otherwise polluted runoff, and the uptake of nutrients from subsurface groundwater flows.

Both zones provide for environmental protection benefits that include:

- Restoring and maintaining the chemical, physical and biological integrity of the water resources
- Removing pollutants delivered in stormwater
- Reducing erosion and controlling sedimentation
- Stabilizing stream banks
- Providing for infiltration of stormwater runoff
- Maintaining base flow of streams
- Contributing the organic matter that is a source of food and energy for the aquatic ecosystem
- Providing tree canopy to shade streams and promote desirable aquatic organisms
- Providing riparian wildlife habitat
- Furnishing scenic value and recreational opportunity

2. Applicable Requirements and District Boundaries. The requirements of this overlay district are in addition to and shall supplement those imposed on the same lands by the provision of the underlying zoning district. The Benzie County Waterbodies Overlay District shall consist of all parcels located along the waterbodies in Benzie County not already under Natural Rivers designation or the Crystal Lake Watershed Overlay District.

3. Managed Buffer Strip. The width of the Riparian Buffer Zone shall extend a minimum of seventy-five (75) feet from the edge of a watercourse at bankfull flow, a surface waterbody of level stage (referred to as the normal high water mark), or from the edge of the 100 year floodplain, or from the upland edge of a regulated wetland, whichever is greater. The Zone will consist of two (2) distinct areas designated as:

A. Tier 1 - Managed Riparian Buffer Zone A managed buffer strip shall parallel the edge of a watercourse or waterbody twenty-five (25) feet in width, measured in a horizontal plane from the nearest point of water at bankfull flow or the normal high water mark.

Additional protection may be required on slopes within this zone which equal or exceed 12 percent.

1. Within the 25-foot buffer, vegetation will be preserved or allowed to return to a natural state comprised of local native plant species. Trees and shrubs may be pruned for a filtered view of the waterbody, but clear cutting, with the exception of poisonous, noxious and/or dead or diseased plants, shall be prohibited. Any removal of plants, except poisonous plants, must be done using mechanical (i.e. hand tools) methods to prevent direct pollution of the adjacent waterbody with toxic chemicals. Disturbed soils must be immediately replanted with native plant species to prevent erosion and sedimentation of the adjacent waterbody.

Other restrictions

- (a) No structures, paved surfaces or storing of organic wastes, fertilizers or chemicals shall be allowed within the 25-foot buffer.
 - (b) Access pathways, not to exceed four (4) feet in width, are permitted to the waterbody. If wetlands are to be impacted, a permit must first be obtained from the MDEQ.
 - (c) A clearing parallel to the bank or shoreline, not to exceed four (4) feet in width, is permitted, up to twenty-five (25) feet in length, or twenty-five (25%) percent of the width of the parcel, whichever is the smaller. Again, the wetland provision applies.
- B. Development Zone This zone shall begin at the outer edge of the Managed Riparian Buffer Zone and occupy an additional width of fifty (50) feet. Where the 100-year flood plain is known, where steep slopes occur or where the regulated wetland boundary exceeds the total width of both zones, then the minimum development setback shall equal the width of the floodplain, steep slope or wetland boundary.
1. Minimum structure setback of fifty (50) feet is required. However, to provide flexibility, and where it is not feasible based on the site, buffer averaging can be an option. With this option, the developer can site the individual residences between the 25 and 75 foot setbacks **IF** a 75-foot average setback is reached overall by increasing the width of the first zone in some areas.

4. General Standards for all Tiers

- a. All Tiers of the buffer strip shall consist of native trees, shrubs, and other vegetation and materials. Dead, diseased, unsafe or fallen trees and

- noxious plants and shrubs, including poison ivy, poison sumac and poison oak, may be removed.
- b. No ponds shall be constructed, earth moved or topsoil removed for building within the managed buffer strip, until a Zoning Permit has been issued under Article XIV of this Ordinance.
 - c. Chemical control of vegetation shall be prohibited within the Managed Buffer Strip except for poison ivy, poison sumac and poison oak.
 - d. Grazing and soil tiling for farm crops is prohibited within the Managed Buffer Strip.
5. Wetlands An applicant planning to make any improvements or changes to a regulated wetland must obtain a permit from the MDEQ in accordance with Part 303 (Wetlands Protection) of the Natural Resources and Environmental Protection Act, 1994 PA 451 prior to submitting a site plan or zoning permit application under this Zoning Ordinance.
6. Development Density and Intensity Standards. In addition to the district regulations set forth in the Table of Dimensional Requirements in Article V for the underlying zoning district and in special land use provisions that may apply to a proposed use, the following regulations shall apply to parcels within this district. Except as otherwise provided in this Article.
- a. No structures or buildings shall be constructed within fifty (50) feet of County waterbodies. All development shall be confined to the upland portions of the site, outside the managed buffer strip. Vegetation within this corridor may be pruned or trimmed in a manner that maintains the rural character of the district.
 - b. All development in this district, except individual single family lots, shall be developed as a Planned Unit Development (PUD) in accordance with Section 17 of this Zoning Ordinance.
 - c. The potential maximum residential density permitted for any property proposed as a PUD within this district shall be determined by applying the density standards set forth in the Table of Dimensional Requirements in Article V, including any stream corridors, buffer strips, and/or buffer areas and any regulated wetlands or rights-of-way.
 - d. The extent of any commercial or industrial development will be based on a test plan or yield plan that utilizes the gross area of the parcel including any stream corridors, buffer strips, and/or buffer areas and any regulated wetlands or rights-of-way.

7. Single Family Dwellings. Single family dwellings, major accessory buildings, decks, and patios located within the this district shall require a Zoning Permit issued by the Zoning Administrator in accordance with Article XIV. Provided, however, that the Application for a Zoning Permit for such single family dwelling shall include a complete site plan prepared in accordance with Article XIV of this Zoning Ordinance.
8. Prohibited Uses. All commercial or industrial uses whose main services require the handling, use, production/manufacturing, creating, or disposal of hazardous, toxic or flammable substances including but not limited to: petroleum products, pesticides, herbicides, solvents, radioactive materials, biological wastes, caustic, corrosive or flammable liquids, or similar materials shall be prohibited in the managed buffer strip.
9. Existing, Uses and Structures. Existing land uses, buildings and structures within the Benzie County Waterbodies Overlay District which do not conform to the requirements of this Section, shall be regarded as legal non-conforming uses under Article XIII. If the area between an existing structure and the waterbody is less than seventy-five (75) feet, any such area shall be regarded as a managed buffer strip.
- 10 Reduction of Buffer Area. In the event that the application of the managed buffer strip standards of this paragraph, together with any other dimensional restrictions applicable under this ordinance, results in a site that cannot be reasonably developed with any permitted or special land use in the district, the Planning Commission may consider a reduction of the buffer area as follows. The applicant shall submit a site pan prepared pursuant to Article XIV hereof, which illustrates a reasonable development proposal for the site incorporating as much of the required managed buffer strip as possible. The Planning Commission shall evaluate the site plan in accord with Article XIV, and determine whether the proposed site pan provides the maximum possible buffer strip, while permitting a reasonable use of the property. If it does, it shall be approved.