

# Proposed Indian Lake Zoning Ordinance

## Executive Summary of Changes as Compared to Ordinance 144

### **Notice to Property Owners and Affected/Interested Persons:**

The proposed Zoning Ordinance is a wholesale replacement of the current Zoning Ordinance (Ordinance 144) and if passed, will repeal the current Zoning Ordinance (Ordinance 144). This summary of changes is intended to outline some of the major substantive differences between the new proposed Ordinance and the existing Ordinance only. Beyond the differences identified here, defined terms have been capitalized and the numbering of subsections has been made consistent throughout the Ordinance proposal. Typographical and grammatical corrections have been made throughout to improve clarity. Property owners are encouraged to review the proposed Ordinance in its entirety.

### **Article I:**

**Section 106:** Restored omitted purpose provision pertaining to the purpose of the Zoning Ordinance as well as added two additional purpose provisions to make this section consistent with the Municipalities Planning Code (MPC). 53 P.S. §10604

### **Article II:**

**Section 202:** Added to the list of defined terms and amended the definitions of a number of existing terms to reduce ambiguity throughout the Ordinance.

### **Article III:**

**Section 301:** C-R District classification has been eliminated. The following district classifications were added: C-RH (Commercial Residential Hotel), C-RG (Commercial Recreational Golf), ML (Municipal Lake) and WP (Wildlife Preserve). The segregation of C-RH and C-RG was deemed appropriate in light of concerns that golf course area would be eliminated in favor of high density development. The WP classification was added to recognize this classification within the Zoning Ordinance given that it currently exists on the official zoning map.

**Section 305:** Amended provisions regarding Mobile Homes; House, Work, and Business Trailers; and Motorhomes to more clearly define permissible uses of these types of portable structures.

**Section 306:** Amended shoreline encroachment provision to reflect DEP permitting requirements of the DEP Chapter 105 Regulations.

**Section 307:** Amended in response to elimination of Planned Residential Development Section of the Ordinance currently at Article XII in Ordinance #144. No substantive changes made with respect to requirements for subdivision of lots other than to reference the newly created density provisions at Section 418.

### **Article IV:**

**Section 405:** Site Plan Requirements amended to require site plan for major excavations as well as to reflect anticipated adoption of a Stormwater Management Ordinance. Also clarified that a site plan is required along with any application for building permit.

**Section 408:** Eliminated reference to road bond requirements to avoid conflict with a proposed Borough road weight limit/road bonding ordinance.

**Section 411:** Amended the language to clarify that an alteration does not include minor repairs.

**Section 412:** Amended language of the provision limiting reconstruction of non-conforming structures or buildings to clarify that a non-conforming structure or building that is permitted to deteriorate naturally falls within the scope of this section.

**Section 414:** Eliminated reference to fencing as this is addressed elsewhere (Article XII) in the proposed Ordinance. Changed restrictive provisions from Gross Area to Vertical Area for clarity.

**Section 415:** Tree Cutting: Added provisions for circumstances where the purpose for cutting trees pertains to proposed construction. In such a circumstance, the tree cutting permit shall not be issued until the building permit is submitted and approved. Also added provision requiring erosion and sediment control plan where more than 50% or at least 40 trees are proposed to be cut.

**Section 416:** Added detailed parking requirements for each zone. Eliminated parking requirements formerly at Article XIII in Ordinance 144.

**Section 417:** Added excavation and grading requirements associated with construction of structures.

**Section 418:** Added density requirements for each zone that establish maximum structural density and impervious area limits.

#### **Article V:**

**Section 501:** Eliminated exclusionary language regarding limitations to permitted uses and replaced with language that is consistent with the Purposes provisions at Article I and the MPC. Also amended subsection requirements to define the maximum number of accessory structures; amended external boat storage requirements as only requiring current registration (not time limits); amended front yard setbacks for garages and accessory buildings; and changed references to boat docking/boat house provisions to Article VII.

**Section 502:** Eliminated exclusionary language regarding limitations to permitted uses and replaced with language that is consistent with the Purposes provisions at Article I and the MPC. Also amended subsection requirements pertaining to lot area to reference the density provisions of Article IV; amended external boat storage requirements as only requiring current registration (not time limits); amended front yard setbacks; and changed references to boat docking/boat house provisions to Article VII; and amended provisions relating to Mobile Homes to reflect elimination of PRD provisions at Article XII of Ordinance #144.

#### **Article VI:**

**Section 601:** Amended subsection requirements to amended external boat storage requirements as only requiring current registration (not time limits); and changed references to boat docking/boat house provisions to Article VII. Added provisions to permit vehicle parking in the common park area during boat use and added provision requiring site-plan approval prior to any earth disturbance in the commonly owned park area.

#### **Article VII:**

Changed title of Article to reflect correct zoning classification names.

**Section 701:** Eliminated exclusionary language regarding limitations to permitted uses and replaced with language that is consistent with the Purposes provisions at Article I and the MPC. Added subsection entitled Use Restrictions; amended and standardized provisions regarding commercial/residential buffer

zones. Amended special permit requirements to require conformance as a pre-condition to zoning clearance.

**Section 702:** Moved Section Title to preceded Section provisions as a matter of proper form.

**Section 703:** This section added to reflect permitted permissive uses in the Municipal Lake District. Provisions of Section 1307 moved to this section and restructured to identify allowed permissive uses by zoning district instead of use type. Setbacks for Docks in the P-1 district modified to permit flexibility and provisions defining docking area added for clarity. Also changed were the width boat houses in the P-1 district for single park lots to 15 feet. The allowance of decks on unwallied boat houses was also added to permissible uses in the P-1 district consistent with the requirements in the R-1 district. Additionally, the required setbacks for boat lifts was reduced to 10 feet in areas adjoining the R-1 district.

**Article VII:**

The title of this Article was amended to reflect the correct zoning classification names.

**Section 801:** Amended definition/description of C-RH District. Eliminated exclusionary language regarding limitations to permitted uses and replaced with language that is consistent with the Purposes provisions at Article I and the MPC. Added subsection entitled Use Restrictions; amended and standardized provisions regarding commercial/residential buffer zones consistent with other commercial zones. Amended the external boat storage requirements consistent with those in the other zoning districts. Amended special permit requirements to require conformance as a pre-condition to zoning clearance consistent with the requirements for the other commercial zones. Increased front and rear yard setbacks and deleted commercial docking provisions due to inclusion of these provisions in Section 703 of the proposed Ordinance.

**Section 802:** Eliminated exclusionary language regarding limitations to permitted uses and replaced with language that is consistent with the Purposes provisions at Article I and the MPC. Added a subsection entitled Use Restrictions; amended and standardized provisions regarding commercial/residential buffer zones. Amended special permit requirements to require conformance as a pre-condition to zoning clearance consistent with other commercial zones. Amended provisions regarding external storage of boats by defining what constitutes long term storage and deleted commercial docking provisions due to inclusion of these provisions in Section 703 of the proposed Ordinance.

**Section 803:** Added provisions for newly created C-RG zone. Created definition/description of C-RG District and detailed permitted uses. Included subsection entitled Use Restrictions; amended and standardized provisions regarding commercial/residential buffer zones consistent with other commercial zones. Added special permit requirements to require conformance as a pre-condition to zoning clearance consistent with other commercial zones.

**Article IX:**

**Section 901:** Corrected terminology to “Zoning Enforcement Officer” consistent with definition at Article II. Also changed references to “Somerset County Building Inspectors” to “Building Code Official” in anticipation that the appointed BCO may change in the future. These changes were made throughout Article IX.

**Section 902:** Added provision regarding encroachment permits in recognition of DEP Chapter 105 permitting requirements. Corrected typographic error regarding permitting procedures relating to deemed approvals. Amended permit expiration requirements detailing procedures in circumstances where a permit expires and to place finite limits on extension periods to ensure that constructions is completed timely.

**Section 903:** Clarified provision to make clear that a use/occupancy permit from the Zoning Enforcement Officer is required for all permitted work.

**Section 907:** Amended procedures for modification of the Ordinance to comply with the MPC. Specifically, established procedures for municipal and landowner “Curative” amendments for circumstances where a portion of the Ordinance is believed to be legally unenforceable. Also distinguished requirements for non-curative, routine amendments.

**Section 908-9:** Amended procedures for Map Change and Adoption to conform with the requirements of the MPC. Beyond the MPC requirements, a provision was added to allow for informal review by the Planning Commission prior to formal publication of any Amendment or Map Change.

**Article X:**

**Section 1002:** Special Exceptions. Substantially added to the authority of the Zoning Hearing Board, consistent with the requirements of the MPC, by identifying a number of provisions of the Ordinance that the Board may grant minor exceptions for each zoning district. These exceptions are subject to the standards set forth in this section and are not automatic and are designed to permit flexibility in the zoning requirements to allow for unique situations throughout the Borough that would not qualify for the grant of a variance under the variance standards of Article XI.

**Article XI:**

Zoning Hearing Board: This article was replaced wholesale with the language provided in the MPC as the current standards of Ordinance 144 relating to the conduct and authority of the Zoning Hearing Board were significantly deficient in a number of respects.

**Article XII:**

Article XII of Ordinance 144 pertaining to Planned Residential Developments has been deleted. As it was writing, it was contrary to the purpose of a PRD provision as outlined in the MPC. A PRD provision allows a developer to plan for uses not permitted within a zoning district. This was not deemed either necessary or desirable. All remaining Articles renumbered consistent with elimination of this Article.

**Article XII (Formerly XIII)**

**Section 1201:** Off Street Parking: This section was deleted and replaced with new provisions in Article IV. Remaining Sections renumbered to reflect elimination of this section.

**Section 1201** (formerly 1302): Signs: Provisions added regarding size limitations of signs not specifically defined. Also added provisions pertaining to requirements for the removal of certain signs.

**Section 1202** (formerly 1303): Fences: Amended provisions regarding permissible materials for fences and eliminated retaining walls and walls from the definition. Amended provisions pertaining to fences to establish height and visual obstruction standards. Revised language throughout for clarity.

**Section 1203:** Screens: Added section regarding standards for screens as differentiated from fences. This was necessary to avoid confusion as to what constituted a screen as opposed to a fence.

**Section 1205** (formerly 1305) Spas/HotTubs: Eliminated language suggesting that only above ground spas/hot tubs were permitted.

**Section 1206** (formerly 1306) Portable Toilets: Revised permitting requirements to extend to commercial districts, as well as created requirements for setbacks particular to each zoning district and established that screening is permitted in order to meet visibility requirements.

**Section 1307:** Boathouses, Boat Lifts, etc. Deleted. Provisions added to Article VII at Section 703.

**Article XIII (Formerly XIV)**

**Section 1301** (formerly 1401) Amended interpretation provision to reflect that in circumstances where a provision of the Zoning Ordinance is in conflict with the MPC, the MPC shall control consistent with the provisions of the MPC.

**Article XIV (Formerly XV)**

**Section 1401** (formerly 1501): Repealing Clause: Amended to make clear that adoption of the proposed Zoning Ordinance expressly repeals all prior Zoning Ordinances in their entirety.