

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE ONE  
PRELIMINARY PROVISIONS

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101. ENACTING CLAUSE.

Be it ordained and enacted by the Borough of Indian Lake assembled and it is hereby ordained and enacted by the authority of the same, that from and after the passage and approval of this Ordinance, all prior Ordinances pertaining to Zoning are REPEALED and the several classes or districts specified herein shall be established and the following regulations shall be in full force and effect.

102. SHORT TITLE.

This Ordinance shall be known as the Zoning Ordinance, and the map referred to herein and made a part of this Ordinance shall be known as the Zoning District Map.

103. EFFECTIVE DATE.

The effective date of this Ordinance shall be the date of its ordination and enactment by the Borough of Indian Lake.

104. VALIDITY AND CONFLICT.

Should any section or provision of this Ordinance be declared invalid, that section shall not affect the validity of the Ordinance as a whole nor any part thereof other than the part so declared to be invalid. Where a provision of this Ordinance is found to be in conflict with a provision of any Building or housing code, or ~~with~~ any applicable health regulations, or ~~with~~ any other ordinance of the Borough of Indian Lake existing on the effective date of this Ordinance, the provision which establishes the higher standard for the protection of health, safety and welfare shall prevail.

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105. PURPOSE AND INTENTION OF ORDINANCE.

The purpose of this Ordinance is set forth in general terms in the Act of Legislation which enables the Borough of Indian Lake to enact this Ordinance. The provision of this Ordinance shall be held to be the minimum requirements for the health, safety and welfare of the people at large and be designed to encourage the establishment and maintenance of reasonable community standards of the physical environment.

It is fundamental to the purpose of this Ordinance to recognize that existing Lots of properties throughout the Borough of Indian Lake are less adequate than others because of their location, size, shape, different topography or any combination of these factors and limitations. A claim of hardship under this Ordinance therefore shall not be allowed on behalf of any Lot because the physical characteristics of the Lot prevent it from being built upon exactly as on another Lot abutting it or close to it in the same zoning district. The regulations herein permit most such Lots to be built upon through Conditional Uses, special exceptions or variances (minor concessions) granted by Borough Council or the Zoning Hearing Board when such physical conditions make literal enforcement of the regulations either unsatisfactory to the interest of the people at large or actually impossible.

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**Comment [R1]:** Is it possible to define this term? I'm sure no resident knows what this means.

106. PURPOSE AND COMMUNITY DEVELOPMENT OBJECTIVES.

The purpose of this Zoning Ordinance shall be designed:

A. To promote, protect and facilitate any or all of the following: the public health, safety, morals, and the general welfare; coordinated and practical community development and proper density of population; emergency management preparedness and operations, airports, the provisions of adequate light and air, access to incident solar energy, police protection, vehicle parking and loading space, transportation, water, sewerage, schools, recreational facilities, public grounds, the provision of a safe, reliable and adequate water supply for domestic, commercial, agricultural or industrial Use, and other public requirements; as well as preservation of the natural, scenic and historic values in the environment and preservation of forests, wetlands, aquifers and floodplains.

**Comment [R2]:** This section mentions general welfare. I would make it stronger as follows: "To provide for the ability to pursue the use of resident's property in reasonable comfort, in a manner that does not interfere with others property rights and privileges." This, I feel, makes the Ordinance more property owner friendly.

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B. To prevent one or more of the following: overcrowding of land, blight, danger and congestion in travel and transportation, loss of health, life or property from fire, flood, panic or other dangers.

C. To preserve prime Agriculture and farmland considering topography, soil type and classification, and present Use.

D. To provide for the Use of land within the municipality for residential housing of various Dwelling types encompassing all basic forms of housing, including Single-Family and a reasonable range of Multiple-Family Dwellings in various arrangements, Mobile Homes and Mobile Home Parks, provided, however, that this zoning Ordinance shall not be deemed invalid for the failure to provide for any other specific Dwelling type.

E. To accommodate reasonable overall community growth, including population and employment growth, and opportunities for development of a variety of residential Dwelling types and nonresidential uses.

107. FILING.

This Ordinance, including the Zoning District Map, together with any succeeding amendments thereto, shall be on file and may be viewed by any interested party in the Borough Office.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE TWO  
RULES AND DEFINITIONS

201. RULES.

The following rules of construction shall apply to this Ordinance:

A. The particular shall control the general.

B. In case of any difference of meaning or implication between the text of this Ordinance and any caption or illustration, the text shall control.

202. DEFINITIONS. . It would be easier to read if the Subjects were bolded.

A. Accessory Building or Structure. A Building or Structure subordinate to the principal Building on the property used for purposes customarily incident to those of the principal Building but which may not be used as a Dwelling or habitable Structure. Garages and Gazebos as defined in this section and Boat Houses, as defined in Article VII, Section 703, are specifically exempted from this definition and are not considered Accessory Buildings or Structures for purposes of this Ordinance.

B. Accessory Use. A subordinate Use which is clearly incidental and related to that of the main Structure or main Use of the land but shall not be construed to permit Use of any Structure as a Dwelling even if temporary.

C. Addition. An extension or increase in Floor Area or Height of an existing Building or Structure.

D. Agriculture. Any Use of land or Structures for farming, dairying, pasturage, agronomy, horticulture, floriculture, arboriculture, forestry, lumbering, animal or poultry husbandry. Accessory uses permitted may include barns, stables, cribs, silos and any other Use that is clearly an agricultural operation.

E. Alterations. Any construction or renovation to an existing Building or Structure other than a Minor Repair or Addition.

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F. Alteration Structural. Any change in the supporting members of a Building or Structure such as bearing walls, partitions, columns, beams, girders or foundations.

G. Awnings. A temporary or permanent Structure extending out and over the upper part of a door, window or Porch and serving as a protection from sun or rain. A covering which extends more than 48 inches from the Building shall not be considered an Awning for the purposes of this Ordinance.

H. Board. All references to the Board are to be Zoning Hearing Board for the purposes of this Ordinance.

I. Boat. The term boat shall include all self-propelled motor vehicles used in or on the water, all sailboats and all other water craft of any length.

J. Borough. All references to the Borough are to the Borough of Indian Lake.

K. Borough Zoning Enabling Act. The Borough Zoning Enabling Act is the Pennsylvania Municipalities Planning Code, Act of 1968, July 31. P.L. 805, as amended, 53 P.S. Section 10101 et seq.

L. Building. Any Structure having a Roof supported by columns, piers, or walls intended for the shelter, housing, or enclosure of persons, animals, or chattels.

M. Building Area. The total areas of outside dimensions on a horizontal plane at ground level of the principal Building and all Accessory Buildings exclusive of cornices, eaves, gutters, or chimney's projecting not more than eighteen inches; bay windows not extending more than one (1) story and not projecting more than five (5) feet; steps and balconies.

N. Building, Height of. The vertical distance measured from the average elevation of the proposed finished grade as measured from the Front Building Line to the Rear Building Line to the highest point of the Roof for flat roofs, to the Deck line for mansard roofs, and to the mean Height between the eaves for gable and gambrel roofs.

O. Building Line. ~~A line parallel to the property line touching that part of a building closest to the property line.~~ All Yard requirements are measured to the Building Line.

P. Building Line, Front. The Building Line closest to the Front Lot Line.

**Deleted:** A line formed by the intersection of a horizontal plane at average grade level and a vertical plane that coincides with the exterior surface of the Building on any side exclusive of Decks provided that the Deck is less than two (2) feet six (6) inches above grade. In case of a canti-levered or projected section of a Building, the vertical plane will be established by the most projected surface

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Q. Building Line, Rear. The Building Line closest to the Rear Lot Line.

R. Building Line, Side. The Building Line(s) closest to the Side Lot Line.

S. Building Official. The duly authorized executive officer appointed by the Borough Council under the Building code of this Borough, Ordinance Number 10 and amendments thereto, who shall also serve under this Ordinance as Zoning Enforcement Officer.

T. Carport. A open-sided Structure with a Roof that is designed to provide partial weather protection.

U. Church, Cathedral or Temple. A place of actual group religious worship.

V. Commercial Boat Dock. An artificial Structure that encroaches the water of Indian Lake in an area contiguous to a commercially zoned property that is used as a landing place or moorage for powered, non-powered boats or personal watercraft, that provides pedestrian access over the lake, and that is provided to a person other than the owner of the Structure for lease or rent.

W. Committee or Commission. The duly authorized members of the Planning Commission or Planning Committee as appointed by the Borough Council.

X. Council. The Council of the Borough of Indian Lake.

Y. Curb Level. The elevation of the established curb opposite a point midway between the extremes of the plane of the existing or proposed Structure which faces the curb.

Z. Decorative Wall. A rigid Structure used as a barrier that is constructed of a solid material erected for the purpose of enclosure, privacy, or as a shield to view.

AA. Deck. An open Structure that is either projecting from the front, side or rear wall of a Building, or is constructed as a freestanding Structure.

BB. Dock/Lake Walkway. An artificial Structure that encroaches the water of Indian Lake that is used by the owner as a landing place or moorage for powered, non-powered boats or personal watercraft that provides pedestrian access over the lake.

**Deleted:** of less than twelve (12) lineal feet in any one direction

**Deleted:** Artificial surface constructed above grade.

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CC. Dwelling. A Building or portion thereof designed for and used exclusively for residential occupancy, including Single-Family and Multiple-Family Dwellings but not including hospitals, Hotels, boarding houses, institutional homes, rooming houses, motels, tourist courts, Trailers (except for Mobile Homes as defined herein in Section 202) and the like.

DD. Dwelling Condominium. A Dwelling or group of Dwellings divided by a common wall or a portion thereof containing separate living or Dwelling homes for two or more families living independently of each other with a common Building entrance where the Structure as a whole is constructed on a plot of land that is commonly owned by all residents of the Building.

EE. Dwelling, Single-Family. A detached Building designed for and occupied exclusively by one Family.

FF. Dwelling, Multiple-Family. A Dwelling or group of Dwellings divided by a common wall or a portion thereof containing separate living or Dwelling homes for two or more families living independently of each other with separate Dwelling entrances where each Dwelling is constructed on a subdivided plot of land that is individually owned by the owner of the Dwelling Unit upon which the Dwelling Unit is constructed.

GG. Dwelling, Row. A Dwelling or group of Dwellings divided by a common wall or a portion thereof containing separate living or Dwelling homes for two or more families living independently of each other with separate Dwelling entrances where the Structure as a whole is constructed on a plot of land that is commonly owned by all residents of the Dwelling Row.

HH. Dwelling Unit. A portion of a Building providing one or more rooms arranged for the Use of one or more individuals living together as a single housekeeping unit having no sanitary or cooking facilities in common with any other unit but having a common entrance or entrances to the outdoors.

II. Fence. For the purposes of this Ordinance, a Fence is defined as any rigid barrier of constructed of materials other than living shrubbery erected for the purpose of separating one portion of land from another, or for the purpose of protection (to prevent intrusion) or confinement (to prevent escape from the area bounded by the barrier).

JJ. Family. One or more persons related by blood, marriage or adoption or two or more unrelated persons living as a household which may include servants or gratuitous guests.

**Comment [R3]:** Most fences are erected for decorative purposes. Shouldn't the ordinance define the type(s) and do we want privacy fences? i.e. "Fences must be a maximum 48 inches in height, consisting of wood or a generally accepted fencing material that is constructed in a workmanlike manner that does not detract from the appearance of the owner's or neighbor's property and is properly maintained." [revisit requirements...]

**Comment [RFH4]:** Later we say cannot be greater than 12 feet...

**Deleted:** greater than twelve (12) lineal feet

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KK. Fish and Wildlife Preserve. Areas within the Borough, designated on the Official Zoning Map, that are intended to remain in their natural state with no construction other than paths or wildlife feeding stations and for the enjoyment of Borough property owners.

LL. Floor Area: The total enclosed area in the horizontal plane of a Structure, measured from the faces of the exterior walls.

MM. Floor Area, Usable: The sum of the horizontal areas of all interior rooms as measured from the surface of the interior walls, excluding all equipment rooms and areas not intended to be used for human habitation.

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NN. Garage, Community. A single Building or a group of minor garages erected for the Use of adjacent property owners or residents of multiple or Row Dwellings used for the storage of motor vehicles but not for repair or maintenance thereof.

OO. Garage, Private. A Structure that is detached from a Dwelling for the Use of motor vehicle storage, landscaping equipment and other ancillary uses strictly for the residents of the property on which the garage is erected. Attachment of a garage with the Dwelling with open roofs, breezeways, bridges, beams, Decks or trim does not constitute attachment for purposes of this Ordinance and garage Structures so attached will be considered a detached Structure. To be considered an attached garage, the garage Structure shall have a minimum of 15% of at least one wall in common with a wall of the Dwelling Structure.

PP. Garage, Public. Any Building used for the storage and/or repair of motor vehicles not defined as a Private Garage under this section.

QQ. Gazebo/Pavilion. A freestanding roofed Structure open on all sides.

RR. Home Occupations. Any occupation or activity which is incidental and secondary to Use of the premises for Dwelling and which is carried on by a member of a Family residing on the premises for commercial gain.

SS. Hotel. A Building designed for occupancy primarily as a temporary abiding place of individuals who are lodged with or without meals. Such a Building may also have public rooms, ballrooms, public dining facilities and services such as maids, housekeeping and business facilities.



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TT. House, Work or Business Trailer. Any portable Structure that has or had the capability of being towed and which was designed, intended, or designated to be used for living, sleeping, work or business purposes. This definition of house, work, or business trailer specifically includes but is not limited to construction trailers and/or Mobile Homes.

UU. Landowner. The legal or beneficial owner of land including the holder of a contract or option to purchase (whether or not such option or contract is subject to any conditions), a lessee if he is authorized under the lease to exercise the rights of a Landowner, or other person having a proprietary interest in land.

VV. Loading Spaces. An off street space or girth abutting upon a street or way of other means of access intended for the temporary parking of a commercial vehicle while loading or unloading merchandise or materials.

WW. Lot. A parcel, tract or area of land accessible by means of a public street. It may be a single parcel separately described in a deed or plat that is recorded in the office of the County Recorder of Deeds, or it may include parts of or a combination of such parcels when adjacent to one another and used as one parcel under one ownership.

XX. Lot, Contiguous. Lots sharing a common property line shall be considered contiguous. This shall include Lots that are divided by a public roadway. For calculation of lake frontage for Lots abutting Indian Lake, the Lots must share a common side property line.

YY. Lot, Corner. A Lot abutting two or more intersecting streets that has an interior angle of less than 135 degrees at the intersection of two street lines.

ZZ. Lot Depth. The mean distance between the Front Lot Line and the Rear Lot Line.

AAA. Lot Line. A property boundary line of any Lot held in single or joint ownership, except in the case of Multiple-Family Dwellings where the Lot Line will be considered the boundary line created by the jointly held property whether or not conveyed. Additionally, in the case of a Lot abutting the street, the Lot Line shall be deemed the same as the edge of the street right-of-way line, and shall not be the centerline of the street, or any other line within the cartway even though such a line may be the legal property boundary line.

**Deleted:** same as the street line established by the edge of the cartway

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BBB. Lot Line, Front. In the case of Lot not fronting the waters of Indian Lake or otherwise not defined as a Corner Lot, the line separating the Lot from the street. In the case of a Corner Lot, the line separating the narrowest frontage of the Lot from the street. In the case of a Lot fronting the waters of Indian Lake, the front Lot Line is the waterline.

CCC. Lot Platted. As used in this Ordinance refers to a parcel of land that is defined in the plot plan maintained by the Somerset County Planning Commission.

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DDD. Lot Width. For Lots with a Dwelling, the Lot Width is determined by taking the average of the measurements taken between the Side Lot Lines at the Front and Rear Building Lines. For Lots without a Dwelling, the width is the mean width established by taking the average of the measurements taken between the Side Lot Lines at points every twenty (20) feet between the Front and Rear Lot Lines.

EEE. Major Excavation, Grading or Filling. Any excavation (other than in connection with the foundation for a Structure) involving:

1. Major Alteration of the ground surface so as to affect streets, recreation sites, other public facilities and private property or;
2. A volume of earth movement exceeding an average of one half (1/2) of a cubic yard per square foot or sixteen thousand (16,000) cubic yards whichever is the lesser; or
3. A change in ground elevation exceeding five (5) feet.

FFF. Minor Repair. The replacement of existing material with equivalent materials for the purpose of its routine maintenance and upkeep. Anything not constituting a Minor Repair shall be deemed a substantial or major repair.

GGG. Mobile Home: A factory-built single family structure that meets the Federal Manufactured Home Construction and Safety Standards, commonly known as the HUD (U.S. Department of Housing and Urban Development) Code.

Deleted: A transportable, Single Family Dwelling intended for or capable of permanent occupancy, contained in one unit, or in two or more units designed to be joined into one integral unit, capable of being separated for repeated towing which arrives at a site complete and ready for occupancy except for minor and incidental unpacking and assembly operations and constructed so that it may be used with or without a permanent foundation

HHH. Mobile Home Lot. A parcel of land in a Mobile Home Park improved with the necessary utility connections and other appurtenances necessary for the erection thereon of a single Mobile Home.

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III. Mobile Home Park. A parcel of contiguous parcels of land which has been so designated and improved that it contains two or more Mobile Home Lots for the placement thereon of Mobile Homes.

JJJ. Motorhome. A class A, B or C motorized recreational vehicle that contains a room-like area behind the driver's seat and which is outfitted as living quarters for temporary occupancy.

KKK. Non-Conforming Use. A Use, whether of land or Structure, which does not comply with the applicable Use provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such Use was lawfully in existence prior to the enactment of such ordinance or amendment, or prior to the application of such ordinance or amendment to its location by reason of annexation.

LLL. Non-Conforming Lot. A Lot, the area or dimension of which was lawful prior to the adoption or amendment of a zoning ordinance but which fails to conform to the requirements of the zoning district in which it is located by reason of such adoption or amendment.

MMM. Non-Conforming Structure. A Structure or part of a Structure manifestly not designed to comply with the applicable size or placement provisions in a zoning ordinance or amendment heretofore or hereafter enacted, where such Structure lawfully existed prior to the enactment of such ordinance or amendment to its location by reason of annexation. Such Non-Conforming Structures include but are not limited to Signs.

NNN. Office Building. A Building designed or used primarily for office purposes no part of which is used for manufacturing or Dwelling other than living quarters for a watchman or janitor.

OOO. Outdoor Furnace. Any device or Structure used to heat a Dwelling, Building, other Structure or to produce heat for any purpose incidental to the Use of the Dwelling Unit using a variety of fuel sources to include wood, oil or coal, and which produces smoke and which is designed to be installed outside of a Building and which is located outside of the Dwelling Unit or other Structure.

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PPP. Park, Private. Refers to the areas of open space in the Borough, surrounded by, or which surrounds residential Lots and which is owned in common or joint ownership by the said owners of said Lots and/or the original developer or the Borough, its successors or assigns.

QQQ. Parking Area. An open space other than a street or way used for parking of only automobiles.

RRR. Park, Public. An area owned or operated by the Borough or a Borough Recreational Authority used for the enjoyment of the residents of the Borough but not confined in Use as stated in Section 202 KK, "Fish and Wildlife Preserve" above, but which may have other restrictions and regulations for Use.

SSS. Patio. Artificial A level, landscaped/surfaced area, directly adjacent to a principal building constructed at or near grade,

**Deleted:** surface constructed at grade

TTT. Permit. Written authorization by the Zoning Enforcement Officer or Somerset County Building Inspections, as applicable, to proceed with any activity requiring such approval as indicated in this Ordinance.

UUU. Porch. An open Structure that is either projecting from the front, side or rear wall of a Building.

**Deleted:** /Deck

VVV. Professional Office. A room or rooms used for the carrying on of a professional occupation.

**Deleted:** without a Roof

WWW. Public Hearing. A formal meeting held pursuant to Public Notice by a governing body or planning agency intended to inform and obtain public comment prior to taking action in accordance with this act.

**Deleted:** , or is constructed as a freestanding Structure.

XXX. Public Building. A Building or Structure owned or leased by a government agency and used for a public purpose.

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YYY. Public Meeting. A forum held pursuant to notice under the Act of July 3, 1986, P.L. 388, No. 84, §§ 1, et seq., as amended, known as the "Sunshine Act," 65 P.S. § 271, et seq., as amended.

ZZZ. Public Notice. Notice published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall state the time and place of any hearing for which such notice is required by statute or by the Zoning Ordinance and the particular nature of the matter to be considered at such hearing. The first publication shall be not more than thirty (30) days and the second publication not less than seven (7) days from the date of such hearing.

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AAAA. Retaining Wall. A rigid vertical Structure used as a barrier that is constructed of a solid or segmented material that is erected for the purpose of preventing erosion of soil on sloped terrain.

BBBB. Roof. Solid covering over a Structure for the purpose of shedding water or providing a barrier to sunlight.

CCCC. Screen. A rigid or semi-rigid barrier constructed of a non-solid lattice type material erected for the purpose of enclosure, privacy, or as a partial shield to view. For commercial zones a solid barrier may be used to shield dumpsters and portable toilets.

**Comment [RFH5]:** Elsewhere we say 12 feet max

**Deleted:** of less than twelve (12) lineal feet

**Comment [RFH6]:** Verify also in requirements

DDDD. Sign. Any surface, fabric or Structure being lettered, pictorial or sculpted matter designed to convey information visually and exposed to public view, or any Structure designed to carry the above visual information.

EEEE. Sign, Area of. The entire surface on each plane or planes on which the letters, numbers, words or symbols or any pictorial matter appear and shall include any border.

FFFF. Sign Illuminated. A Sign lighted by means of lamp or other lighting devices constructed within or outside away from the Sign but which are an integral part of the advertising effect.

GGGG. Sign, Non-Conforming. A Sign lawfully existing on the effective date of this Ordinance or subsequent amendments hereto which does not completely conform to the Sign regulations applicable in the district in which it is located.

HHHH. Sign, Overhanging. Any Sign suspended from a Building, pole or other object irrespective of any restraining bracing.

III. Story. That part of a Building between a floor and a Roof above, except that the first story of any Building is the lowest story for which at least seventy-five (75%) percent of the area of its outside walls are above the average level of the ground adjacent to the said walls.

JJJJ. Street. A strip of land at least thirty-three (33) feet in right of way width over which the owners of abutting property have the right of light, air and access. Such a strip of land used for the same purpose as a street but less than thirty-three (33) feet in right of way width shall be referred to as an Alley.

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KKKK. Structure: Any material or combination of materials wherever constructed, erected, or placed, the Use of which requires location on the ground or is attached to something on the ground but shall not include sidewalks, driveways, or Patios.

LLLL. Tent: Structure commonly used but not exclusively used for camping that is erected on the ground or attached to something on the ground and which is designed to screen the occupants from the elements.

MMMM. Trailer, Recreational. A towable Structure that includes living quarters designed for temporary recreational Use.

NNNN. Use. The specific purpose for which land, a Building, or a Structure is designed or for which it may be occupied or maintained. The term Permitted Use shall not be deemed to include any Non-Conforming Use. The term Use shall also be construed to include Accessory Use.

OOOO. Yard. An open space at grade between a Building and the adjoining Lot Lines, unoccupied by any portion of a Structure from the ground upward, except as otherwise provided herein. In measuring a Yard for the purpose of determining the width of a Side Yard, the depth of a Front Yard, or the depth of a Rear Yard, the minimum horizontal distance between the Lot Line and the Building Line shall be used.

PPPP. Yard, Front. The area between the Front Lot Line and the nearest Building Line of the primary Dwelling constructed on the Lot not including the area contained within any defined setback. Where no Building is constructed, it is the area between the Front Lot Line and a point midway between the Front and Rear Lot Lines exclusive of setbacks.

QQQQ. Yard, Rear. The area between the Rear Lot Line and the nearest Building Line of the primary Dwelling constructed on the Lot not including the area contained within any defined setback. Where no Building is constructed, it is the area between the Rear Lot Line and a point midway between the Front and Rear Lot Lines exclusive of setbacks.

RRRR. Yard, Side. An area extending from the Front setback line, to the rear setback line along a Side Lot Line and back to a line drawn parallel to the Side Lot Line at a distance therefrom equal to the width of the required setback of the zone wherein the Lot is located and excluding any area encompassed within a required Front or Rear Yard.

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SSSS. Zoning Hearing Board. A Board appointed by the Council to perform the functions of a Zoning Hearing Board under the Pennsylvania Municipalities Planning Code.

TTTT. Zoning Enforcement Officer. The officer appointed by the Council to administer this Zoning Ordinance and also known as the Zoning Officer.

UUUU. Zoning Approval. Review of a permit application and agreement by the Zoning Enforcement Officer that the proposed construction conforms with the requirements of this Ordinance.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE THREE  
DISTRICT AND DISTRICT MAP

301. GENERAL CLASSIFICATION

For the purpose of this Ordinance, the Borough of Indian Lake is hereby divided into classes of Districts which are designated as follows:

- Residence Districts:
- R-1 Single Family Detached Dwelling
  - R-2 Mobile Homes, Condominium, Multiple Family or Row Dwellings
- Recreation Districts:
- P-1 Private Parks
  - P-2 Public Parks
  - WP Wildlife Preserve
- Business Districts:
- C-RH Commercial Residential Hotel
  - C-RG Commercial Recreational Golf
  - C-M Commercial Marina
  - C-G Commercial General
  - ML Municipal Lake
  - A Agricultural

**Comment [RWS7]:** Should the zoning districts be defined in greater detail and expanded such as:  
R-1 Single Family Residence  
R-2 Single Family and Duplex Residential  
R-3 Multi Family, maximum of 4 units per building  
R-4 A Frames  
R-5 Mobile Homes Park & R-3 7 R-4  
Goals – to eliminate most of the special exceptions and simplify multipurpose zones such as CR-H. Also, provide for small A frames separately from CR-H.  
Redefine CR-H.

**Comment [RFH8]:** Some of PC believes we need more than 2 Residential districts

**Comment [RFH9]:** PC does not understand why old C-R bifurcated...

302. ZONING DISTRICT MAP



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The boundaries of said Districts shall be shown upon the Zoning District Map. The Zoning District Map shall be kept on file at the office of the Borough of Indian Lake and shall be available for examination by the public at such times as the office is open for business. Copies of said Zoning District Map shall be made for the use of the Borough Council, the Planning Commission and the Zoning Board upon the order of their respective Presidents or Chairman.

303. ZONING DISTRICT BOUNDARIES

The boundaries between Districts are, unless otherwise indicated, on the centerline of streets or roads, boundary lines of separate tracts of land, delineated by the shoreline of Indian Lake, the shoreline of streams or a line having as its location a natural boundary.

304. MINIMUM LIVING AREA FOR DWELLING UNITS

In R-1 Districts the minimum living area of private Dwellings shall be ~~Fifteen~~ Hundred ~~(1500)~~ square feet exclusive of Porches, basements and Garages. In R-2 Districts the minimum area of Dwelling Unit whether a Single Family, Multiple Family or Row Dwelling shall be Nine Hundred ~~(900)~~ square feet of living area exclusive of Porches, basements and Garages. Mobile Homes in a designated Mobile Home District must have a minimum of Six Hundred Fifty (650) square feet of living area exclusive of Porches, basements and Garages.

305. MOBILE HOMES, HOUSE, WORK OR BUSINESS TRAILERS, RECREATIONAL TRAILERS, MOTORHOMES OR TENTS

In all Districts, no Mobile Homes, except where expressly permitted in the Zoning District are permitted. Additionally, where permitted, House, Work or Business Trailers; Recreational Trailers; Motor Homes; or Tents, or their ~~equivalents are~~ not permitted to be occupied within the Borough of Indian Lake for a period in excess of three (3) days. Additionally, none of the above may be

**Comment [RWS10]:** 1500  
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**Comment [RWS11]:** New R-2 & 3 = 1200  
R-4 & 5 (mobile homes) = ?

**Deleted:** equivalent are

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placed on any Platted Lot that does not contain a Dwelling Unit except where the vacant Lot is contiguous and commonly owned with a Platted Lot containing a Dwelling Unit.

306. SHORELINE ENCROACHMENT

The natural shore line of Indian Lake shall not be altered, extended or diminished without prior written encroachment permit from the Zoning Enforcement Officer. For the purposes of this section an encroachment requiring a permit includes the installation of any Structure or landscaping that extends into the area of Indian Lake. It shall be the responsibility of the applicant to demonstrate compliance with all state and federal requirements related to encroachment into the waterways of Pennsylvania.

307. SUBDIVISION OF LAND

In all districts, no Platted Lot may be subdivided in such a manner as to create a Lot that does not meet the minimum Lot Area requirements for the zone in which the existing Lot is located based on the density requirements of Section 418 of this Ordinance. Any Lot which is created by subdividing an existing tract and where such Lot borders Indian Lake, the dimension of the Lot at the lake front shall be not less than one hundred (100) feet.

**Comment [R12]:** Consider noting ILB does not have a S&LD Ordinance and the SC Ordinance applies?

308. CONSTRUCTION ON UNDEVELOPED PLATTED LOTS

From and after the date of ordination and enactment of this Ordinance, no Accessory Building or Structure, Garage, Boat House, or Gazebo shall be built on any Lot within the Borough unless and until, or at the same time, a Dwelling Unit has been built or is being built upon said Lot or an additional Platted Lot within the Borough owned by the same person. This provision shall not prohibit the owner of a Platted Lot in an R-1 Zoning District, without a Dwelling Unit built thereon, from constructing a Private Garage or Boat House, and/or one storage shed or storage locker if he or she owns a Platted Lot with a Dwelling Unit thereon within

**Comment [RFH13]:** Delete...

the Borough. In such cases, construction of the Private Garage, Boat House, Storage Shed, and/or Storage Locker must conform with the provisions associated with these Structures contained within this Ordinance.

Comment [RFH14]: Delete

309. AGRICULTURAL DESIGNATION.

Land that has been historically used for Agriculture purposes including, but not limited to the growing of crops, raising and/or pasturing any form of livestock and forestry purposes has been zoned Agricultural. On land which has been zoned A-Agricultural, the Borough Council will support a petition by the Landowner to the County Assessment Board to reduce the tax assessment on the land concerned to the county-wide agricultural rate.

310. HOME OCCUPATIONS

Home Occupations are permitted within a residence in any district subject to the following restrictions:

A. The operation of a Home Office in a residence shall be permitted, including the routine activity of operating a business involving the receipt and sending of letters and packages; the receipt and sending of electronic mail; the conduct of electronic commerce via the world wide web/internet; the making and receiving of telephone calls; the publishing of the phone number and/or internet address of such business; and keeping and storing business records, supplies or products in the interior of the home. The exterior display of nameplates or signage indicating the name or nature of the business is prohibited.

B. The conduct of a Home Occupation in a Home Office may include the Accessory Use of the Structure for a sale or service related business capable of being conducted within or from a residential Dwelling by its residents which is clearly secondary to the residential Use of the Dwelling. The business activities defined shall only be conducted by persons who reside in the Dwelling where the Home Office is operated. Any business or professional activity which creates a flow of consumers, clients and/or other traffic to

the home office is prohibited. The Use of business equipment in a Home Office which creates offensive noise, vibration, dust, odors, heat or smoke is prohibited.

**Comment [R15]:** I think we mean beyond the premises?

C. Exterior parking and/or exterior storage of more than one work-related vehicle related to a Home Office is prohibited. This prohibition shall not apply to unlettered Family vehicles. A work related vehicle shall include a vehicle registered as a commercial vehicle by the Pennsylvania Department of Transportation or any vehicle with business-related lettering or signage. The parking or storage of any commercial vehicle, business related or non-Family vehicle over twenty thousand pounds (20,000 lbs.) gross vehicle weight (GVW) is also specifically prohibited.

311. OUTDOOR FURNACES

In all Districts, no Outdoor Furnaces shall be permitted.

ZONING ORDINANCE NO.99  
INDIAN LAKE BOROUGH  
ARTICLE FOUR  
GENERAL PROVISIONS

401. CONFORMANCE AND PERMITS.

No Building or land after the effective date of this Ordinance, except for existing Non-Conforming Uses, shall be used or occupied and no Building or part thereof shall be erected, moved or altered unless in conformity with the regulations herein specified and/or required by all laws and ordinances.

402. COMPLIANCE WITH REGULATIONS.

No Building shall hereafter be erected or altered to exceed the Height, to accommodate or house a greater number of families, to occupy a greater or lesser percentage or Lot area, or to have a narrower or smaller Rear, Side or Front Yard than is specified herein for the District in which the Building is located.

403. YARDS.

No part of a Yard or other open space around a Building required for compliance with the provisions of this Ordinance shall be included as a part of a Yard or open space similarly required for another Building.

404. SUBSTANDARD DWELLINGS.

A. No Structure shall be used or occupied as a Dwelling if such Structure is in need of such major structural repairs as to render it unsafe or unsanitary, or if the premises do not have connection with a municipal sewer system or alternative sanitary sewage facilities approved by the local public health authorities having jurisdiction. No Structure shall be occupied as a Dwelling place unless

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said Structure is permanently attached to the ground by a permanent foundation below the frost line, except as otherwise provided herein.

B. Any Structure, including those that are incidental to the primary Dwelling such as Accessory Buildings, Boat Docks, Boat houses, Garages, storage sheds or the like, that is in need of such major structural repair such that it is unsafe, as determined by the Borough Building Code Official for its intended Use as of the date of enactment of this Ordinance or at any time thereafter, such Structure shall be considered Non-Conforming and a violation of this Ordinance subjecting the property owner to sanction as detailed in Article Nine, Section 906.

405. **Final** SITE PLAN APPROVAL.

An application for site plan approval conforming to the requirements of this Section is required for a Major Excavation. If required by other Ordinance, a ~~Storm water~~ Management Plan must be submitted with the application for site plan approval. An application for a Building Permit in any district shall also require, in addition to the specific requirements of the district regulations, a site plan consistent with the requirements of this Section.

**Deleted:** Stormwater

A. REQUIREMENTS

1. Location of the property with respect to adjacent streets and property owners and their respective zoning classification.
2. Critical dimensions of all required setbacks, paving, driveways, Parking Areas, landscaped areas and other pertinent features.
3. The location of vehicular access to the site.
4. The dimensions and surveyed location of Buildings, Structures, paving, and earth disturbances requiring a permit as well as a topographical depiction of the proposed ~~site must be prepared by a registered surveyor or engineer, including his or her seal.~~ Where required by the Department of Environmental Protection, a soil and sediment erosion control plan shall also be submitted. Where Department Approval is required, the approval must be submitted prior to the grant of any Zoning Approval.

**Comment [R16]:** This yields a very cluttered drawing.

**Deleted:** site with a maximum elevation delineation of two (2) feet; as well as the location of all Signs, Fences, decorative Structures, and walls to be constructed on the site.¶

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5. Location of all connections to utilities serving the site.

406. PUBLIC UTILITY USES.

Public utility uses for the transportation, distribution and control of water, sewage, gas, electricity, oil, stream, telephone communications, cable television and their supporting members shall not be required to be located on a zoning Lot nor be held to reduce Yard dimensions for Buildings on a Lot.

407. LOTS OF RECORD NOT MEETING REQUIREMENTS.

Nothing in the District regulations shall be held to prohibit the erection of a Single Family Detached Dwelling upon a Lot whose size is inadequate to meet the Lot area requirements set for the District providing such Lot on the effective date of this Ordinance was held under separate ownership from the adjoining Lots and is a Lot on the recorded county plot plan and otherwise complies with all District regulations excepting Lot area requirements.

408. SITE RESTORATION BOND.

A site restoration bond to assure restoration of the site to an approved condition in the event proposed construction in accordance with approved plans and zoning requirements does not occur may be required at anytime in an amount to be determined and approved by the Borough Council.

409. CONTINUANCE.

The lawful Use of a Building, property or land existing at the time of the effective date of this Ordinance may be continued, even though such Use does not conform to the provisions hereof. If no Major Repairs are made, a Non-Conforming Use of a Building,

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Structure or land may be changed to another Non-Conforming Use of the same, a more restricted Use or to a Conforming Use; however, such Use shall not be hereafter changed to a less restricted one. What about the chalets?

Whenever the Use of a Building, Structure, property or land becomes Non-Conforming through a change in the Zoning Ordinance or district boundaries, such Use may be continued. If no Major Repairs are made, the Use may be changed to another or more restrictive Use. Such a determination shall be made and properly certified by the Zoning Hearing Board prior to the issuance of a Building or Occupancy Permit.

410. DISCONTINUANCE OF USE.

Whenever a Non-Conforming Use of property, Building, Sign, Structure or part has been discontinued for a period of twelve (12) consecutive months, said Non-Conforming Use shall be presumed to have been abandoned and the Use of the premises thereafter must conform with the regulations of the District.

411. ALTERATIONS, EXTENSIONS AND/OR ENLARGEMENTS.

No existing Building or Structure devoted to a Use not permitted in the District shall be enlarged, extended, reconstructed or altered in a manner so as to constitute a Major Repair unless such enlargement, extension, reconstruction or alteration makes the Building conform to the requirements of the District in which such Building or Structure is located or unless approved by the Zoning Hearing Board. Any reconstruction must also conform to the requirements of Section 412 of this Article.

**Comment [RFH17]:** Remove but include chalets, etc., elsewhere

412. PROVISIONS FOR RECONSTRUCTION.

Any Building or Structure devoted to a Non-Conforming Use which is damaged by natural deterioration; or by fire, flood, wind or other natural or manmade catastrophe to the extent of seventy five (75) percent or more of its fair market value immediately prior to the damage, shall not be repaired except in such manner as makes the Building conform to the requirements of the District in



which such Building or premises is located. In the event that the Zoning Enforcement Officer's estimate of the damage of fair market value is not acceptable to the applicant for the Building permit to repair or reconstruct such Building or Structure, the applicant may appeal to the Zoning Hearing Board in such cases. Again, what about the chalets?

A. The Property Owner shall obtain a Building permit and submit a plan to be approved by the Zoning Enforcement Officer.

B. The Building construction shall commence within ninety (90) days from the date the Building was destroyed and shall be continued without interruption. The Property Owner shall be entitled to an extension of ninety (90) days without cost to begin construction in the event that he or she can demonstrate reasonable delay caused by insurance settlement proceedings, time for building plan approval, or similar cause.

**413. CONSTRUCTION IN PROGRESS.**

No Building or Structure designed or intended to be used for a Non-Conforming Use shall be allowed unless construction is already underway at the time of the enactment or subsequent amendment of this Ordinance, and is being diligently prosecuted so that such Building will be completed within eighteen (18) months from the enactment of a provision that makes the Structure Non-Conforming. All outstanding Building permits for construction that do not meet the requirements provided herein are hereby rendered null and void. Said Buildings or Structures may be completed provided that they conform to the provisions of this Ordinance. All Buildings and Structure permissible under this Section shall also require a Use or Occupancy Permit as required by Section 903 of this Ordinance to ensure conformance with the requirements of this Section.

**Comment [RFH18]:** Delete

**Comment [R19]:** The MPC allows the clock (5 years) to start at the first application for planning or 'tentative approval' [508(4); 917]?

**414. DECORATIVE STRUCTURES.**

Decorative Structures, including but not limited to statues and arbors in all districts may be permitted under the following conditions:

A. The Height shall not exceed eleven (11) feet and the area shall not exceed one-hundred and fifty (150) square feet.

**Comment [R20]:** Might want to add, "Must be in good taste and not intended to decrease property values". This would prevent spite fences and other similar structures.

**Comment [RFH21]:** Arnie's head???

**Comment [RWS22]:** Horizontal?? (or neither; just area)

**Deleted:** vertical

B. A Building Permit must be obtained prior to construction or placement of any decorative Structure.

**415. CUTTING OR REMOVAL OF TREES**

A. ~~No trees over three (3) inches in diameter, as measured at a point two (2) feet above the level of the ground, may be cut in any District in Indian Lake Borough unless a tree cutting permit has first been obtained from the Zoning Enforcement Officer. A tree cutting permit shall be in force for no more than six (6) months from the date of issue. No tree cutting permit shall be issued unless removal of trees is necessary to provide for the public health, safety and welfare, or where removal is necessary for construction or to prevent property damage to the property of the applicant.~~ There shall be no restriction to ~~or cost for~~ the removal of dead trees provided that a tree cutting permit is obtained prior to removal. ~~[Recommend we include guidance for Zoning Officer]~~

B. Where removal of trees is permitted in conjunction with an approved Building permit, no tree shall be cut until the Building permit has been issued.

C. Where a permit application proposes the removal of more than fifty (50%) of the existing trees, or will cause the exposure of more than 500 square feet of ground area as a result of stump removal, the applicant must include on the plan the measures taken to prevent soil erosion such as mulching, installation of silt fence, or the immediate planting of appropriate ground cover. Where the earth disturbance associated with the cutting of trees requires an erosion and sediment control permit by DEP, the appropriate permit approval must be submitted with the application for a tree cutting permit.

**416. OFF STREET PARKING** – Unless otherwise specified in the section of this Ordinance applicable to the zone, an applicant for a Building permit associated with construction of a residential Structure capable of habitation or commercial Use Structure shall submit a parking plan demonstrating conformance to the requirements of this section. ~~Remove 416 in its entirety. It is not relevant to our community. 1. The only time there are parking problems are at the Marina on the 4<sup>th</sup> of July and special events at the Golf Club. 2.~~

**Comment [RWS23]:** Managed growth considered??

**Comment [R24]:** Why are we requiring a permit, which, I assume, is accompanied by a fee for the removal of dead trees. I would suggest adding at the end of paragraph A, "For the Removal of a dead tree(s) there will be no permit fee assessed." I think we want to encourage the cutting of dead trees by having residents apply for a permit so the Zoning Officer can have the option of verifying the cutting is in fact dead trees.

**Comment [R25]:** Consider emergencies impacting safety (power lines, people, personal property)

**Deleted:** Except where the removal of trees is necessary in the location of any proposed Building or Structure requiring a Building permit or the area within ten (10) feet of the Building Line of the permitted Building or Structure,

**Deleted:** n

**Deleted:** a Building Permit has been issued, or where

**Comment [R26]:** delete

**Deleted:** for a total of at least forty (40) trees

**Comment [R27]:** There are more than 6 pages of parking space regs, many for uses we will never have in the Borough; **delete or prune.**

We don't have any other zoning sections that effect hospitals, schools, churches, nursing homes, etc. The entire section should be deleted as non applicable

A. **REQUIREMENTS**

1. Residential Uses

- (a) Detached Dwelling - Two (2) off-street parking spaces per Dwelling Unit.
- (b) Multi-Family/Condominium Dwelling - Two (2) off-street parking spaces per Dwelling Unit.
- (c) Townhouse Dwelling - Two (2) off-street parking spaces per Dwelling Unit.
- (d) Mobile home park - Two (2) off-street parking spaces per Dwelling Unit.
- (e) **Elderly** Housing – One (1) off-street parking space for every three (3) beds.

2. Institutional, Recreational, and Educational Uses

(a) Religious Use - One (1) parking space per five (5) seats, or at least one (1) space for every three hundred (300) square feet of Floor Area intended to be used by patrons, guests, members, parishioners, clients or customers, whichever requires the greater number of off-street parking spaces, plus one (1) space per two (2) employees on the premises at any one time.

(b) **School**:

- i. Kindergarten, Elementary School, Junior High School - one (1) off-street parking space for each faculty member and employee, plus one (1) space per two (2) classrooms or offices.
- ii. Senior High School: one (1) off-street parking space per faculty member and employee, plus one (1) space per four (4) students at projected Building capacity.

(c) **Library/Museum** - One (1) space per five (5) seats, or at least one (1) space for every three hundred (300) square feet of Floor Area intended to be used by patrons, guests, members, clients or customers, whichever requires the greater number of off-street parking spaces, plus one (1) space per two (2) employees on the premises at any one time.

**Comment [RFH28]:** Recommend a separate, supplemental document, appendix or attachment.

If it stays, define all Terms and remove undefined/unalloved/unwanted Uses.

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(d) Day care center - One (1) off-street parking space for each teacher, administrator, and maintenance employee plus one space for every five (5) persons that can be accommodated at the center.

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(e) Public recreational facility – In accordance with needs as determined by Borough Council.

(f) Nursing home - One (1) off-street parking space for each patient or client bed.

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(g) Personal care facility - One (1) off-street parking space for each patient or client bed.

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(h) Church – One (1) off-street parking space for each four (4) seats in the main worship hall plus one (1) off-street parking space for each employee on the premises.

3. Business and Office Uses

(a) Business office - One (1) off-street parking space for every three hundred (300) square feet, or fraction thereof, of gross Floor Area devoted to office Use.

(b) Government office - One (1) off-street parking space for every three hundred (300) square feet, or fraction thereof, of gross Floor Area devoted to office Use.

(c) Medical or Veterinary office - One (1) off-street parking space for every three hundred (300) square feet, or fraction thereof, of gross Floor Area devoted to office Use.

4. Retail and Consumer Services Uses

(a) Retail shop - One (1) space for every four hundred (400) square feet of gross Use area, including the area outside a Building that is used for sales, seating, display, or other activities associated with the Use plus one (1) off-street parking space for each employee on the premises.

(b) Service business - One (1) space for every four hundred (400) square feet of gross Use area, including the area outside a Building that is used for sales, seating, display, or other activities associated with the Use plus one (1) off-street parking space for each employee on the premises.

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(c) Repair service - One (1) space for every four hundred (400) square feet of gross Floor Area, including the area outside a Building that is used for sales, seating, display, or other activities associated with the Use plus one (1) off-street parking space for each employee on the premises.

(d) Restaurant/**Banquet** Facility - One (1) space for every one hundred (100) square feet of gross Use area within the Building used for seating or service or one (1) space for each five (5) seats, whichever is less, plus one (1) off-street parking space for each employee on the premises.

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(e) Restaurant with drive-through service - One (1) off-street parking space for each four (4) seats provided for patron Use, plus one (1) off-street parking space for each employee on the premises.

(f) Hotel - One (1) off-street parking space for each rental room or suite, plus one (1) off-street parking space for each employee on the premises.

(g) Vehicle sales and automotive service Two (2) off-street parking spaces for each service bay plus one (1) off-street parking space for each employee on the premises.

(h) **Shopping center** - One (1) space for every three hundred (300) square feet of gross Floor Area, including an area outside a Building that is used for sales, seating, display, or other activities associated with the Use plus one (1) off-street parking space for each employee on the premises.

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(i) Financial establishment - One (1) off-street parking space for each two hundred (200) square feet of gross Floor Area used or intended to be used for servicing customers plus one (1) off-street parking space for each employee on the premises.

(j) Indoor athletic club - One off-street space for every three (3) persons of permitted maximum occupancy for indoor facilities, as established by the Pennsylvania Uniform Construction Code plus one (1) off-street parking space for each employee on the premises.

(k) Commercial Boat Docking Facility – One (1) off-street parking space for every four (4) Boat slips.

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(l) Commercial Marina/Sales Facility – One (1) off-street parking space for each 1000 square feet of gross retail Floor Area plus one (1) off-street parking space for each employee on the premises.

(m) Commercial Marine Repair Facility – One (1) off-street parking space for each 500 square feet of gross Floor Area dedicated to Boat repair activities plus one (1) off-street parking space for each employee on the premises.

(n) Commercial Golf Course – Four (4) off-street parking spaces for each golf hole plus one (1) off-street parking space for each employee on the premises.

5. Industrial Use:

(a) Warehousing - One (1) off-street parking space for each five hundred (500) square feet of total Floor Area, plus one (1) off-street parking space for each company vehicle normally stored on the premises.

(b) Light Manufacturing – One (1) off-street parking space for each five hundred (500) square feet of total Floor Area, plus one (1) off-street parking space for each company vehicle normally stored on the premises.

6. Undefined Uses – The number of off-street parking spaces for a Use that is undefined in this section shall be determined by the Borough Council after recommendation by the Indian Lake Planning Commission.

B. CHANGE OF USE - Any change of a permitted Use to another Use, which, based on the provisions of subsection A of this section requires the addition of parking spaces, shall meet the requirements of this Ordinance only with respect to the changed Use or increase in area of Use. This provision shall be construed as requiring, if necessary, an addition of parking spaces based only upon the change and shall not be construed as requiring the addition of parking necessary to make prior existing uses conform to the requirements of this section.

C. EXTENSIONS, EXPANSIONS, OR ALTERATIONS OF EXISTING STRUCTURES – All extensions, expansions, or Alterations of existing Structures which, based on the provisions of subsection A of this section requires the addition of parking spaces, shall meet the requirements of this Ordinance only with respect to the increase in area of Use based on the change. This

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provision shall be construed as requiring, if necessary, an addition of parking spaces based only upon the change and shall not be construed as requiring the addition of parking necessary to make prior existing uses conform to the requirements of this section.

D. PERMIT REQUIRED - A zoning permit must be secured from the Zoning Enforcement Officer before any parking is established or changed, if such change would result in the deletion of any spaces. This provision shall not apply to circumstances where two or fewer spaces are necessary under the provisions of subsection A of this section or where an existing Parking Area is expanded or additional parking is added for an existing Structure or existing Use.

E. CONFLICT WITH OTHER USES - No Parking Area or space shall be used for any Use that interferes with its availability for the parking need it is required to serve.

F. MULTIPLE USES - Where two or more uses occupy a common Structure, Building, or Lot, the total number of parking spaces provided and maintained will be calculated as the sum of the parking spaces required for the individual uses that occupy the Structure, Building or Lot; or, as the combined gross Floor Area or number of seats devoted to customer or patron Use.

G. JOINT USE - Two or more uses may provide for required parking in a common Lot, if the total spaces provided are not less than the sum of the spaces required for each Use individually.

H. FRACTIONAL SPACES - Where the computation of required parking spaces results in a fractional number, any fraction of the next highest number shall be counted as one.

I. LOCATION OF PARKING SPACES - Required off-street parking spaces shall be on the same Lot or premises with the principal Use served. If this requirement cannot be met, the standards for Alternative Parking in subsection L of this section shall be met.

J. MAINTENANCE OF PARKING AREAS -

1. Parking areas installed after the enactment of these requirements shall be graded, surfaced to be mud free, and drained to the extent necessary to prevent dust, erosion, or water flow across streets or adjoining properties.

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2. New Parking Areas installed as required for the construction of new Buildings or Structures shall be marked to indicate their location and shall conform to the requirements of the federal Americans with Disabilities Act, providing an adequate number of sized, marked and signed spaces. This requirement shall not apply to existing Parking Areas that are expanded or enlarged in compliance with the provisions of subsections B or C of this section.

3. All off-street parking spaces shall be kept free of potholes, weeds, trash and debris.

K. FEES FOR REQUIRED OFF-STREET PARKING – No establishment shall charge a fee for parking in spaces that are required to meet the off-street parking requirements for the establishment or Use. Off-street parking spaces required for one Use cannot be sold or leased as parking spaces for another Use. Where a parking space is required to meet Ordinance requirements, it may not be sold or leased for another Use.

L. ALTERNATIVE PARKING - Within the CRH, CM, CRG, and CG zoning districts, any Use existing as of the effective date of this Ordinance which can be lawfully expanded, or any new Use that cannot meet the parking requirements of this Ordinance within the Lot or boundary lines of the principal Use may meet the parking requirements of this Ordinance in any one of the three ways listed below.

1. Valet Parking – Valet parking may be used to meet any portion of the required off-street parking requirement, provided that the application indicates where the cars will be parked. Valet parking arrangements shall be adequately managed and staffed to minimize disruption to traffic on local roads. The Use shall be discontinued immediately upon loss of parking arrangements; and/or

2. The applicant shall provide an agreement in writing at intervals determined by Indian Lake Borough Council that the parking spaces are available and secured by lease or license, or applicant shall provide proof of the availability of the required parking spaces, which are not needed to meet the requirements of another Use and which can be used for parking purposes by the applicant. This option may be used to meet any portion of the parking requirement. The Use shall be discontinued immediately upon loss of parking arrangements; and/or,



3. The applicant may apply for and the Indian Lake Borough Council may approve alternate design standards for off street parking in response to unusual conditions such as dead car storage, attendant parking, indoor parking, interaction between different abutting uses in the same developed district, or a clearly documented difference between expected parking load and required parking spaces; provided any reduction in the number of required spaces so granted shall be offset by a reserved area for future installation of a like number of spaces to be so improved at the discretion of Indian Lake Borough unless a reduction in the required number of spaces is justified by submission of a traffic study demonstrating that such a reduction is warranted. The traffic study must be prepared by an appropriately qualified traffic engineer. Approval of such a reduction is at the discretion of the Indian Lake Borough Council; however, such approval shall not be withheld without clear and convincing evidence that such an approval would be detrimental to the general health, safety and welfare of the community.

M. PARKING SPACE SIZE - Every standard off-street parking space shall have a rectangular area of not less than nine (9) feet by eighteen (18) feet. If parking spaces are indicated by lines other than 90 degrees, then traffic lanes shall be restricted to one-way permitting head-in parking only.

N. ACCESS LANE SIZE – Two-way access lanes shall be a minimum of sixteen (16) feet wide. One-way access lanes shall be a minimum of twelve (12) feet wide for angled parking and sixteen (16) feet wide for 90 degree parking.

417. EXCAVATION AND GRADING REQUIREMENTS – The following standards shall be the minimum standards for the issuance of a grading permit. Remove 417 in its entirety. How do these requirements, which regulate a persons use and enjoyment of their land protect a neighboring owner’s right to use and enjoy his land? Zoning cannot be used to protect a lot owner from himself Zoning regulations are permissible only to protect neighboring property owners from substantial harm.

A. MAXIMUM SLOPE -

1. Excavation: The maximum slope of an excavation for the purpose of constructing a Building or Structure in any zone shall not be greater than one and one half (1 ½) horizontal to one (1) vertical; provided however, that the maximum cut may be

**Comment [R29]:** It needs to be clarified that some/most of these requirements apply to the 'final' configuration and do not apply in-process.

**Comment [RWS30]:** It does not limit people from using their property. It is the minimum standards for issuing a grading permit. It then requires an engineered approval for steep grades, 20% and over.. [This is not stated anywhere (??)]

**Comment [RFH31]:** Basement? Footer? Staggered levels? Retaining walls?

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increased to one (1) horizontal to one (1) vertical where an Engineer certifies that the cut be into sedimentary rock or other material which is sufficiently durable to remain stable and maintain the cut without slippage.

2. Fills: Where the natural slope is increased by the installation of fill in any zone for the purpose of constructing a Building or Structure thereon, the maximum slope for fill shall not be greater than two (2) horizontal to one (1) vertical. This provision shall be inapplicable where the existing natural slope exceeds the two (2) horizontal to one (1) vertical limit. Nonetheless, in such a case, an Engineer must verify density in accordance with subsection B of this section and additionally verify installation of sufficient stabilization, where applicable in accordance with subsection E. of this section, to prevent settlement or slippage.

B. FILL REQUIREMENTS – The following standards shall be the minimum standards of the issuance of a grading permit.

1. Density - All fills providing structural support for any residential Structure capable of habitation, Garage, or commercial Use Structure shall be compacted to provide stability of fill material and to prevent settlement or slippage. The density of any fill material to be used shall be verified by an Engineer as having a dry density not be less than ninety five (95%) of maximum density as determined by ASTM D 1556 - Standard Test Method for Density and Unit Weight of Soil in Place by Sand-Cone Method.

C. FINISH - Immediately upon completion of grading, all areas not designated for Building or paving shall be mulched or planted. Planting shall be appropriate to maintain slopes from erosion and subject to the approval of the Borough. In general, planting may be rye grass, crown vetch, honey suckles or other equivalent ground cover.

D. EROSION CONTROL - Plans and specifications for every grading permit shall provide for both temporary and permanent erosion and sediment control where required under the provisions of this Ordinance at Article IV, Section 405.

E. SLOPE STABILIZATION – Where excavation occurs on a slope with a vertical drop in excess of fifty (50) feet, installation of at least one (1) horizontal terrace per fifty (50) feet of vertical drop shall be required for erosion control.

F. GRADING AT PROPERTY LINES - Grading shall not be performed so as to divert runoff onto an adjoining property. Additionally, grading near the property line adjoining a street must be performed so as to prevent settling, cracking, erosion, sedimentation, flooding, or any other physical damage to the roadway.

**Comment [RFH32]:** PE

**Deleted:** the contractor

**Comment [RFH33]:** Who would increase slope, then build on it??

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**Comment [RFH34]:** Which case?

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**Comment [RFH35]:** Are we going to disturb an existing slope to add terraces? This **cannot** be accomplished logically w/o increasing slope.

**Comment [RFH36]:** Undefined

**Comment [RFH37]:** Does this only apply when building on fill? [or per A.2 above, whenever that is...?]

**Deleted:** the contractor

**Comment [RFH38]:** Anywhere on the lot? Over the course of what is excavated, only? Isn't this **requiring** more disturbance than warranted?

418. DENSITY REQUIREMENTS – The following density standards shall apply to residential and commercial construction in each district consistent with the provisions of this section. Where these standards conflict with permissible Uses for the relevant district, these provisions shall control.

A. R-1 DISTRICTS

1. The maximum Lot coverage of enclosed or covered Floor Area for all Structures shall not exceed twenty (20) percent of the total Lot Area.
2. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land shall not exceed thirty five (35) percent of the total Lot Area.

B. R-2 DISTRICTS

1. The maximum Lot coverage of enclosed or covered floor area for all Structures shall not exceed twenty (20) percent of the total common area provided for Multi-Family Structures.
2. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land within the common area provided for Multi-Family Structures shall not exceed thirty five (35) percent.

C. P-1 DISTRICTS

1. The maximum Lot coverage of enclosed or covered Floor Area for all Structures shall not exceed twenty (20) percent of the total Lot Area.
2. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land shall not exceed thirty five (35) percent of the total Lot Area.

D. C-RH DISTRICTS

1. Multi-Family Residential Structures:

**Comment [RFH39]:** Same as R-1; what's the point?

**Comment [RFH40]:** ambiguous

**Comment [RFH41]:** ditto

**Comment [RFH42]:** ?? Parks?

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- i. The maximum Lot coverage of enclosed or covered Floor Area for all Structures shall not exceed twenty (20) percent of the total common area provided for Multi-Family Structures.
- ii. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land within the common area provided for Multi-Family Structures shall not exceed thirty five (35) percent.

2. Commercial Structures:

- i. The maximum Lot coverage of enclosed or covered Floor Area for all Commercial Structures shall not exceed forty (40) percent of the Lot Area identified on the Site Plan.
- ii. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land within the Lot area identified on the Site Plan shall not exceed sixty (60) percent of the Lot Area identified on the Site Plan.
- iii. For purposes of this subsection, the Lot Area upon which the Commercial Structure is to be constructed and which is necessary to conform with the provisions of this section must be identified on the Site Plan. Once a portion of land within the zone is identified as the Lot Area supporting the construction of a Commercial Structure under these provisions of the Ordinance it may not be used as Lot Area for any other Structure. The Site Plan must also identify all adjacent Commercial Structures and the identified Lot Area necessary to conform with the provisions of this Section to assure that the same land is not used to support the density requirements for more than one Structure.

E. C-RG DISTRICTS

- i. The maximum Lot coverage of enclosed or covered Floor Area for all Commercial Structures shall not exceed forty (40) percent of the Lot Area identified on the Site Plan.
- ii. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land within the Lot area identified on the Site Plan shall not exceed sixty (60) percent of the Lot Area identified on the Site Plan.
- iii. For purposes of this subsection, the Lot Area upon which the Commercial Structure is to be constructed and which is necessary to conform with the provisions of this section must be identified on the Site Plan. Once a portion of land

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within the zone is identified as the Lot Area supporting the construction of a Commercial Structure under these provisions of the Ordinance it may not be used as Lot Area for any other Structure. The Site Plan must also identify all adjacent Commercial Structures and the identified Lot Area necessary to conform with the provisions of this Section to assure that the same land is not used to support the density requirements for more than one Structure.

F. C-M DISTRICTS

1. The maximum Lot coverage of enclosed or covered floor area for all Structures shall not exceed fifty (50) percent of the total Lot Area.
2. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land shall not exceed seventy (70) percent of the total Lot Area.

G. C-G DISTRICTS

1. The maximum Lot coverage of enclosed or covered floor area for all Structures shall not exceed forty (40) percent of the total Lot Area.
2. The maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land shall not exceed sixty (35) percent of the total Lot Area.

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INDIAN LAKE BOROUGH

ARTICLE FIVE

PROVISION GOVERNING RESIDENTIAL DISTRICTS

501. **USE**

In this District, the land and Structures may be used and Structures may be erected, altered, enlarged and maintained for the following uses **or for a Use consistent with the zoning classification.**

**Comment [RFH43]:** Special Exceptions and Conditional Uses should be covered up in the 'base' sections rather than buried in 1002.

**Formatted:** Highlight

“R-1” – Single Family Detached Dwellings

A. PERMITTED USES.

1. One Single Family Detached Dwelling
2. Accessory uses customarily incidental to the above permitted uses and including but not limited to:
  - (a) One detached Private Garage.
  - (b) One Gazebo or one pavilion may be permitted provided there are not blinds or other type of hanging material that would create a visual impairment even if temporary. A Gazebo or pavilion is permitted in the Front Yard.
  - (c) One of each defined type of Accessory Building or Structure for a total of two (2).
    - (1) Where the Accessory Building or Structure is a storage shed, the size of the storage shed shall not exceed one hundred sixty-eight (168) square feet in Floor Area.
    - (2) Where the Accessory Building or Structure is a storage locker, the size of the storage locker shall not to exceed thirty-two (32) square feet in area and four (4) feet in Height.
    - (3) Under no circumstances will metal storage sheds or storage lockers be permitted.

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(4) Where the Accessory Building or Structure is a Carport, the size of the Carport shall not exceed seven hundred and fifty (750) square feet in Floor Area.

(5) Under no circumstances will Carports without a permanent supporting foundation; or a Carport with a Roof design that is incapable of supporting Roof loads consistent with the current International Residential Building Code be permitted.

(6) Approval will be required from the Zoning Enforcement Officer as to the location, design, and type of material to be used in conjunction with any Accessory Building or Structure so as to conform to the provisions of this Ordinance.

(7) Multiple contiguous R-1 Lots deeded as one property with water or road frontage of at least one hundred eighty (180) feet, one additional Accessory Building or Structure of a different type is permitted.

(d) Owners of lake front Lots with or without a Dwelling are permitted, subject to section 308 of this Ordinance for lake front Lots without a Dwelling, to have boathouses, boatlifts, Lake Walkways (Docks), Boat slips, seawalls and storage lockers only as permitted in Article VII, Section 703 of this Ordinance. Under no circumstances shall these Structures or a Boat or personal watercraft docked thereto encroach in Front of an abutting owner's property.

(e) A tennis court, a swimming pool, and children's playground equipment.

3. Inside Boat storage is permissible in a Garage or Accessory Building. External storage of boats shall be prohibited except as follows:

(a) boats may not be stored along the public roadway in an area that is within the Borough road easement;

(b) boats to be stored must have a current Pennsylvania Boat Registration; and

(c) where boats are stored on a trailer, the trailer must have a valid Pennsylvania registration.

4. Home offices as defined in Article Three, Section 310 of this Ordinance.

B. HEIGHT. The maximum Height of Buildings hereafter erected or altered shall be as follows:

1. Single Family detached Dwelling – Thirty-five (35) feet.

2. Detached Garage – Twenty (20) feet.

Comment [RFH44]: Recommend increasing

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3. Boathouse or Boat Lift – as defined in Article VII, Section 703 of this Ordinance.
4. Accessory Building – twelve (12) feet.
5. Gazebos or pavilions shall not exceed eighteen (18) feet in Height as measured from the level of the ground to the peak of the Roof.

C. BUILDING AREA. The Building Area or Floor Area of Buildings hereafter erected shall be as follows:

1. Single-Family detached Dwelling – the minimum living area of a private Dwelling house, exclusive of Porches, basements and Garages shall be one thousand two hundred and fifty (1250) square feet on the first floor.
2. Detached Garage – the maximum square footage is One Thousand Two Hundred and Eighty (1280) Square Feet in Floor Area.
3. Boathouse - as defined in Article VII, Section 703 of this Ordinance.
4. A Storage Shed may not exceed one hundred sixty-eight (168) square feet in Floor Area.
5. A Gazebo or Pavilion cannot extend in either length or width greater than eighteen (18) feet or no more than three hundred and twenty-five (325) square feet.

D. LOT AREA. The minimum Lot area for any Building hereafter erected or altered shall be as follows:

1. The same size with the same dimensions as shown on the plot plan of the original developer; or
2. Where any Lot is subdivided from an existing larger tract within the Borough, the Lot must be a minimum of three-fourth (.75) acre in size with a minimum road frontage which meets or exceeds the Somerset County Zoning Ordinance requirements. For lake front Lots, the lake frontage must be at least one hundred (100) feet.

E. YARD AREA AND SET BACKS. No Building may be erected or enlarged unless the minimum Yard area and set back of the Building is met as provided in the following subsections:

1. Single Family detached Dwelling

**Comment [RFH45]:** Duplicates 304; why put reqmts both places?



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(a) Front Yard: For Lots where the Front Yard abuts the street, the set back shall be no less than fifty (50) feet from the Lot Line bordering the street. Where the Front Yard abuts the lake front, the set back shall be not less than one third the Lot Depth or in any case not less than one-hundred (100) feet from the Lot Line bordering the lake shoreline.

(b) Rear Yard: In all cases not less than twenty five (25) feet.

(c) Side Yard: Not less than ten (10) feet at any point along the side lines.

(d) Composite minimum width for both Side Yards – not less than twenty (20) feet at any point.

2. Garages

(a): Front Yard: For Lots where the Front Yard abuts the street, the set back shall be no less than fifty (50) feet from the Lot Line bordering the street. Where the Front Yard abuts the lake front, the set back shall be no less than one third the Lot Depth or in any case not less than one hundred (100) feet from the Lot Line bordering the lake shoreline.

(b) Rear Yard: In all cases are ten (10) feet.

(c) Side Yard: Not less than ten (10) feet at any point along the side lines.

3. Accessory Buildings or Structures

(a) Front Yard: With the exception of the provisions of Section 501.E.5 relating to Gazebos, for Lots where the Front Yard abuts the street, the set back shall be no less than twenty-five (25) feet from the Lot Line bordering the street. Where the Front Yard abuts the lake front, the set back shall be no less than one third the Lot Depth or in any case not less than one hundred (100) feet from the Lot Line bordering the lake shoreline. Where the Front Yard abuts the lake front, the Front Yard setback provisions shall not apply to Storage Lockers.

(b) Rear Yard: In all cases ten (10) feet.

(c) Side Yard: Not less than ten (10) feet at any point along the side lines.

4. Storage Sheds

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a. For all Lots, no portion of a storage shed may be placed between the Front Building Line of a Single Family Dwelling and the Front property line. Any storage sheds so located at the time of adoption of this Ordinance may remain if placed under a properly authorized permit. Where such Structures are damaged or fall into disrepair such that they require replacement as required by section 412, the location of the replacement shall conform to the requirements of this section and a permit shall be required as indicated in section 412.A. Why can't a lake front home with suitable front setback have a shed near the home on the front side?

5. Gazebos, ~~Pavilions, or freestanding Decks~~ – Twenty (20) feet from side property line. There is no setback requirement from the Front property line for lakefront properties, for non-lakefront properties the set back shall be no less than twenty-five (25) feet from the Lot Line bordering the street.

6. Boathouse – As defined in Article VII, Section 703 of this Ordinance.

Deleted: or

“R-2” Mobile Homes, Condominium, Multiple Family or Row Dwellings

502. USE

A. PERMITTED USES.

1. Multi-Family Dwellings.
  2. Row Dwellings.
  3. Condominiums.
  4. No One Family Dwellings may be constructed in an R-2 zone with the exception of Mobile Homes. Mobile Homes may be placed only in expressly designated areas in the district.
  5. Any Lots subdivided to create an R-2 zone shall conform to the density requirements of this Section.
  6. Accessory Buildings or Garages for Community or Group Use provided that the setback requirements of subsection D of this section are met.
  7. Home Offices as defined in Article Three, Section 313 of this Ordinance.
  8. Inside Boat storage is permissible in a Garage or Accessory Building. External storage of boats shall be prohibited except as follows:
    - (a) boats may not be stored along the public roadway in an area that is within the Borough road easement;
    - (b) boats to be stored must have a current Pennsylvania Boat Registration; and
    - (c) where boats are stored on a trailer, the trailer must have a valid Pennsylvania registration.
- B. HEIGHT. The maximum Height of Buildings hereafter erected or enlarged shall be as follows:
1. No Dwelling or group of Dwellings shall exceed thirty-five (35) feet in Height.
  2. Accessory Structures where permitted shall not exceed twelve (12) feet in Height.

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C. LOT AREA. The minimum land area for a Multi-Family, Row Dwellings or Condominiums in an R-2 District shall be that which is necessary to conform with the density requirements of Section 418 of this Ordinance.

D. SETBACKS.

1. Front Yard: For Lots where the Front Yard abuts the street, the set back shall be no less than twenty (20) feet from the Lot Line bordering the street. Where the Front Yard abuts the lake front, the set back shall be no less than one third the Lot Depth or in any case not less than one hundred (100) feet from the Lot Line bordering the lake shoreline. Where the Front Yard abuts the lake front, the Front Yard setback provisions shall not apply to Storage Lockers or Gazebos.

2. Rear Yard: In all cases the set back shall be no less than ten (10) feet from the Rear Lot Line.

3. Side Yard: Not less than ten (10) feet at any point along the side lines and not less than twenty-five feet from the closest Building.

4. Composite minimum width for both Side Yards – not less than twenty (20) feet at any point.

E. BUILDING AREA. The minimum living area for any Dwelling except Mobile Homes shall be not less than Nine Hundred (900) square feet exclusive of Porches, basements, and Garages. In an “A” Frame Structure the loft may not be used to calculate the minimum square footage. The minimum living area for Mobile Homes shall be not less than Six Hundred Fifty (650) square feet exclusive of Porches, basements, and Garages.

F. MOBILE HOMES. Mobile Homes will be permitted only in that District specifically allocated to Mobile Homes. Requirements in this area shall conform to the set back requirements of subsection D of this section.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE SIX  
PROVISIONS GOVERNING PUBLIC AND PRIVATE PARKS

601. USE OF PRIVATE PARKS. (P-1)

In this District, the land shall remain in its natural topography and be subject to the following restrictions:

A. PERMITTED USES.

1. No Structures, temporary or permanent shall be placed or constructed on any park property with the exception of boathouses, boatlifts, Lake Walkways (Docks), Boat slips, seawalls and storage lockers and only as permitted in Article VII, Section 703 of this Ordinance.

2. No Tents, Trailers, sheds, Boats, vehicles or Mobile Homes may be placed or stored on park property. Motor vehicles are not permitted on park property other than those actually required during construction of Boat facilities or for transportation to a park owner's docking area. Motor vehicles including golf carts or other all terrain style utility vehicles may be parked in the area of the park owner's Dock provided that access of other park owners is not impeded; however, overnight parking shall not be permitted.

**Deleted:** during periods of Boat usage

3. No installation or maintenance of roads or paths that will result in either a change to the topography or earth disturbance shall be permitted without issuance of a permit in accordance with the Site Plan requirements of Article IV, Section 405 of this Ordinance. A permit shall be issued only by a showing to the Zoning Enforcement Officer that the said site work has been assented to in writing by a majority of the persons owning an interest in said Private Park.

B. HEIGHT. As defined in Article VII, Section 703 of this Ordinance.

C. LOT AREA. As defined in Article VII, Section 703 of this Ordinance.

602. USE OF PUBLIC PARKS (P-2)

In these Districts, the land shall remain in its natural state and be subject to the following restrictions:

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A. No Structures, temporary or permanent, shall be placed on or in this District except where the property is owned by the municipality, in which case a Structure for shelter may be built by the municipality.

B. No roads shall be built thereon and no Tents, Trailers, sheds, Mobile Homes or vehicles of any sort shall be used or placed thereon other than work vehicles used during construction or clearing for which a proper permit shall have been issued by the Zoning Enforcement Officer. Hiking trails will be permitted only when designed and built by the Municipality.

C. No activity shall be permitted which would adversely affect these Districts or affect the Use thereof by any fish or wildlife presently existing in the District or that may be introduced into the District.

D. No living vegetation shall be cleared or removed from these Districts unless by prior approval of the Borough Council. It being the purpose of this section of the Zoning Ordinance to save as much of the land within the Borough in its natural state, no activity will be permitted which would adversely affect the land, the water, the vegetation, the air, the subsurface or the natural resources of these Districts.

E. As an exception to the above, the construction of new wetlands that are designed to improve the quality of the water flowing into Indian Lake will be permitted providing they have been designed in accordance with the rules and regulations established by the Department of Environmental Protection of the Commonwealth of Pennsylvania and have been permitted by that entity if required. Where land has been designated as "Fish and Wildlife Preserve", it must be left in its natural state with no construction, trails or vegetation disturbed without prior approval of the Borough Council.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE SEVEN  
PROVISIONS GOVERNING COMMERCIAL GENERAL, AGRICULTURAL AND MUNICIPAL LAKE DISTRICTS

C-G Commercial General

The General Commercial Districts are intended for the conduct of general business to which the residents of Indian Lake have direct and frequent access, but which is not characterized by constant heavy trucking or by any nuisance factor other than that occasioned by incidental light noise of a congregation of people and/or vehicles. Consistent with this purpose, the land and Structures may be used and Structures may be erected, altered, enlarged and maintained for the following Uses **or for a Use consistent with the zoning classification.**

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701. USE

A. In this District, the land and Structures may be used and the Structures may be erected, altered, enlarged and maintained for commercial uses listed hereunder:

1. Medical Offices or Clinic
2. Offices, Business or Professional
3. Aircraft Hangers or Fixed Base Operation
4. Fueling and Maintenance of Aircraft
5. Garden Supplies or Nursery
6. Post Office
7. Sporting Goods Store
8. Theater, Lecture Hall or Meeting Rooms
9. Club or Fraternal Organization

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10. Churches and Religious Organizations

11. Light Industrial including but not limited to:

- (a) Animal Hospital
- (b) Baker
- (c) Cabinet making establishments and carpenter shops
- (d) Clothing Factory
- (e) Computer Software Manufacturer
- (f) Dairy Processing
- (g) Laundry
- (h) Optical goods factory
- (i) Printing, publications, and engraving plant
- (j) Research and development organization
- (k) Storage firm
- (l) Any other type manufacturing - light industrial Use as approved by the Borough Council.

12. Accessory Use or Building customarily incidental to the above permitted uses and as regulated by this Ordinance.

13. General Retail Sales

B. Height. The maximum Height of Buildings in these Districts shall be thirty five (35) feet.

C. Lot and Yard Areas. Commercial Buildings shall not be erected, enlarged or altered except as consistent with the density provisions at Section 418 of this Ordinance as well as the provisions of this Section.

1. Front Yard - Not less than one hundred (100) feet.

2. Side Yard - Not less than fifty (50) feet where abutting a street or an alley, not less than fifteen (15) feet from any side property line.



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3. Rear Yard - Not less than twenty five (25) feet.
4. Composite minimum width for both Side Yards – not less than thirty (30) feet at any point.

D. USE RESTRICTIONS:

1. Wherever a commercial Building is built adjacent to any residential ~~Zoning District~~ no portion of the Building may be closer than one hundred (100) feet to the property line at the nearest point of such residential ~~Zoning District~~ and a landscaped buffer along the zone boundary must be planted and maintained, by the C-G property owner, consisting of, but not limited to, trees, plants, shrubbery and/or an ornamental Fence or wall.

Deleted: area

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2. An overall area of property not less than one-half (1/2) acre and any Building erected thereon shall not cover more than forty (40) percent of the total Lot area.

3. No commercial Building may be used as a residence or used for habitation.

4. Where required, adequate facilities for sanitation and water must be installed before a Use or Occupancy permit may be given.

5. All activities shall be conducted within a completely closed Building except refueling of aircraft and nurseries.

E. SPECIAL PERMIT REQUIREMENTS:

1. Prior to issuance of Zoning clearance of a permit application submitted and reviewed in accordance with Article IX, section 902, the following additional information must be submitted to the Zoning Enforcement Officer.

(a) **Traffic Study**-Must include a comparative analysis of present capacity of street(s) adjacent to proposed business with potential capacity and volume generated by the proposed business together with off street parking adequate for the maximum potential predicted plus off-street loading where such loading is required by the business.

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(b) Landscape Development Plan-Must include a plan of landscaping which shall have a distance of at least five (5) feet in width along all streets and walks, with exception of entrances, to be planted with trees, shrubbery and/or other landscape material or

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an ornamental Fence or wall serving as a visual Screen for parking, loading and service areas. In addition a landscaped Screen must be provided whenever the property abuts a residential area including a residential area separated by a street.

(c) A Site Plan which may include the landscape plan together with the location, size and design of all Signs which are proposed to be installed. Any Signs must conform to the conditions of Signs contained in other sections of this Ordinance.

(d) Other Permits-Copies of all other permits which may be required by various health, safety or other similar regulatory bodies must be submitted and accompany applications for a Building or occupancy permit.

A-AGRICULTURE

The Districts zoned Agriculture are those which have been historically used for those purposes and are presently used as such or are large tracts ten (10) acres or more in area with a single home constructed thereon.

702. USE AND CONFORMANCE

All present Structures on land within these Districts are accepted as being conforming within the meaning of this Ordinance consistent with the provisions of Article IV, Section 409 of this Ordinance except where Use is discontinued as provided in Article IV, Section 410 of this Ordinance. Alterations are permitted only consistent with the provisions of Article IV, Section 411 of this Ordinance. Any further Structures should generally conform to the restrictions contained in the definition of an Agricultural District insofar as possible considering the Use to which they will be put.

ML – MUNICIPAL LAKE

**Comment [RWS46]:** The addition of this zoning district was to simplify the understanding of what can occur in this zone. It fails to do that. Therefore, what does it accomplish? Consider elimination and reversion to association with contiguous zoned area.

The District zoned municipal lake is that area of land owned by Indian Lake Borough which is bound by the waters of Indian Lake when the level of the lake is at its natural pool level of two thousand two hundred and eighty (2280) feet. The following permissive uses are established in this district for owners of property in adjoining districts.

703. BOATHOUSES, BOAT LIFTS, LAKE WALKWAYS (DOCKS), BOAT SLIPS, SEAWALLS AND STORAGE LOCKERS

A. GENERAL PROVISIONS APPLICABLE TO OWNERS OF PROPERTY IN ALL ADJOINING DISTRICTS

**Comment [RFH47]:** We need to be clear about a lakefront property owner's expectation of unfettered use/access and unobstructed view, etc. of the ML property immediately adjacent to his property. Is there a 'de facto' 30 foot or 50 foot easement? [specifically different from encroachment, as there may be none]. How do property lines and setbacks extend outward to the ML property/easement? Can there be 'joint' (overlapping; non-exclusive) easements? What are "all-user" privileges (if any) within an area of easement? Encroachment?

1. The natural shore line of Indian Lake shall not be altered, extended or diminished without a prior written encroachment permit from the Borough Council of Indian Lake or the Zoning Enforcement Officer as authorized under the provisions of this Ordinance.

2. All waterfront Structures must be kept in good repair and condition so as not to adversely affect the health, general well being, waterfront enjoyment, and visual appeal of the lake frontage as measured by a reasonable community standard. Failure to comply within 90 days after notification of violation will result in the removal of said Structures by the Borough using any means deemed appropriate by the Borough Council and the charges related to demolition and removal of the demolished Structure will be levied against the Lot owner and be due and payable within 30 days. Any fees related to collection costs for non-payment will also be the responsibility of the offending Lot owner.

3. Under no circumstances shall a docked Boat or personal watercraft encroach in front of an abutting owner's property. For this determination, an imaginary line will be drawn by extending a line out into the lake at ninety (90) degrees from the mean shoreline for a distance of thirty (30) feet.

B. PROVISIONS APPLICABLE TO OWNERS OF PROPERTY IN RESIDENTIAL (R-1) DISTRICTS

1. BOAT HOUSES

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(a) GENERAL

(1) Definition of a Boat House: Permanently installed Structure with a Roof that may be walled or un-walled.

(i) A walled boathouse may not encroach beyond the natural shoreline of the lake.

(ii) An un-walled boathouse may encroach into the lake beyond the natural shoreline of the lake but may not extend further than thirty (30) feet from the shoreline. Additionally, these Structures may not have any blinds or other type of vertically hanging material at the front, side or back that would create a visual impairment even if temporary. For inlet areas where the distance between opposing shorelines is less than ninety (90) feet, no party may build an un-walled boathouse that encroaches within fifteen (15) feet of the center of waterway so as to create a thirty (30) foot navigable right of way in the center of the inlet.

(iii) In no circumstance can a walled and an un-walled boathouse be constructed on the same single R-1 Lot.

(2) Boathouse width dimensions shall be measured from the outermost point of the Structure on one side to the outermost point of the Structure on the other side to include overhangs.

(3) Boathouse Height shall be measured from the normal pool level of the lake.

(4) In no circumstance shall the amount of Roof coverage for a single R-1 Lot with at least 90 feet of lake frontage exceed thirty-five (35) feet including overhangs. For multiple contiguous R-1 Lots with at least 180 feet of lake frontage, the maximum Roof coverage for all permit-able Structures shall not exceed sixty-six (66) total feet including overhangs subject to individual Structure width restrictions as noted elsewhere in this section of the Ordinance.

Comment [RWS48]: In width?

Comment [RWS49]: In width?

(b) SINGLE R-1 LAKE LOT WITH WATER FRONTAGE OF AT LEAST 90 FEET

(1) Walled Boathouse:

(i) Maximum Size for a walled boathouse is thirty-three (33) feet wide by thirty-six (36) feet deep

(ii) Maximum Height:

(a) Flat or Deck Type Roofs – Thirteen (13) feet as measured from the normal pool level of the lake to the highest point of the Roof or Deck surface. Where a Deck is constructed, Deck railing can be no higher than forty-two (42) inches from

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the Deck surface and must be of the see through type. Spindles may be no wider than two (2) inches and the spacing of the spindles must conform to the standard published in the International Residential Code (IRC)

(b) Pitched Roofs – Eighteen (18) feet as measured from the normal pool level of the lake to the peak of the Roof.

(c) For all other Roof styles, the pitch of the Roof may not exceed a 4/12 pitch and the Height of the peak may not exceed eighteen (18) feet.

(iii) Setback - Setback shall be a minimum of ten (10) feet from either side property line.

(2) Un-walled Boathouse

(i) Maximum Size for an un-walled boathouse is – Thirty-three (33) feet wide by thirty (30) feet deep but may not encroach into the lake by more than thirty (30) feet as specified in Section 2.A.1.b.

(ii) Maximum Height:

(a) Flat or Deck Type Roofs – Thirteen (13) feet as measured from the normal pool level of the lake to the highest point of the Roof or Deck surface. Where a Deck is constructed, Deck railing can be no higher than forty-two (42) inches from the Deck surface and must be of the see through type. Spindles may be no wider than two (2) inches and the spacing of the spindles must conform to the standard published in the International Residential Code (IRC)

(b) Pitched Roofs – Eighteen (18) feet as measured from the normal pool level of the lake to the peak of the Roof.

(c) For all other Roof styles, the pitch of the Roof may not exceed a 4/12 pitch and the Height of the peak may not exceed eighteen (18) feet.

(iii) Setback - Setback shall be a minimum of twenty (20) feet from either side property line where any portion of the Structure encroaches the natural shoreline and ten (10) feet from either side property line where no part of the Structure encroaches the natural shoreline into the ML zoning district.

(c) MULTIPLE CONTIGUOUS R-1 LAKE LOTS DEEDED AS ONE WITH WATER FRONTAGE OF AT LEAST 180 FEET

(1) Walled Boathouse:

(i) Maximum Size – Forty-seven (47) feet wide by thirty-six (36) feet deep

(ii) Height: Thirteen (13) feet for flat type Roof, Twenty (20) for pitch Roof not to exceed a 4/12 pitch.

(a) Flat or Deck Type Roofs – Thirteen (13) feet as measured from the normal pool level of the lake. Where a Deck is constructed, Deck railing can be no higher than forty-two (42) from the Deck surface and must be of the see through type. Spindles may be no wider than two (2) and the spacing of the spindles must conform to the standard published in the International Residential Code (IRC)

(b) Pitched Roofs – Twenty (20) feet as measured from the normal pool level of the lake to the peak of the Roof.

(c) For all other Roof styles, the pitch of the Roof may not exceed a 4/12 pitch and the Height of the peak may not exceed twenty (20) feet.

(iii) Setback - Setback shall be a minimum of ten (10) feet from either side property line of the multiple contiguous R-1 lake properties. There is no setback requirement from the side property line that is in common between the Contiguous Lots.

(2) Un-walled Boathouse:

(i) Maximum Size – Forty-seven (47) feet wide by thirty (30) feet deep

(ii) Height: Thirteen (13) feet for flat type Roof, twenty (20) feet for pitch Roof.

(a) Flat or Deck Type Roofs – Thirteen (13) feet as measured from the normal pool level of the lake. Where a Deck is constructed, Deck railing can be no higher than forty-two (42) inches from the Deck surface and must be of the see through

type. Spindles may be no wider than two (2) inches and the spacing of the spindles must conform to the standard published in the International Residential Code (IRC).

(b) Pitched Roofs – Twenty (20) feet as measured from the normal pool level of the lake to the peak of the Roof.

(c) For all other Roof styles, the Height of the peak may not exceed twenty (20) feet as measured from the normal pool level of the lake to the peak of the Roof.

(iii) Setback shall be a minimum of twenty (20) feet from either side property line where any portion of the Structure encroaches the natural shoreline into the ML zoning district and ten (10) feet from either side property line where no part of the Structure encroaches the natural shoreline into the ML zoning district.

## 2. BOAT LIFTS

### (a) GENERAL

(1) Definition - A temporary Structure installed for the purpose of lifting a Boat from the water when docked that is capable of removal that may or may not include a canopy. For purposes of this Ordinance, such Structures shall include drive-on style floating Structures. What about a boat lift in a boathouse? Boat Lifts is two words, boathouse is one word. Same comments apply in all sections.

(2) Measurement of Height - Boat Lift Height shall be measured from the normal pool level of the lake to the highest point of the portion of the lift, lift Structure, or the Boat when lifted.

(3) Maximum Size – The maximum size of a single boatlift shall be twelve (12) feet wide and thirty (30) feet in length. Where the lift includes a canopy, the canopy may overhang at the side by no more than one (1) foot on each side. For inlet areas where the distance between opposing shorelines is less than ninety (90) feet, no party may place a boatlift, which encroaches within fifteen (15) feet of the center of waterway so as to create a thirty (30) foot navigable right of way in the center of the inlet.

(4) Maximum Height – The maximum Height is twelve (12) feet.

**Comment [RFH50]:** Why, if height is OK? If to keep "clear view of others, so state. Many places...

**Deleted:** pitch of the Roof may not exceed a 4/12 pitch and the



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(b) SINGLE R-1 LAKEFRONT LOT WITH WATER FRONTAGE OF AT LEAST 90 FEET

(1) Maximum Number of Boat lifts allowed

(i) With a Boathouse on Property - Installation of Boat lifts are permitted provided that the total width of the boathouse and Boat lift or lifts does not exceed forty-seven (47) feet of total width including overhangs.

(ii) Without a Boathouse on Property - Installation of Boat lifts are permitted provided that the total width of the Boat lift or lifts does not exceed forty-eight (48) feet of total width including overhangs.

(2) Setback - Setback shall be a minimum of ten (10) feet from both side property lines.

(c) MULTIPLE CONTIGUOUS R-1 LAKE LOTS WITH WATER FRONTAGE OF AT LEAST 180 FEET

(1) Maximum Number of Boat lifts allowed

(i) With a Boathouse on Property - Installation of Boat lifts are permitted provided that the total width of the boathouse and Boat lift or lifts does not exceed sixty-one (61) feet of total width including overhangs.

(ii) Without a Boathouse on Property - Installation of Boat lifts are permitted provided that the total width of the Boat lift or lifts does not exceed sixty-one (61) feet of total width including overhangs.

(2) Setback - Setback shall be a minimum of ten (10) feet from both side property lines.

3. LAKE WALKWAYS (DOCKS)

(a) GENERAL PROVISIONS

(1) Definition: As defined in Section 202 of this Ordinance.

(2) Maximum Height of a Lake Walkway is four (4) feet as measured from the normal pool level of the lake.

(3) Maximum length that a Lake Walkway or Boat that is docked thereto may extend out over the water from the natural shoreline is thirty (30) feet. For inlet areas where the distance between opposing shorelines is less than ninety (90) feet, no party may build a Dock that encroaches within fifteen (15) feet of the center of waterway so as to create a thirty (30) foot navigable right of way in the center of the inlet.

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(4) The maximum width of a Lake Walkway that is constructed over the water is eight (8) feet for all districts. Where the Lake Walkway is parallel and attached to the natural shoreline, the width shall be considered the dimension that is perpendicular to the natural shoreline.

(5) Where more than one Lake Walkway extends out perpendicularly from the natural shoreline there must be at least six feet between the Lake Walkways.

(b) SINGLE R-1 LAKE LOT WITH WATER FRONTAGE OF AT LEAST 90 FEET

(1) Maximum combined width of all Lake Walkways (Docks) that extend out perpendicularly from the natural shoreline is eighteen (18) feet; however, no single Lake Walkway (Dock) can be wider than eight (8) feet.

(2) Setback - Setback shall be a minimum of ten (10) feet from either property line.

(c) MULTIPLE CONTIGUOUS R-1 LAKE LOTS WITH WATER FRONTAGE OF AT LEAST 180 FEET

(1) Maximum combined width of all Lake Walkways (Docks) that extend out from the natural shoreline is thirty-two (32) feet; however, no single Lake Walkway (Dock) can be wider than eight (8) feet.

(2) Setback - Setback shall be a minimum of ten (10) feet from either outside property line.

4. BOAT SLIPS

(a) GENERAL PROVISIONS

(1) Definition: A Boat Slip is an area dug out from the natural shoreline into the property of the owner for the docking of boats or personal watercraft.

(2) There is no maximum length for a Boat Slip.

(3) Setback - Setback shall be a minimum of 10 feet from either side property line.

(4) An encroachment permit, as required by Section 306, is required for construction of a Boat slip.

5. SEAWALLS

(a) GENERAL PROVISIONS

**Comment [RWS51]:** Why would we engage such a restriction in R-1? What is the need or purpose? [this differs from seawall-deck; this encroaches? It was 4-feet, changed to 8 to allow a decommissioned pontoon platform. Trying to preclude a 900sft 'deck' out on the water? Legislating common sense and etiquette is tough-RFH]

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- (1) Maximum Height of a Seawall is four (4) feet as measured from the normal pool level of the lake.
- (2) An encroachment permit is required for construction, modification, or repair of a seawall.

6. STORAGE LOCKERS

(a) GENERAL PROVISIONS

(1) Definition - A storage locker is defined as an enclosed Structure, which may not exceed thirty-two (32) square feet of floor space and may not exceed a Height of four (4) feet.

(2) Construction - Under no circumstance will a metal storage locker be permitted.

(3) Location - A storage Locker must be located as part of a boathouse, boatlift, Boat slip, permanent Lake Walkway or seawall. Under no circumstance may a storage locker be placed on any portion of a Lake Walkway (Dock) that extends over the water.

(b) SINGLE R-1 LAKE LOT WITH WATER FRONTAGE OF AT LEAST 90 FEET

(1) A maximum of one (1) Storage Locker is permitted.

(c) MULTIPLE CONTIGUOUS R-1 LAKE LOTS WITH WATER FRONTAGE OF AT LEAST 180 FEET

(1) A maximum of two (2) storage lockers are permitted.

C. PROVISIONS APPLICABLE TO OWNERS OF PROPERTY IN PARK (P1) DISTRICTS

(1) BOAT HOUSES

(a) GENERAL

(1) Definition of a Boat House: Permanently installed Structure with a Roof that may be walled or un-walled.

(i) A walled boathouse is not permitted on park waterfront Lots. Only un-walled boathouses are permitted on park Lots.

(ii) An un-walled boathouse may encroach into the lake beyond the natural shoreline of the lake consistent with the provisions of this section. Additionally, these Structures may not have any blinds or other type of vertically hanging material at the

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front, side or back that would create a visual impairment even if temporary. For inlet areas where the distance between opposing shorelines is less than ninety (90) feet, no party may build an un-walled boathouse that encroaches within fifteen (15) feet of the center of waterway so as to create a thirty (30) foot navigable right of way in the center of the inlet.

(2) Boathouse width dimensions shall be measured from the outermost point of the Structure on one side to the outermost point of the Structure on the other side to include overhangs.

(3) Boathouse Height shall be measured from the normal pool level of the lake.

(b) SINGLE PARK LOTS

(1) Maximum Size – The maximum size shall not exceed fifteen (15) feet wide and thirty (30) feet in length. An un-walled boathouse may be constructed to extend out into the lake but may not extend out into the lake further than thirty (30) feet from the natural shoreline or may encroach the natural shoreline into the park lot provided that a majority of other park lot owners provide a signed agreement for the encroachment as part of the permit application.

(2) Maximum Height:

(i) Flat Type Roofs – Thirteen (13) feet as measured from the normal pool level of the lake to the highest point of the Roof or Deck surface. Where a Deck is constructed, Deck railing can be no higher than forty-two (42) inches from the Deck surface and must be of the see through type. Spindles may be no wider than two (2) inches and the spacing of the spindles must conform to the standard published in the International Residential Code (IRC).

(ii) Pitched Roofs – Fifteen (15) feet as measured from the normal pool level of the lake to the peak of the Roof.

(iii) For all other Roof styles, the pitch of the Roof may not exceed a 4/12 pitch and the Height of the peak may not exceed fifteen (15) feet.

(3) Setback - Setback shall be a minimum of five (5) feet from either side property line.

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(c) MULTIPLE CONTIGUOUS PARK WATERFRONT LOTS DEEDED AS ONE OR A SINGLE PARK WATERFRONT LOT OF A MINIMUM OF 50' OF LAKE FRONTAGE

(1) Maximum Size – The maximum size is restricted to thirty (30) feet wide and thirty (30) feet in length. An un-walled boathouse may be constructed to extend out into the lake but may not extend into the lake further than thirty (30) feet from the natural shoreline or may encroach the natural shoreline into the park Lot provided that all other park lot owners provided that a majority of other park lot owners provide signed agreement for the encroachment as part of the permit application.

(2) Maximum Height:

(i) Flat Type Roofs – Thirteen (13) feet as measured from the normal pool level of the lake to the highest point of the Roof surface. Where a Deck is constructed, Deck railing can be no higher than forty-two (42) inches from the Deck surface and must be of the see through type. Spindles may be no wider than two (2) inches and the spacing of the spindles must conform to the standard published in the International Residential Code (IRC).

(ii) Pitched Roofs – Seventeen (17) feet as measured from the normal pool level of the lake to the peak of the Roof.

(iii) For all other Roof styles, the pitch of the Roof may not exceed a 4/12 pitch and the Height of the peak may not exceed seventeen (17) feet.

(3) Setback - Setback shall be a minimum of ten (10) feet from either side property line.

(2) BOAT LIFTS

(a) GENERAL

(1) Definition - A temporary Structure installed for the purpose of lifting a Boat from the water when docked that is capable of removal that may or may not include a canopy. For purposes of this Ordinance, such Structures shall include drive-on style floating Structures.

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(2) Measurement of Height - Boat Lift Height shall be measured from the normal pool level of the lake to the highest point of the portion of the lift, lift Structure, or the Boat when lifted.

(3) Maximum Size – The maximum size of a single boatlift shall be twelve (12) feet wide and thirty (30) feet in length. Where the lift includes a canopy, the canopy may overhang at the side by no more than one (1) foot on each side. For inlet areas where the distance between opposing shorelines is less than ninety (90) feet, no party may place a boatlift, which encroaches within fifteen (15) feet of the center of waterway so as to create a thirty (30) foot navigable right of way in the center of the inlet.

(4) Maximum Height – The maximum Height is twelve (12) feet.

(b) SINGLE PARK LOTS

(1) Maximum number of boatlifts allowed

(i) With an Un-Walled Boathouse on Property as Detailed in Subsection C of this Section - A boatlift is permitted within the confines of the un-walled boathouse. Installation of additional boatlifts for personal watercraft is permitted if no portion of the lift or personal watercraft encroaches on the adjoining property owner's docking area as defined by extending a line at ninety (90) degrees from the mean shore line for a distance of thirty (30) feet into the lake from the shoreline.

(ii) Without an Un-Walled Boathouse on Property - Installation of one twelve (12) foot boatlift is permitted. Installation of additional boatlifts for personal watercraft is permitted provided that no portion of the lift or personal watercraft encroaches on the lake frontage of an adjacent park Front Lot.

(2) Setback – The setback for a twelve (12) foot boatlift is one (1) foot from either side property line not including the overhang. In no case shall the overhang encroach the adjoining property owner's docking area as defined by extending a line at ninety (90) degrees from the mean shore line for a distance of thirty (30) feet into the lake from the shoreline.

(c) MULTIPLE CONTIGUOUS PARK WATERFRONT LOTS DEEDED AS ONE OR A SINGLE PARK WATERFRONT LOT OF A MINIMUM OF 50' OF LAKE FRONTAGE

(1) Maximum number of boatlifts allowed

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(i) With an Un-Walled Boathouse on Property as detailed in subsection C of this Section, Boat lifts are permitted within the confines of the un-walled boathouse. Additional Boat lifts for personal watercraft are permitted provided that no portion of the lift or personal watercraft encroaches the adjoining property owner's docking area as defined by extending a line at ninety (90) degrees from the mean shore line for a distance of thirty (30) feet into the lake from the shoreline.

(ii) Without an Un-Walled Boathouse on Property - Installation of two twelve (12) foot boatlifts is permitted provided setback requirements are met. Installation of additional boatlifts for personal watercraft is permitted if no portion of the lift or personal watercraft encroach the adjoining property owner's docking area as defined by extending a line at ninety (90) degrees from the mean shore line for a distance of thirty (30) feet into the lake from the shoreline.

(2) Setback – The setback for a twelve (12) foot boatlift is one (1) foot from either side property line not including the overhang. In no case shall the overhang encroach the adjoining property owner's docking area as defined by extending a line at ninety (90) degrees from the mean shore line for a distance of thirty (30) feet into the lake from the shoreline.

3. LAKE WALKWAYS (DOCKS)

(a) GENERAL PROVISIONS

(1) Definition: As defined in Section 202 of this Ordinance.

(2) Maximum Height of a Lake Walkway is four (4) feet as measured from the normal pool level of the lake.

(3) Maximum length that a Lake Walkway or Boat that is docked thereto may extend out over the water from the natural shoreline is thirty (30) feet. For inlet areas where the distance between opposing shorelines is less than ninety (90) feet, no party may build a Dock that encroaches within fifteen (15) feet of the center of waterway so as to create a thirty (30) foot navigable right of way in the center of the inlet.

(4) The maximum width of a Lake Walkway that is constructed over the water is eight (8) feet for all districts. Where the Lake Walkway is parallel and attached to the natural shoreline, the width shall be considered the dimension that is perpendicular to the natural shoreline.

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(5) Where more than one Lake Walkway extends out perpendicularly from the natural shoreline there must be at least six feet between the Lake Walkways.

(b) SINGLE PARK WATERFRONT LOTS

(1) Maximum combined width of all Lake Walkways (Docks) that extend out perpendicularly from the natural shoreline is eight (8) feet and no single Lake Walkway (Dock) can be wider than eight (8) feet.

(2) Setback – There is no setback requirement from either side property line; however, no boat may be docked so as to encroach into the adjoining property owner’s docking area as defined by extending a line at ninety (90) degrees from the mean shore line for a distance of thirty (30) feet into the lake from the shoreline.

(c) MULTIPLE CONTIGUOUS PARK WATERFRONT LOTS DEEDED AS ONE OR A SINGLE PARK WATERFRONT LOT WITH AT LEAST FIFTY (50) FEET OF LAKE FRONTAGE.

(1) Maximum combined width of all Lake Walkways (Docks) that extend out perpendicularly from the natural shoreline is sixteen (16) feet; however, no single Lake Walkway (Dock) can be wider than eight (8) feet.

(2) Setback - Setback shall be a minimum of ten (10) feet from either outside property line.

4. BOAT SLIPS

(a) GENERAL PROVISIONS

(1) Definition: A Boat Slip is an area dug out from the natural shoreline into the property of the owner for the docking of boats or personal watercraft.

(2) There is no maximum length for a Boat Slip provided that it does not extend back into the common area of the park unless the applicant presents signed authorization from a majority of the park lot owners.

(3) Setback - Setback shall be a minimum of two (2) feet from either property line.

(4) Where permitted, an encroachment permit, as required by Section 306, is required for construction of a Boat slip.

5. SEAWALLS



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(a) GENERAL PROVISIONS

- (1) Maximum Height of a Seawall is four (4) feet as measured from the normal pool level of the lake.
- (2) An encroachment permit as required by Section 306, is required for construction, modification, or repair of a seawall.

6. STORAGE LOCKERS

(a) GENERAL PROVISIONS

- (1) Definition - A storage locker is defined as an enclosed Structure, which may not exceed thirty-two (32) square feet of floor space and may not exceed a Height of four (4) feet.
- (2) Construction - Under no circumstance will a metal storage locker be permitted.
- (3) Location - A storage Locker must be located as part of a boathouse, boatlift, Boat slip, permanent Lake Walkway or seawall. In no circumstance may a storage locker be placed on any portion of a Lake Walkway (Dock) that extends over the water.
- (4) A maximum of one (1) Storage Locker is permitted.

D. PROVISIONS APPLICABLE TO OWNERS OF PROPERTY IN COMMERCIAL RECREATIONAL HOTEL (C-RH) DISTRICTS

**(1) COMMERCIAL DOCKING.** Docks used for Commercial Docking shall be constructed only on the 300 feet of remaining C-RH zoned lake frontage at the time of adoption of this Ordinance. The width of the Docks as constructed may not exceed eight (8) feet. For Commercial Boat Docks that extend beyond fifty feet from the shoreline, lighting shall be required to permit identification of the Dock Structure at night.

(a) Setback: Neither the docking structure nor a docked boat may encroach within ten feet of the side lines of the docking area to permit ingress and egress to the docking structure.

E. PROVISIONS APPLICABLE TO OWNERS OF PROPERTY IN COMMERCIAL MARINA (C-M) DISTRICTS

(1) COMMERCIAL DOCKING. Commercial Boat Docks shall not extend beyond one-hundred (100) feet from the natural shoreline. Commercial Boat Docks shall also be permitted on the lake side of the island and shall not extend further than forty feet

**Comment [R52]:** Do we want to restrict these to Indian Lake property owners i.e. "Docks used for Commercial Docking shall be restricted to Indian Lake property owners and constructed only.....". This is major bone of contention. I have heard many residents complain that they are being built to lease to outsiders. I have also heard Terry St. Clair say they are for his property owners. If we codify this it will take the fear away from the public.

**Deleted:** The docking area shall be determined as follows: from the southernmost corner of the frontage area, a line shall be established that is perpendicular to the existing natural shoreline and shall extend to a point not more than fifty (50) feet from the existing natural shoreline; the line shall proceed at ninety (90) degrees toward the northernmost end of the frontage area one-hundred and twenty-five (125) feet to a second point; from this point the line shall proceed directly to a point seventy (70) feet from the existing natural shoreline as measured perpendicularly from the northernmost corner of the frontage area. This specification as to the location of measurement specifically permits Docks to be constructed so as to take advantage of the natural recession of the shoreline in this area. Nothing in this section shall be construed to preclude encroachment of the existing natural shoreline provided that a valid encroachment permit is issued in accordance with the requirements of Article Three Section 306.

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from the island seawall. Commercial Boat Docks may not exceed eight (8) feet in width. For Commercial Boat Docks that extend beyond fifty feet from the natural shoreline, lighting shall be required to permit identification of the Commercial Boat Dock Structure at night.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE EIGHT  
PROVISIONS GOVERNING COMMERCIAL RESIDENTIAL HOTEL, COMMERCIAL RECREATIONAL GOLF AND  
COMMERCIAL MARINA DISTRICTS  
C-RH Commercial Residential Hotel

801. **USE**

The Commercial Residential Hotel District is intended to govern the traditionally mixed commercial, residential, and recreational Use land area within Indian Lake Borough; specifically, the area commonly known as the Indian Lake Lodge Area. For this area, any uses not conforming to this Ordinance but which are presently existing, or uses which conformed to the Borough Zoning Ordinance in effect when the permit for construction was issued, are considered Non-Conforming Uses that are accepted as prior existing uses under the provisions at Article IV, Section 409 of this Ordinance, and subject to the provisions at Article IV, Sections 409, 410, and 411 of this Ordinance pertaining to Continuance, Discontinuance and Alterations, Extensions or Enlargements. Additionally, uses subject to prior contractual commitments by the Borough are considered conforming for purposes of this Ordinance. The following Buildings and Structures may be erected or altered and the land used for the following purposes only, except where the proposed Use is consistent with the zoning classification or traditional uses existing within the zone:

**Comment [RFH53]:** Special Exceptions and Conditional Uses should be covered up in the 'base' sections rather than buried in 1002.

**Comment [RFH54]:** What are these??

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A. PERMITTED USES

1. Rental Recreational Equipment Sales and Service
2. Clubhouse
3. Restaurant and Lounge
4. Swimming Pool both Indoors and Outdoors.
5. Archery Range

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6. Tennis Courts and Incidental Accessory Uses both Indoor and Outdoor
7. Meeting Rooms and Lecture Halls
8. Professional Offices, Medical Clinics or General Business Offices where used in existing Buildings
9. Gift Shops where used in or attached to existing Structures.
10. Delicatessen or Retail Food Establishments when used in conjunction with, but not necessarily adjacent to a restaurant and used primarily for retail sales.
11. General Maintenance and Storage
12. Commercial Boat Docking
13. Condominium and Multiple Family Dwellings
14. Accessory uses customarily incidental to any of the above uses not detrimental to the general health, safety, and public welfare of the neighboring community.

B. HEIGHT. The maximum Height of any Building hereafter constructed, altered or enlarged shall be not more than two stories or thirty five (35) feet, whichever is the lesser.

C. LOT AND YARD AREAS.

1. Commercial Buildings. Commercial Buildings shall not be erected, enlarged, or altered except as consistent with the density provisions at Section 418 of this Ordinance as well as the provisions of this Section.

- (a) Front Yard - Not less than one hundred (100) feet.
- (b) Side Yard - Not less than fifty (50) feet where abutting a street or an alley, not less than fifteen (15) feet from any side property line.
- (c) Rear Yard - Not less than twenty five (25) feet.
- (d) Composite minimum width for both Side Yards – not less than thirty (30) feet at any point.

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(e) Wherever a commercial Building is built adjacent to any residential area, no portion of the Building may be closer than one hundred (100) feet to the property line at the nearest point of such residential district. Additionally, a landscaped buffer along the zone boundary must be planted and maintained by the C-RH property owner consisting of, but not limited to, trees, plants, shrubbery to a Height of ten feet from the mean ground Height, with density sufficient to provide a partially opaque visual buffer from the adjacent residential Structures.

2. Condominium and Multi-Family Dwellings. Condominium and Multi-Family Dwellings shall not be erected, enlarged, or altered except as consistent with the provisions of this section. For provisions of this section, lot lines will be measured using the commonly owned property whether or not conveyed by the developer.

(a) Front Yard: For Lots where the Front Yard abuts the street, the Set Back for the contiguous Condominium or Multi-Family Dwelling shall be no less than twenty-five (25) feet from the common property Lot Line bordering the street. Where the Front Yard abuts the lake front, the Set Back shall be no less than one hundred (100) feet from the common property Lot Line bordering the lake shoreline.

(b) Rear Yard: In all cases the Set Back for the contiguous Condominium or Multi-Family Dwelling shall be no less than twenty five (25) feet from the common property Rear Lot Line.

(c) Side Yard: Not less than ten (10) feet from the contiguous Condominium or Multi-Family Dwelling at any point along the common property side property line and not less than twenty-five feet from the closest Building.

(d) Composite minimum width for both side Yards – not less than twenty (20) feet at any point.

D. EXTERNAL BOAT STORAGE.

1. Boats may be stored within the commonly owned property or within the undeveloped portion of the Zoning District provided they have a current Pennsylvania Boat Registration; and

2. Where boats are stored on a trailer, the trailer must have a valid Pennsylvania registration.

E. SPECIAL PERMIT REQUIREMENTS.

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1. Prior to issuance of Zoning clearance of a permit application submitted and reviewed in accordance with Article IX, section 902, the following additional information must be submitted to the Zoning Enforcement Officer.

(a) **Traffic Study-Must** include a comparative analysis of present capacity of street(s) adjacent to proposed business with potential capacity and volume generated by the proposed business together with off street parking adequate for the maximum potential predicted plus off-street loading where such loading is required by the business.

**Comment [RFH55]:** ??? Very burdensome with unclear benefit.

(b) Landscape Development Plan-Must include a plan of landscaping which shall have a distance of at least five (5) feet in width along all streets and walks, with exception of entrances, to be planted with trees, shrubbery and/or other landscape material or an ornamental Fence or wall serving as a visual Screen for parking, loading and service areas. In addition a landscaped Screen must be provided whenever the property abuts a residential area including a residential area separated by a street.

(c) A Site Plan which may include the landscape plan together with the location, size and design of all Signs which are proposed to be installed. Any Signs must conform to the conditions of Signs contained in other sections of this Ordinance.

(d) Other Permits-Copies of all other permits which may be required by various health, safety or other similar regulatory bodies must be submitted and accompany applications for a Building or occupancy permit as defined in Article IX, Section 903 of this Ordinance.

C-M Commercial Marina

802. **USE**

**Comment [RFH56]:** Special Exceptions and Conditional Uses should be covered up in the 'base' sections rather than buried in 1002.

In this District, the land may be used and the following Buildings and Structures may be erected for the following purposes only, **except where the proposed Use is consistent with the zoning classification or traditional uses existing within the zone:**

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A. PERMITTED USES.

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1. Commercial Docking, Boat repair, sales, service and temporary external Boat parking for maintenance, external parking of boats to display for sale and inside or external storage of boats

2. External Boat Storage. Where boats are stored outside for purposes of winter storage or long term storage; defined as a period longer than seven (7) months, the following provisions shall apply. Boats shall not sit by roadways for 7 months.

(a) boats must be shrink wrapped; Why, borough's boat is not shrink wrapped

(b) boats must be stored in an area Screened from public view, either by natural or manmade Screening or Fencing as approved by the Zoning Enforcement Officer. Fencing necessary to comply with this section shall be exempt from the Height requirements of Article Twelve, Section 1202 of this Ordinance but shall not exceed eight (8) feet in Height. All other provisions of Article Twelve, Section 1202 shall apply;

(c) boats to be stored must have a current Pennsylvania Boat License; and

(d) where boats are stored on a trailer, the trailer must have a valid Pennsylvania registration.

2. Incidental retail sales to the above uses including boating and recreational supplies, delicatessen items, ice cream, and beverages for sale to the boating customers.

3. Sales of gasoline and oil for boats.

4. Professional offices where used in existing Buildings.

B. HEIGHT. The maximum Height of Buildings hereafter erected, altered or enlarged shall be two stories or thirty five (35) feet, whichever is the lesser, with the exception of Buildings used for rack storage of boats which may not be higher than those rack storage Buildings already in existence.

C. LOT AND YARD AREAS. Commercial Buildings shall not be erected, enlarged or altered except as consistent with the density provisions at Section 418 of this Ordinance as well as the provisions of this Section.

1. Front Yard - Not less than thirty (30) feet.

**Comment [R57]:** Why? Many boat owners have purchased covers that are more than adequate. This should be struck and left to the discretion of the Marina and the boat owner.

**Comment [RWS58]:** Why needed??

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2. Side Yard - Not less than fifty (50) feet where abutting a street or an alley, not less than fifteen (15) feet from any side property line.
3. Rear Yard - Not less than twenty five (25) feet.
4. Composite minimum width for both Side Yards – not less than thirty (30) feet at any point.
5. Wherever a commercial Building is built adjacent to any residential area, no portion of the Building may be closer than one hundred (100) feet to the property line at the nearest point of such residential district. Additionally, a landscaped buffer along the zone boundary must be planted and maintained by the C-M property owner consisting of, but not limited to, trees, plants, shrubbery to a Height of ten feet Is this a max or a min height? from the mean ground Height, with density sufficient to provide a partially opaque visual buffer from the adjacent residential Structures.

D. SPECIAL PERMIT REQUIREMENTS:

1. Prior to issuance of Zoning clearance of a permit application submitted and reviewed in accordance with Article IX, section 902, the following additional information must be submitted to the Zoning Enforcement Officer.
  - (a) Traffic Study-Must include a comparative analysis of present capacity of street(s) adjacent to proposed business with potential capacity and volume generated by the proposed business together with off street parking adequate for the maximum potential predicted plus off-street loading where such loading is required by the business.
  - (b) Landscape Development Plan-Must include a plan of landscaping which shall have a distance of at least five (5) feet in width along all streets and walks, with exception of entrances, to be planted with trees, shrubbery and/or other landscape material or an ornamental Fence or wall serving as a visual Screen for parking, loading and service areas. In addition a landscaped Screen must be provided whenever the property abuts a residential area including a residential area separated by a street.
  - (c) A Site Plan which may include the landscape plan together with the location, size and design of all Signs which are proposed to be installed. Any Signs must conform to the conditions of Signs contained in other sections of this Ordinance.



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(d) Other Permits-Copies of all other permits which may be required by various health, safety or other similar regulatory bodies must be submitted and accompany applications for a Building or occupancy permit.

C-RG Commercial Recreational Golf

803. **USE**

The Commercial Recreational Golf District is intended to govern the two golf course areas within Indian Lake Borough; specifically, the private Peninsula Golf Course Area, and the Public Golf Course Area near the Indian Lake Lodge. For these areas, any uses not conforming to this Ordinance but which are presently existing, or uses which conformed to the Borough Zoning Ordinance in effect when the permit for construction was issued, are considered Non-Conforming Uses that are accepted as prior existing uses under the provisions at Article IV, Section 409 of this Ordinance, and subject to the provisions at Article IV, Sections 409, 410, and 411 of this Ordinance pertaining to Continuance, Discontinuance and Alterations, Extensions or Enlargements. Additionally, uses subject to prior contractual commitments by the Borough are considered conforming for purposes of this Ordinance. The following Buildings and Structures may be erected or altered and the land used for the following purposes only, except where the proposed Use is consistent with the zoning classification or traditional uses existing within the zone.

**Comment [RFH59]:** Many Uses from C-R are removed. Have we cleared this with respective owners?

**Comment [RFH60]:** Special Exceptions and Conditional Uses should be covered up in the 'base' sections rather than buried in 1002.

**Comment [RFH61]:** What are these??

**Formatted:** Highlight

A. PERMITTED USES

1. Golf Course and Driving Range
2. Golf Pro-Shop
3. Golf Cart Storage Building
4. Golf Course Maintenance Building
5. Golf Cart Rental and Golf Equipment Sales and Service
6. Clubhouse to include delicatessen or retail food establishments when used in conjunction with, but not necessarily adjacent to any other Structure engaged in a permitted Use under this section.
7. Meeting Rooms
8. Professional Offices where used in existing Buildings

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9. Gift Shops were used in or attached to Structures permitted under this section or existing Structures.

10. Accessory uses customarily incidental to any of the above uses and consistent with the nature of the zoning classification and not detrimental to adjacent residential zones.

B. HEIGHT. The maximum Height of any Building hereafter constructed, altered or enlarged shall be not more than two stories or thirty five (35) feet, whichever is the lesser.

C. LOT AND YARD AREAS. No Building shall be hereafter erected, enlarged or altered except as consistent with the density provisions at Section 418 of this Ordinance as well as the provisions of this Section.

1. Front Yard - Not less than one hundred (100) feet.

2. Side Yard - Not less than fifty (50) feet where abutting a street or an alley, not less than fifteen (15) feet from any side property line.

3. Rear Yard - Not less than twenty five (25) feet.

4. Wherever a commercial Building is built adjacent to any residential area, no portion of the Building may be closer than one hundred (100) feet to the property line at the nearest point of such residential district. Additionally, a landscaped buffer along the zone boundary must be planted and maintained by the C-RG property owner consisting of, but not limited to, trees, plants, shrubbery to a Height of ten feet Is this a max or a min height? from the mean ground Height, with density sufficient to provide a partially opaque visual buffer from the adjacent residential Structures.

D. SPECIAL PERMIT REQUIREMENTS:

2. Prior to issuance of Zoning clearance of a permit application submitted and reviewed in accordance with Article IX, section 902, the following additional information must be submitted to the Zoning Enforcement Officer.

(a) Traffic Study-Must include a comparative analysis of present capacity of street(s) adjacent to proposed business with potential capacity and volume generated by the proposed business together with off street parking adequate for the maximum potential predicted plus off-street loading where such loading is required by the business.

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(b) Landscape Development Plan-Must include a plan of landscaping which shall have a distance of at least five (5) feet in width along all streets and walks, with exception of entrances, to be planted with trees, shrubbery and/or other landscape material or an ornamental Fence or wall serving as a visual Screen for parking, loading and service areas. In addition a landscaped Screen must be provided whenever the property abuts a residential area including a residential area separated by a street.

(c) A Site Plan which may include the landscape plan together with the location, size and design of all Signs which are proposed to be installed. Any Signs must conform to the conditions of Signs contained in other sections of this Ordinance.

(d) Other Permits-Copies of all other permits which may be required by various health, safety or other similar regulatory bodies must be submitted and accompany applications for a Building or occupancy permit.

ZONING ORDINANCE NO.  
INDIAN LAKE BOROUGH  
ARTICLE NINE  
ADMINISTRATION AND ENFORCEMENT

901. ZONING OFFICER

A. ZONING ENFORCEMENT. A Zoning Enforcement Officer shall be appointed by the Council of the Borough of Indian Lake to administer and enforce this Zoning Ordinance. This Zoning Enforcement Officer shall not hold any elective office in the municipality. The Zoning Enforcement Officer shall administer this Ordinance in accordance with its literal terms and shall not have the power to permit any construction, Use or change of Use which does not conform to the Zoning Ordinance.

B. DUTIES AND POWERS OF THE ZONING ENFORCEMENT OFFICER. It shall be the duty of the Zoning Enforcement Officer to enforce literally the provisions of this Ordinance, as amended, and the Zoning Enforcement Officer shall have such duties and powers as are conferred by this Ordinance and as are reasonably implied for that purpose. The Zoning Enforcement Officer's duties shall include but are not limited to the following:

1. Receive applications for and issue permits, and be authorized to sign permits. For Building Permits and any other permit application where review and grant of a permit is required by ~~the Building Code Official~~, the Zoning Enforcement Officer is permitted to grant Zoning Approval as a component of the permit package that is sent to the Building Code Official.

**Deleted:** Somerset County Building Inspections

2. Keep an official record of all applications, disposition thereof and all activities pertaining thereto including all complaints of zoning or permit violations and of the actions taken consequent to each complaint. File copies of all permits issued, reports and inspections made in connection with any Structure, Building, Sign or land shall be retained as long as they remain in existence plus seven years or seven years whichever is longer.

3. Make inspections as required to fulfill the duties. The Zoning Enforcement Officer shall have the right to enter any Building or Structure and enter upon any land in the course of duties.

**Deleted:** at any reasonable hour

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4. Issue permits for Special Exceptions and Variances only after such uses and or Buildings have been approved by the Zoning Hearing Board in accordance with the provisions of Article Ten of this Ordinance.

5. Be responsible for keeping the Borough copy of this Ordinance and the Zoning District Map up to date as to include any amendments thereto.

C. NOTICE OF VIOLATIONS. The Zoning Enforcement Officer shall upon discovery of a violation of this Ordinance initiate enforcement proceedings by sending a notice to the person, firm, corporation or partnership responsible for violating any of the provisions of this Ordinance, or in violation of a detailed statement or plan approved hereunder. Notice of such violation shall be in writing and shall contain at least the following:

1. The name of the owner of record and any other person against whom the municipality intends to take action.
2. The location of the property in violation.
3. The specific violation with a description of the requirements that have not been met, citing in each instance the applicable provisions of the Ordinance.
4. The date before which the steps for compliance must be commenced and the date before which the steps must be completed.
5. That the recipient of the notice has the right to appeal to the Zoning Hearing Board within a prescribed period of time in accordance with the provisions set forth in the Ordinance.
6. That failure to comply with the notice within the time specified unless extended by appeal to the Zoning Hearing Board constitutes a violation with possible sanctions clearly described.

902. BUILDING PERMIT

No Building, Structure or Sign shall be erected, constructed, moved, added to or structurally altered nor shall any land be put to Use without a permit thereto issued by the Zoning Enforcement Officer or Building Code Official, or the Department of

**Comment [R62]:** Add 6. Zoning Officer shall operate in a manner that promotes the General Welfare of the Community and will provide cooperative assistance to property owners who avail themselves of the office.

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Environmental Protection as applicable. No such permit shall be issued except in conformity with the provisions of this Ordinance or other applicable Regulation and upon written order from the Zoning Hearing Board or the Building Code Official as applicable in the form of an Administrative Review, Special Exception or Variance as provided by this Ordinance or by the Court.

A. FORM OF APPLICATION. All applications shall be made in writing in such form as the Zoning Enforcement Officer shall prescribe and shall be accompanied by two sets of plans showing the following information:

1. Actual dimensions and shape of the Lot to be built upon.
2. The exact size and location on the Lot of the Building, Structure or Signs existing and/or proposed thereto as staked out upon the ground by the applicant or his engineer or contractor. The drawing must also show the Height of the Building, Structure or Sign.
3. The methods of sewage disposal together with a copy of the sewage enforcement officer's or DEP permit with the location of the system staked out upon the ground.
4. Location and size of parking spaces together with their location staked out upon the ground.
5. Where required by the Department of Environmental Protection, a soil and sediment erosion control plan shall also be submitted. Where Department Approval is required, the approval must be submitted prior to the grant of any permit.
6. All other information necessary for the Zoning Enforcement Officer to determine conformance with the Zoning Ordinance.
7. Where review and approval of a permit application is required by the Building Code Official, the Zoning Enforcement Officer must grant Zoning Approval prior to the submission of a permit application to the Building Code Official. Where such review and approval is required, an application form provided by the Building Code Official must be completed and approved as evidenced by Building Code Official's grant of a permit by prior to the initiation of construction.
8. Encroachment Permits - Where review and approval of a permit application is required by the Department of Environmental Protection (DEP) relevant to Chapter 105 compliance pertaining to encroachments into the waterways of Indian Lake,

Comment [R63]: ?? for real or on the drawing??

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the Zoning Enforcement Officer must grant pre-application Zoning Clearance prior to the submission of a permit application to DEP. Once DEP approval is granted, and where permitting by the Building Code Official is required, the permit application will be forwarded to the Zoning Enforcement Officer who will verify compliance of the Structure as approved by DEP with the provisions of Section 703 of this Ordinance prior to submission of the application to the Building Code Official for issuance of a Building permit. Where a permit from the Building Code Official is not required, the Zoning Enforcement Officer shall, consistent with the provisions of section 703, be required to issue an encroachment permit prior to the initiation of construction.

B. PROCEDURES TO BE FOLLOWED.

1. One copy of the plans shall be returned to the applicant by the Zoning Enforcement Officer for his or her records.
2. One copy of the plans shall be retained by the Zoning Enforcement Officer for the Borough's permanent records.
3. Where permitting is required by the Building Code Official, the permit applicant shall forward one copy of the pre-application Zoning Approval along with the appropriate application and fee to the Building Code Official.
4. The Borough's determination shall be issued or refused within thirty (30) calendar days from the date that the application is received. In case of refusal, the applicant shall be informed of his right of appeal to the Zoning Hearing Board. Where an approval or refusal is not issued within the allotted time period, the application shall be deemed approved.

C. EXPIRATION OF BUILDING PERMIT. A Building Permit issued by the Borough shall expire within ninety (90) days of issuance if the work described in the permit has not commenced. In any case, all Building permits issued by the Borough shall expire one year from date of issuance, unless application for extension is filed prior to expiration. An extension may be approved for up to one (1) additional year upon a showing of good cause. Where construction is incomplete at the conclusion of the extension period, this shall constitute a violation subject to Enforcement Remedies as provided at Section 906 of this Ordinance. Upon a notice of violation, the permit holder can remediate the violation upon submission of a new Building permit application and payment of appropriate fees within thirty days of the Notice of Violation and completion of planned construction within one year of the granting of the new permit. No extension shall be permitted of this new permit.

**Comment [RFH64]:** Zoning; make consistent elsewhere.

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903. CERTIFICATE OF USE AND OCCUPANCY

A Certificate of Use and Occupancy issued by the Zoning Enforcement Officer shall be required upon the completion of any permitted work to ensure that the Use, Structure, Building or any other activity for which a permit is required under this Ordinance conforms with the requirements of this Ordinance. Where a permit is required from the Building Code Official, a Certificate of Use and Occupancy from the Building Code Official shall **also** be required upon the completion of the permitted construction to ensure compliance with the applicable Building Code. It shall be unlawful to use and/or to occupy any Structure, Building and/or land portions thereof in any manner until such a Certificate has been issued by both the Zoning Enforcement Officer and/or Building Code Official as applicable.

**Comment [RFH65]:** Note; 2 required

A. FORM OF APPLICATION. The application for the Occupancy Certificate shall be in such a form as the Zoning Enforcement Officer and/or the Building Code Official, as applicable, may require.

**Deleted:** Somerset County Building Inspections

B. ISSUANCE OF CERTIFICATE. The Zoning Enforcement Officer shall inspect the subject matter of the permit and shall determine its conformity with this Ordinance. The Building Code Official shall validate conformance of the subject matter of the permit for conformance with the applicable Building Code where such inspections are required. Where a Certificate of Use and Occupancy is required by the Zoning Enforcement Officer, it shall be the responsibility of the permittee to schedule an inspection with the Zoning Enforcement Officer no later than thirty (30) calendar days from the date of completion of work contemplated by the applicable permit. The Zoning Enforcement Officer is obligated to conduct an appropriate inspection and either issue or refuse a Certificate of Use or Occupancy within ten (10) working days of the date of application provided that the permittee allows the Zoning Enforcement Officer a reasonable opportunity to conduct such an inspection within that ten (10) day period.

C. NON-COMPLIANCE. Occupancy of a Structure requiring an Occupancy Permit consistent with this Section without first obtaining such a Permit shall be deemed a violation subject to the Enforcement Remedies as permitted by Article IX, Section 906 of this Ordinance.

**Deleted:** Use

904. SCHEDULE OF FEES

Each application for a Permit shall be accompanied with cash, a check or money order payable to the Borough of Indian Lake in accordance with the schedule of fees as has been set by the Borough which schedule is on file at the Borough office. For Permits requiring review and approval by the Building Code Official, consult the fee schedule established by the Building Code Official for applicable permit application fees.

A. REFUNDS. Payment of permit fees does not obligate the Zoning Enforcement Officer or the Borough of Indian Lake to grant a permit to the applicant. There shall be no refunds for Building Permit fees regardless of whether permit is issued or denied.

905. CAUSES OF ACTION

In case any Building, Structure, landscaping is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the governing body or with the approval of the governing body, an officer of the municipality, or any aggrieved owner or tenant of real property who shows that his property or person will be substantially affected by the alleged violation, in addition to other remedies, may institute any appropriate action or proceeding to prevent, restrain, correct or abate such Building, Structure, landscaping or land, or to prevent in or about such premises, any act, conduct, business or Use constituting a violation. When any such action is instituted by a Landowner or tenant, notice of that action shall be served upon the municipality at least thirty (30) days prior to the time the action is begun by serving a copy of the complaint on the governing body of the municipality. No such action may be maintained until such notice has been given.

Deleted: d

906. ENFORCEMENT REMEDIES

A. GENERAL: Any person, partnership, corporation or organization which shall violate the provisions of this Ordinance shall upon being found liable therefore in a civil enforcement proceeding commenced by the municipality, pay a judgment of not more than

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\$500.00 plus all court costs including a reasonable attorney's fee incurred by the municipality as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of determination of a violation by the district judge. If the defendant neither pays nor timely appeals the judgment, the municipality may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation, unless the district judge, determining that there has been a violation, further determines that there was good faith basis for the person, partnership, or corporation violating the Ordinance to have believed that there was no such violation, in which event there shall be deemed to have been only one such violation until the fifth day following the date of determination of a violation by the district judge and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of zoning ordinances shall be paid over to the Borough.

B. **TREE CUTTING.** Any person, partnership, corporation, entity, organization, or legal person who violates the provisions of Article IV, Section 415 of this Ordinance by cutting a tree three (3) inches in diameter as measured at a point two (2) feet above the level of the ground without having obtained a permit from the Zoning Enforcement Officer shall be guilty of a summary offense, and upon conviction thereof shall be fined \$250.00 for each tree cut or removed in violation of Article IV, Section 415 of this Ordinance.

C. The court of common pleas, upon petition, may grant an order of stay upon cause shown tolling the per diem fine pending a final adjudication of the violation and judgment.

D. Nothing contained in this section shall be construed or interpreted to grant to any person or entity other than the municipality the right to commence any action for enforcement pursuant to this section.

**907. CHANGES AND AMENDMENTS** The words land owner and applicant, and municipality and borough, are used interchangeably.

Whenever it shall be deemed desirable in order to meet the public needs, promote the general convenience and welfare, conform with good zoning practices, correct errors, and in furtherance of the intent and purpose of this Ordinance, and adhere to the

**Comment [RFH66]:** Stiff fine for a potentially illegal requirement...

**Comment [RFH67]:** 907 thru 913; Need to make consistent with MPC; sections of MPC left out...

guiding plans and principles and the community objectives, ~~or after report thereon by the Planning Commission and subject to the procedures outlined herein amend, supplement, or change the provisions of this Ordinance.~~ Curative amendments may be enacted in the following manner:

A. PROCEDURE FOR LANDOWNER CURATIVE AMENDMENTS.

1. A Landowner who desires to challenge on substantive grounds the validity of this zoning Ordinance or map or any provision thereof, which prohibits or restricts the Use or development of land in which he has an interest may submit a curative amendment to the governing body with a written request that his challenge and proposed amendment be heard and decided as provided in section 1116.1 of this Ordinance. The Borough Council shall commence a hearing thereon within 60 days of the request as provided in section 1116.1 of this Ordinance. The curative amendment and challenge shall be referred to the planning agency or agencies as provided in subsection C of this section and notice of the hearing thereon shall be given as provided in subsection D of this section and section 1116.1 of this Ordinance.

2.(a) The hearing shall be conducted in accordance with section 1108 of this Ordinance and all references therein to the Zoning Hearing Board shall, for purposes of this section be references to the Indian Lake Borough Council: provided, however, that the provisions of section 1108 (a)(2) and (i) shall not apply and the provisions of section 1116.1 shall control. If a municipality does not accept a Landowner's curative amendment brought in accordance with this subsection and a court subsequently rules that the challenge has merit, the court's decision shall not result in a declaration of invalidity for the entire zoning Ordinance and map, but only for those provisions which specifically relate to the Landowner's curative amendment and challenge.

(b) The first hearing before the Board or hearing officer shall be commenced within 60 days from the date of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days,

**Comment [RWS68]:** Should be taken out. Put the Planning Commission back into the process and keep them there.

**Deleted:** the Borough of Indian Lake may by Ordinance on its own motion

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including the first hearing. Persons opposed to the application shall complete the presentation of their opposition to the application within 100 days of the first hearing held after the completion of the applicant's case-in-chief. An applicant may, upon request, be granted additional hearings to complete his case-in-chief provided the persons opposed to the application are granted an equal number of additional hearings. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

3. The governing body of a municipality which has determined that a validity challenge has merit may accept a Landowner's curative amendment, with or without revision, or may adopt an alternative amendment which will cure the challenged defects. The governing body shall consider the curative amendments, plans and explanatory material submitted by the Landowner and shall also consider:

- (a) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;
- (b) if the proposal is for a residential Use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;
- (c) the suitability of the site for the intensity of Use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;
- (d) the impact of the proposed Use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and
- (e) the impact of the proposal on the preservation of Agriculture and other land uses which are essential to public health and welfare.

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B. PROCEDURE FOR MUNICIPAL CURATIVE AMENDMENTS. If the municipality determines that this zoning Ordinance or any portion thereof is substantially invalid, it shall take the following actions:

1. The Borough Council shall declare by formal action, this zoning Ordinance or portions thereof substantively invalid along with the rationale for such a declaration and propose to prepare a curative amendment to overcome such invalidity. Within thirty (30) days following such declaration and proposal the governing body of the municipality shall:

(a) By resolution make specific findings setting forth the declared invalidity of the zoning Ordinance which may include:

- (1) references to specific uses which are either not permitted or not permitted in sufficient quantity;
- (2) reference to a class of Use or uses which require revision; or
- (3) reference to the entire Ordinance which requires revisions.

(b) Begin to prepare and consider a curative amendment to the zoning Ordinance to correct the declared invalidity.

2. Within 180 days from the date of the declaration and proposal, the municipality shall enact a curative amendment to validate, or reaffirm the validity of, its zoning Ordinance pursuant to the provisions of the Municipalities Planning Code, as amended, 53 P.S. §10609 in order to cure the declared invalidity of the zoning Ordinance.

3. Upon the initiation of the procedures, as set forth in subsection (B)(1) of this section, the governing body shall not be required to entertain or consider any Landowner's curative amendment filed under section 907.A of this Ordinance nor shall the Zoning Hearing Board be required to give a report requested under section 1109.1 or 1116.1 subsequent to the declaration and proposal based upon the grounds identical to or substantially similar to those specified in the resolution required by subsection (B)(1)(a) of this section. Upon completion of the procedures as set forth in subsection (B)(1) and (2) of this section, no rights to a cure pursuant to the provisions of subsection (B)(1) of this section and section 1116.1 of this Ordinance shall, from the date of the declaration and proposal, accrue to any Landowner on the basis of the substantive invalidity of the unamended zoning Ordinance for which there has been a curative amendment pursuant to this section.

**Comment [R69]:** Should the curative amendment be sent to the Planning Commission for consideration here (at this point in time)?

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4. A municipality having utilized the procedures as set forth in subsection (B)(1) and (2) of this section may not again utilize said procedure for a 36-month period following the date of the enactment of a curative amendment, or reaffirmation of the validity of its zoning Ordinance, pursuant to subsection B.2 of this section; provided, however, if after the date of declaration and proposal there is a substantially new duty or obligation imposed upon the municipality by virtue of a change in statute or by virtue of a Pennsylvania Appellate Court decision, the municipality may utilize the provisions of this section to prepare a curative amendment to its Ordinance to fulfill said duty or obligation.

C. CORRECTIONS AND AMENDMENTS OTHER THAN CURATIVE AMENDMENTS. The Borough Council may on its own motion, or upon the advice of the Planning Commission, or upon the petition of 51% of the Landowners within the Borough, enact corrections or other non-curative amendments to this Ordinance provided that the requirements of subsections D and E of this Section and Section 909 of this Ordinance are satisfied.

D. PRELIMINARY ACTIONS BY THE BOROUGH COUNCIL. Upon receipt of a petition for changes to the Zoning Ordinance as permitted by this section, the Council shall conduct a preliminary review of the information submitted for sufficiency. Where sufficient information is submitted, it shall forward the petition to the Indian Lake Planning Commission for review and recommendation. Where the petition is deemed deficient, the petition shall be returned to the petitioner with a letter identifying the deficiencies.

E. PUBLICATION, ADVERTISEMENT AND AVAILABILITY OF ORDINANCES.

1. Proposed amendments shall not be enacted unless notice of the proposed enactment is given in the manner set forth in this section, and shall include the time and place of the meeting at which passage will be considered, a reference to a place within the municipality where copies of the proposed Ordinance or amendment may be examined without charge or obtained for a charge as permitted by governing law.

2. In the event substantial amendments are made in the proposed Ordinance or amendment subsequent to publication in accordance with subsection D.1 of this section, before voting upon enactment, the governing body shall, at least ten days prior to

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enactment, re-advertise, in one newspaper of general circulation in the municipality, a brief summary setting forth all the provisions in reasonable detail together with a summary of the amendments.

3. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

908. PETITION FOR MAP CHANGE

A. FORM AND CONTENT. Petitions for changes of district boundaries or reclassification of districts as shown on the Zoning District Map shall be made to the Borough Council in an original and two (2) copies only as permitted under the provisions of this section. A narrative description shall be submitted which states the reasons for such changes, shall define the limits of the change and state the specific Use contemplated for the land area to be changed. A map and/or preliminary site plan of the area to be rezoned shall also be submitted to the Council for reference and review.

Deleted: Official Zoning Map

B. PRELIMINARY ACTIONS BY THE BOROUGH COUNCIL. Upon receipt of a petition for changes of district boundaries, reclassification of districts as shown on the Zoning District Map, as permitted by this section, the Borough Secretary shall conduct a preliminary review of the information submitted for sufficiency and shall record the application date in a log for that purpose. Where sufficient information is submitted, the Borough Secretary shall forward a copy of the petition to each member of the Indian Lake Planning Commission electronically or by US Mail less attachments where the attachments cannot be reasonably copied, for review and recommendation. The original petition with attachments shall be available to the Planning Commission for review in the Borough Office. Where the petition is deemed deficient, the petition shall be returned to the petitioner with a letter identifying the deficiencies. The Borough Secretary shall report the receipt of the petition and the disposition thereof at the next regularly scheduled meeting of the Borough Council.

Deleted: Official Zoning Map

C. ACTIONS BY THE BOROUGH PLANNING COMMISSION. Upon receipt of a petition from the Borough Council, and after the facts, data and information from the petition are reviewed and studied by the Borough Planning Commission, the



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Commission shall within fifteen (15) days after the first regularly scheduled meeting following receipt of the petition from the Borough Secretary, submit the petition with its recommendations to the Borough Council. Recommendations may be to approve the petition as submitted or to refuse the petition. Where there is a recommendation for refusal, the Planning Commission shall provide its rationale. The recommendations of the Planning Commission are advisory only and the failure of the Planning Commission to provide its recommendation within the time permitted by this subsection shall be deemed to be a recommendation for approval.

Comment [RFH70]: 30

909. ACTION BY THE INDIAN LAKE BOROUGH COUNCIL ON PETITION FOR MAP CHANGE, CURATIVE OR NON-CURATIVE AMENDMENT

A. PUBLICATION AND PUBLIC NOTICE.

1. Proposed curative or non-curative amendments (amendments) or map changes shall not be enacted unless published in the manner set forth in this section to include a reference to a place within the municipality where copies of the proposed ordinance or amendment may be examined without charge or obtained for a charge permitted by applicable law. The Borough shall publish the proposed amendment or map change and the date and time of the Public Hearing where the public may provide comment and where the Borough may consider enactment at least once in one newspaper of general circulation in the municipality at the time of publication and not more than sixty (60) calendar days nor less than seven (7) calendar days prior to the Public Hearing. Publication of a proposed amendment shall include either the full text thereof or the title and a brief summary, prepared by the Borough solicitor and setting forth all the provisions in reasonable detail. Publication of a proposed map change shall include a narrative description of the change as prepared by the Borough Solicitor. In the case of an amendment where the full text is not included or a map change:

(a) A copy of the petition for amendment or map change shall be supplied to a newspaper of general circulation in the municipality at the time the Public Notice is published.

(b) An attested copy of the proposed ordinance or petition for map change shall be filed in the county law library.

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(c) Notice of the proposed amendment or Map change shall be posted on the Borough website. In addition, the text of the proposed amendment shall be posted as a downloadable document. In the case of a map change, and where doing so is feasible using equipment owned by the Borough, an electronic copy of the petition and maps as required in section 908 of this Ordinance shall be posted for inspection.

(d) If the proposed amendment involves a zoning map change, notice of the Public Hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the perimeter of the tract or area to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

**B. PUBLIC HEARING.**

1. Before voting on the enactment of a curative or non-curative amendment (amendment) to the zoning ordinance or map change, the Borough Council shall hold a Public Hearing thereon pursuant to the Public Notice requirements of subsection A of this section.

2. In addition to the requirement that notice be posted under subsection B(1) of this section, where the proposed amendment involves a zoning map change, notice of the Public Hearing shall be mailed by the Borough at least thirty days prior to the date of the hearing by first class mail to the addresses to which real estate tax bills are sent for all real property located within the area being rezoned, as evidenced by tax records within the possession of the Borough. The notice shall include the location, date and time of the Public Hearing. A good faith effort and substantial compliance shall satisfy the requirements of this subsection.

3. The Borough shall submit each such amendment to the Borough Planning Commission at least thirty (30) days prior to the Public Hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

4. The Borough shall submit each such amendment to the Somerset County Planning Commission at least thirty (30) days prior to the Public Hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.

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5. If, after any Public Hearing held upon an amendment, the proposed amendment is changed substantially, or is revised to include land previously not affected by it, the governing body shall hold another Public Hearing, pursuant to the publication and Public Notice provisions of this section, before proceeding to vote on the amendment.

910. CONDUCT OF THE PUBLIC HEARING

The Borough Council of the Borough of Indian Lake or a Hearing Officer appointed by the Council shall be responsible for the conduct of the hearing as follows:

A. PURPOSE. The purpose of the Public Hearing is to receive relevant data, facts and other material desirable and necessary for a decision on the petition for change.

B. OATHS. The President of the Council or the Hearing Officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents including witnesses and documents requested by the parties.

C. REPRESENTATION. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument on all relevant issues. Formal rules of evidence shall not apply but irrelevant, immaterial or unduly repetitious evidence may be excluded, in the sole discretion of the President of Council or the Hearing Officer presiding.

D. RECORD OF PROCEEDINGS. The Council or the Hearing Officer, as the case may be, shall keep a record of the proceedings either stenographically or by sound recording and a transcript of the proceedings and/or copies of written material received shall be made available to any party at cost.

Comment [R71]: ??

911. FINAL REPORT OF THE PLANNING COMMISSION

A. Following the Public Hearing on a petition for Curative or Non-curative amendment (amendment) to this Ordinance submitted under the provisions of section 907 or Map Change submitted under the provisions at section 908, the Borough Council, if

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necessary and where sufficient time exists to permit enactment within sixty days of publication as required by section 912 of this Ordinance, shall submit any new information pertinent to the petition for amendment or map change to the Borough Planning Commission for review. The Planning Commission shall review all material, data, testimony, and facts submitted for consideration in the petition and shall submit a final report to the Borough Council within the time allocated in the request, indicating its recommendation of approval or refusal of the petition as indicated by a majority vote of its members. A recommendation for approval shall be based on whether the change is consistent with the intended Use of the land and purpose of this Ordinance as expressed in sections 105 and 106 of this Ordinance. Where the Planning Commission recommends refusal of the petition, it shall state its rationale.

B. If the Planning Commission fails to file such a report within the specified time or in the specified manner, it shall be presumed that the Planning Commission has no comment on the proposed Petition for Map Change or Amendment. In any case, the recommendation of the Planning Commission shall be regarded as advisory in nature and shall not be binding on the Borough Council.

912. ENACTMENT BY THE BOROUGH COUNCIL

A. Proposed curative or non-curative amendments (amendment) or map changes shall not be enacted unless there has been substantial compliance with the provisions set forth at sections 908, 909, 910 and 911 of this Ordinance, as applicable, and enactment occurs more than seven (7) days but within sixty (60) days of publication as required by section 909.A of this Ordinance.

B. Notice of the time and place of the Public Meeting of the Borough Council at which passage will be considered including a reference to a place within the municipality where copies of the proposed amendment or map change may be examined without charge or obtained for a charge consistent with applicable law shall be published in a newspaper of general circulation in the municipality at the time the Public Notice is published at least seven (7) days prior to the Public Meeting where enactment will be considered. Additionally, notice of the date, time, and location of the meeting will be posted on the Borough website.

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C. The enactment of an amendment to this Ordinance or map changes as permitted under this Article shall require the majority vote of the members of the Borough Council and in any case the affirmative vote of not fewer than three (3) members of the Council.

D. Zoning ordinances and amendments may be incorporated into official ordinance books by reference with the same force and effect as if duly recorded therein.

913. FEES

Any person other than the Borough of Indian Lake or the Planning Commission requesting an amendment of the Zoning Ordinance shall pay a fee as may be set by the Borough Council from time to time. The fee is payable at the time the request is filed with the Secretary of the Borough. All fees shall be paid to the Borough of Indian Lake to be deposited in the General Fund. No fees shall be refundable.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE TEN  
SPECIAL EXCEPTIONS

**Comment [RWS72]:** Consider rewriting to include more Conditional Uses and fewer Special Exceptions. Consider putting ALL requirements in Zone sections.

**Comment [RFH73]:** 907 does not cover Special Exceptions, nor is this title correct. There is thus no procedure.

1001. GENERAL PROVISIONS

The special exceptions stated in this Ordinance may be granted or denied by the Zoning Hearing Board pursuant to the standards and criteria provided in this Article. The Board shall hear and decide requests for such special exceptions in accordance with the procedure outlined under Section 907, "Changes, Amendments and Special Exceptions", of this Ordinance. Special exceptions shall be granted or denied in accordance with basic principles as follows:

- A. Such Use shall be one that is consistent with the specifically identified uses in the District in which it is to be located.
- B. Such permits shall only be granted subject to any additional conditions and safeguards deemed by the Board to be advisable and appropriate.
- C. Such Use shall be found by the Board to be in harmony with the general purpose and intent of this Ordinance.
- D. Such Use shall not adversely affect the character of the District, property values in the surrounding area, or the health and safety of residents or workers on adjacent properties and in the general neighborhood.
- E. Such Use shall be of such appropriate size and so located and laid out in relation to its access streets that vehicular and pedestrian traffic to and from such Use will not create undue congestion or hazards prejudicial to the general welfare of the neighborhood.
- F. Such Use shall not conflict with the direction of Building development in accordance with any comprehensive plan, community development objectives, or portion thereof that has been recommended by the Planning Commission and approved by the Borough Council.

1002. SPECIAL EXCEPTIONS

Special exceptions may be granted by the Zoning Hearing Board consistent with the provisions at Section 1001 of this Ordinance as follows:

A. MINIMUM LIVING AREA FOR DWELLING UNITS: The Zoning Hearing Board may grant a special exception to minimum size requirements of Section 304 of this Ordinance as they pertain to Single Family Dwellings in R-1 districts; or to Multiple-Family or Condominium Dwellings in any district provided that the permissible relief shall be limited to not more than twenty (20) percent of the required size.

B. SUBDIVISION OF LAND: The Zoning Hearing Board may grant a special exception to requirements of Section 307 of this Ordinance with respect to the dimension of Lot at the lakefront provided that the exception does not create a Lot with less than ninety (90) feet of lake frontage.

C. ALTERATIONS, EXTENSIONS AND/OR ENLARGEMENTS: The Zoning Hearing Board may grant a special exception to requirements of Section 411 of this Ordinance to permit Alteration to an existing Non-Conforming Structure in any zone, but only where such Alteration does not exacerbate the non-conformance.

D. PROVISIONS FOR RECONSTRUCTION: The Zoning Hearing Board may grant a special exception to requirements of Section 412 of this Ordinance to permit reconstruction of Non-Conforming Dwellings, Garages or Accessory Use Structures in any zone provided that all other requirements of Section 412 and the zoning requirements applicable to that zone with the exception of the Use requirements are met. In granting a special exception to permit reconstruction of a Non-Conforming Structure, the Zoning Hearing Board may also grant other special exceptions consistent with the provisions of this section as requested by the permit applicant. The Zoning Hearing Board shall not have the authority to grant special exceptions for reconstruction of any Non-Conforming Structure that encroaches into the ML zone including, but not limited to, Docks or Boat houses.

E. OFF STREET PARKING: The Zoning Hearing Board may grant a special exception to any of the requirements of Section 416 of this Ordinance.

**Comment [R74]:** This is as good a place as any to note that any Special Exceptions (or Conditional Uses) should (must?) be listed in the same section/area as the base requirement.

**Comment [RFH75]:** Results are too small; aesthetic and revenue impact.

**Comment [RWS76]:** Should not do this.

**Comment [RFH77]:** We should allow 90 and be done; not that much land available...

**Comment [RFH78]:** Why should this entail hassle and expense of ZHB hearing?

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F. EXCAVATION AND GRADING REQUIREMENTS: The Zoning Hearing Board may grant a special exception to maximum slope requirements of Section 417 of this Ordinance pertaining to the excavation and fill requirements where excavation or fill occurs for the purpose of constructing a Building or Structure provided that the applicant presents credible evidence from an appropriately certified engineer that, in the case of excavation, that the cut be into sedimentary rock or other material which is sufficiently durable to remain stable and maintain the cut without slippage; or in the case of fills, that the density meets the requirements of subsection B of Section 417 of this Ordinance.

G. DENSITY REQUIREMENTS: The Zoning Hearing Board may grant a special exception to the density requirements established in Section 418 of this Ordinance provided that the exception relating to the maximum Lot coverage of enclosed or covered floor area for all Structures shall not be increased by more than five (5) percent in any zone, and that the exception relating to the maximum Lot coverage of enclosed or covered Floor Area and impervious material on the land shall not be increased by more than five (5) percent in any zone.

H. RESIDENTIAL DISTRICTS (R-1):

1. BUILDING AREA:

(a) The Zoning Hearing Board may grant a special exception to the Building Area requirements of Section 501.C.1 of this Ordinance Special provided that the permissible relief shall be limited to not more than twenty (20) percent of the required minimum Building Area.

(b)The Zoning Hearing Board may grant a special exception to the Building Area requirements of Section 501.C.2 of this Ordinance pertaining to the maximum size for a detached Garage.

2. LOT AREA:

(a) The Zoning Hearing Board may grant a special exception to the Lot Area requirements of Section 501.D.2 of this Ordinance with respect to the dimension of Lot at the lakefront provided that the exception does not create a Lot with less than ninety (90) feet of lake frontage .

Comment [RFH79]: Too small; duplicates A

Comment [RFH80]: Same a B



3. YARD AREA AND SETBACKS:

(a) The Zoning Hearing Board may grant a special exception to the Yard Area and Setback requirements of Section 501.E.1.(a) of this Ordinance pertaining to the one-third Lot Depth requirement in cases where the Front Yard abuts the lake front.

(b) The Zoning Hearing Board may grant a special exception to the Yard Area and Setback requirements of Section 501.E.1.(b) of this Ordinance pertaining to the Rear Yard setback requirement provided that the permissible relief shall be limited to not less than ten (10) feet.

(c) The Zoning Hearing Board may grant a special exception to the Yard Area and Setback requirements of Section 501.E.1.(c) of this Ordinance pertaining to the Side Yard setback requirement provided that the permissible relief shall be limited to not less than five (5) feet.

(d) The Zoning Hearing Board may grant a special exception to the Yard Area and Setback requirements of Section 501.E.1.(d) of this Ordinance pertaining to the composite minimum width for both Side Yards provided that the permissible relief shall be limited to not less than fifteen (15) feet.

I. PRIVATE PARKS (P-1) PUBLIC PARKS (P-2) DISTRICTS:

1. Community/Group Docks for Private or Public Parks

(a) The Zoning Hearing Board may grant a special exception for the construction of Community/Group Docks where the proposed Dock Structure complies all applicable requirements of Articles Three, Four, Six, and Seven of this Ordinance;

(b) the design must be compatible with surrounding natural and architectural environment of the community area and capable of equally serving the needs of all park owners;

(c) the Community/Group Docks may be used only by park owners; and

(d) the application and design must have the approval of all park owners prior to submission of an application for Special Exception.

J. Mobile Homes, Condominium, Multiple Family, or Row Dwellings (R-2) District:

**Comment [RFH81]:** 5 max on either side yields 10 max relief?

**Comment [RFH82]:** What if only serving a subset or they have different rules?

**Comment [RFH83]:** Pretty restrictive; any of our business?

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1. Group/Multiple Family Swimming Pools. The Zoning Hearing Board may grant a special exception for the construction of Group/Multiple Family Swimming Pools where the following requirements are met.

(a) Multiple Family pools including any walks, paved areas and Accessory Structures, serving a group of residents on a tract where clustered homes have been built may not be located closer than one hundred (100) feet from any property line; and

(b) the proposal conforms with the requirements at Article Thirteen, Section 1304 of this Ordinance.

K. COMMERCIAL GENERAL (C-G) DISTRICT:

1. USE:

(a) The Zoning Hearing Board may grant a special exception for the operation of light industrial businesses other than those specifically listed under Article Seven, Section 701 where the business operation proposed is fully compatible with the spirit and intent of the general provisions of this Ordinance and otherwise complies with the requirements of Article Seven (7) of this Ordinance.

(b) The Zoning Hearing Board may grant a special exception for the construction of a Public Garage where such facilities complete the infrastructure of the community and are fully compatible with the spirit and intent of the general provisions of this Ordinance; comply with the definition of a Public Garage as specified in Section 202 of this Ordinance; and comply with the provisions outlined in Section 701 of this Ordinance.

Comment [RFH84]: NN. Garage, Community

Comment [RWS85]: Shouldn't have public garages.

Comment [RFH86]: Public Garage is a repair facility, per definitions.

L. COMMERCIAL RESIDENTIAL HOTEL (C-RH) DISTRICT:

1. USE: The Zoning Hearing Board may grant a special exception for the construction of a Public Garage where such facilities complete the infrastructure of the community and are fully compatible with the spirit and intent of the general provisions of this Ordinance; comply with the definition of a Public Garage as specified in Section 202 of this Ordinance; and comply with the provisions outlined in Section 801 of this Ordinance.

Comment [R87]: NN. Garage, Community?

Comment [R88]: Is this a real possibility/need?

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ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE ELEVEN  
APPEALS AND ZONING HEARING BOARD

Section 1101. GENERAL PROVISIONS.

As used in this article, unless the context clearly indicates otherwise, the term “Board” shall refer to such Zoning Hearing Board.

Section 1102. RESERVED

Section 1103. MEMBERSHIP OF BOARD.

A. The membership of the Board shall consist of ~~three residents of the municipality appointed by resolution by the governing~~ body. The terms of office of a three member Board shall be three years and shall be so fixed that the term of office of one member shall expire each year. The Board shall promptly notify the governing body of any vacancies which occur. Appointments to fill vacancies shall be only for the unexpired portion of the term. Members of the Board shall hold no other office in the municipality.

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B. The governing body shall also appoint by resolution at least one but no more than three residents of the municipality to serve as alternate members of the Board. The term of office of an alternate member shall be three years. When seated pursuant to the provisions of section 1106, an alternate shall be entitled to participate in all proceedings and discussions of the Board to the same and full extent as provided by law for Board members, including specifically the right to cast a vote as a voting member during the proceedings, and shall have all the powers and duties set forth in this act and as otherwise provided by law. Alternates shall hold no other office in the municipality, including membership on the Planning Commission and Zoning Enforcement Officer. Any alternate who is not seated pursuant to the provisions of section 1106 of this Ordinance may participate in any proceeding or discussion of the Board but shall not be entitled to vote as a member of the Board nor be compensated even when designated as a voting alternate member pursuant to section 1106 of this Ordinance.

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Section 1104. RESERVED

Section 1105. REMOVAL OF MEMBERS. Any Board member may be removed for malfeasance, misfeasance or nonfeasance in office or for other just cause by a majority vote of the governing body which appointed the member, taken after the member has received 15 days' advance notice of the intent to take such a vote. A hearing shall be held in connection with the vote if the member shall request it in writing.

Section 1106. ORGANIZATION OF BOARD.

A. The Board shall elect from its own membership its officers, who shall serve annual terms as such and may succeed themselves. For the conduct of any hearing and the taking of any action, a quorum shall be not less than a majority of all the members of the Board, but the Board may appoint a hearing officer from its own membership to conduct any hearing on its behalf and the parties may waive further action by the Board as provided in section 1108 of this Ordinance.

B. If, by reason of absence or disqualification of a member, a quorum is not reached, the chairman of the Board shall designate as many alternate members of the Board to sit on the Board as may be needed to provide a quorum. Any alternate member of the Board shall continue to serve on the Board in all proceedings involving the matter or case for which the alternate was initially appointed until the Board has made a final determination of the matter or case. Designation of an alternate pursuant to this section shall be made on a case-by-case basis in rotation according to declining seniority among all alternates.

C. The Board may make, alter and rescind rules and forms for its procedure, consistent with ordinances of the municipality and laws of the Commonwealth. The Board shall keep full public records of its business, which records shall be the property of the municipality, and shall submit a report of its activities to the governing body as requested by the governing body.

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Section 1107. EXPENDITURES FOR SERVICES. Within the limits of funds appropriated by the governing body, the Board may employ or contract for secretaries, clerks, legal counsel, consultants and other technical and clerical services. Members of the Board may receive compensation for the performance of their duties, as may be fixed by the governing body, but in no case shall it exceed the rate of compensation authorized to be paid to the members of the governing body. Alternate members of the Board may receive compensation, as may be fixed by the governing body, for the performance of their duties when designated as alternate members pursuant to section 1106 of this Ordinance, but in no case shall such compensation exceed the rate of compensation authorized to be paid to the members of the governing body.

Section 1108. HEARINGS. The Board shall conduct hearings and make decisions in accordance with the following requirements:

A. Public notice shall be given and written notice shall be given to the applicant, the Zoning Enforcement Officer, the governing body and to any person who has made timely request for the same. Written notices shall be provided at least 14 calendar days prior to the scheduled hearing by regular postal delivery. In addition to the written notice provided herein, written notice of said hearing shall be conspicuously posted on the affected tract of land at least one week prior to the hearing.

1. The fee as set by the Borough Council for hearings before the Zoning Hearing Board shall be paid at the time when an application for hearing before the Board or appeal to the Board is filed. Fees for said hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural or other technical consultants or expert witness costs. Any permissible fees in excess of the fee paid upon application shall be charged to the applicant after the conclusion of the hearing and shall be paid by the applicant within fourteen (14) calendar days.

2. The first hearing before the Board or hearing officer shall be commenced within 60 days from the date of receipt of the applicant's application, unless the applicant has agreed in writing to an extension of time. Each subsequent hearing before the Board

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or hearing officer shall be held within 45 days of the prior hearing, unless otherwise agreed to by the applicant in writing or on the record. An applicant shall complete the presentation of his case-in-chief within 100 days of the first hearing. Upon the request of the applicant, the Board or hearing officer shall assure that the applicant receives at least seven hours of hearings within the 100 days, including the first hearing. Persons opposed to the application may, upon the written consent or consent on the record by the applicant and municipality, be granted additional hearings to complete their opposition to the application provided the applicant is granted an equal number of additional hearings for rebuttal.

B. The hearings shall be conducted by the Board or the Board may appoint any member or an independent attorney retained by the Board as a hearing officer. The decision, or, where no decision is called for, the findings, shall be made by the Board; however, the appellant or the applicant, as the case may be, in addition to the municipality, may, prior to the decision of the hearing, waive decision or findings by the Board and accept the decision or findings of the hearing officer as final.

C. The parties to the hearing shall be the municipality, any person affected by the application who has made timely appearance of record before the Board, and any other person including civic or community organizations permitted to appear by the Board. The Board shall have power to require that all persons who wish to be considered parties enter appearances in writing on forms provided by the Board for that purpose or in any other manner acceptable to the Board.

D. The chairman or acting chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents that are reasonably requested by the parties and which in the sole discretion of the chairman, acting chairman of the Board or hearing officer presiding are deemed relevant to the proceedings.

E. The parties shall have the right to be represented by counsel and shall be afforded the opportunity to respond and present evidence and argument and cross-examine adverse witnesses on all relevant issues.

F. Formal rules of evidence shall not apply, but irrelevant, immaterial, or unduly repetitious evidence may be excluded at the discretion of the chairman or acting chairman of the Board or the hearing officer presiding over the proceedings.

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G. The Board or the hearing officer, as the case may be, shall keep a stenographic record of the proceedings. The appearance fee for a stenographer shall be shared equally by the applicant and the Board. The cost of the original transcript shall be paid by the Board if the transcript is ordered by the Board or hearing officer or shall be paid by the person appealing from the decision of the Board if such appeal is made, and in either event the cost of additional copies shall be paid by the person requesting such copy or copies. In other cases the party requesting the original transcript shall bear the cost thereof.

H. The Board or the hearing officer shall not communicate, directly or indirectly, with any party or his representatives in connection with any issue involved except upon notice and opportunity for all parties to participate, shall not take notice of any communication, reports, staff memoranda, or other materials, except advice from their solicitor, unless the parties are afforded an opportunity to contest the material so noticed and shall not inspect the site or its surroundings after the commencement of hearings with any party or his representative unless all parties are given an opportunity to be present.

I. The Board or the hearing officer, as the case may be, shall render a written decision or, when no decision is called for; make written findings on the application within 45 days after the last hearing before the Board or hearing officer. Where the application is contested or denied, each decision shall be accompanied by findings of fact and conclusions based thereon together with the reasons thereof. Conclusions based on any provisions of this act or of any ordinance, rule or regulation shall contain a reference to the provision relied on and the reasons why the conclusion is deemed appropriate in the light of the facts found. If the hearing is conducted by a hearing officer and there has been no stipulation that his decision or findings are final, the Board shall make his report and recommendations available to the parties within 45 days and the parties shall be entitled to make written representations thereon to the Board prior to final decision or entry of findings, and the Board's decision shall be entered no later than 30 days after the report of the hearing officer. Except for challenges filed under section 1116.1 of this Ordinance where the Board fails to render the decision within the period required by this subsection or fails to commence, conduct or complete the required hearing as provided in subsection A.1 of this section, the decision shall be deemed to have been rendered in favor of the applicant unless the applicant has agreed in writing or on the record to an extension of time. When a decision has been rendered in favor of the applicant because of the failure of

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the Board to meet or render a decision as hereinabove provided, the Board shall give Public Notice of said decision within ten days from the last day it could have met to render a decision in the same manner as provided in subsection A of this section. If the Board shall fail to provide such notice, the applicant may do so. Nothing in this subsection shall prejudice the right of any party opposing the application to appeal the decision to a court of competent jurisdiction.

J. A copy of the final decision or, where no decision is called for, of the findings shall be delivered to the applicant personally or mailed to him not later than the day following its date. To all other persons who have filed their name and address with the Board not later than the last day of the hearing, the Board shall provide by mail or otherwise, brief notice of the decision or findings and a statement of the place at which the full decision or findings may be examined.

Section 1109. RESERVED.

Section 1109.1. JURISDICTION.

A. The Zoning Hearing Board shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. Substantive challenges to the validity of any land Use ordinance, except those brought before the governing body pursuant to sections 907, 908 and 1116.1.A.2 of this Ordinance.
2. Challenges to the validity of a land Use Ordinance raising procedural questions or alleged defects in the process of enactment or adoption which challenges shall be raised by an appeal taken within 30 days after the effective date of said Ordinance.
3. Appeals from the determination of the zoning enforcement officer, including, but not limited to, the granting or denial of any permit, or failure to act on the application therefor, the issuance of any cease and desist order or the registration or refusal to register any Non-Conforming Use, Structure or Lot.
4. Applications for variances from the terms of the zoning Ordinance pursuant to section 1110.2 of this Ordinance.



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5. Applications for special exceptions permitted under Section 1002 of this Ordinance pursuant to section 1112.1 of this Ordinance.
6. Appeals from the determination of any officer or agency charged with the administration of any transfers of development rights or performance density provisions of the zoning Ordinance.
7. Appeals from the Zoning Enforcement Officer's determination under section 1116.2 of this Ordinance.
8. Appeals from the determination of the Zoning Enforcement Officer in the administration of any land Use Ordinance or provision thereof with reference to sedimentation and erosion control and storm water management insofar as the same relate to development not involving Subdivision and Land Development as described in Article V of the Municipalities Planning Code, as amended, 53 P.S. §§501-515.

B. The governing body, except as to clauses (3), (4) and (5), shall have exclusive jurisdiction to hear and render final adjudications in the following matters:

1. All applications pursuant to section 508 of the Municipalities Planning Code, as amended, 53 P.S. §10508, for approval of subdivisions or land developments under Article V of the Municipalities Planning Code. Any provision in the Somerset County subdivision and land development ordinance requiring that final action concerning subdivision and land development applications be taken by the county planning agency rather than the governing body shall vest exclusive jurisdiction in the county planning agency in lieu of the governing body for purposes of the provisions of this paragraph.

2. Applications for conditional Use under the express provisions of the zoning Ordinance pursuant to the provisions of the Municipalities Planning Code, as amended, 53 P.S. §10603(c)(2).

3. Applications for curative amendment to the zoning Ordinance pursuant to sections 907 and 1116.1.A.2 of this Ordinance.

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Comment [RFH89]: Revisit adding Planning Agency here...

Comment [RFH90]: We do not have a S&LD Ordinance...

Comment [RFH91]: We either defer completely or theirs is null and void... There really is no middle ground.

Comment [RFH92]: This is a circular requirement/provision; this section of the MPC merely allows an ordinance to stipulate those conditional uses the governing body may adjudicate; this ordinance has none, but defers all to the ZHB, or requires curative amendments. There is no sane middle ground. PRD has been removed, as well. MPC 909.1.(b).(3) clearly says **express provisions**. See also MPC 913.2

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4. All petitions for amendments to land Use ordinances, pursuant to the procedures set forth in sections 907 and 908 of this Ordinance. Any action on such petitions shall be deemed legislative acts, provided that nothing contained in this clause shall be deemed to enlarge or diminish existing law with reference to appeals to court.

5. Appeals from the determination of the Zoning Enforcement Officer in the administration of this Ordinance or provisions thereof with reference to sedimentation and erosion control and storm water management shall be to the Zoning Hearing Board pursuant to subsection A.8 of this Section.

6. Applications for a special encroachment permit pursuant to the provisions of the Municipalities Planning Code, as amended, 53 P.S. § 405, applications for a permit pursuant to the provisions of the Municipalities Planning Code, as amended, 53 P.S. § 406, and applications for a shoreline encroachment permit pursuant to the provisions of section 306 of this Ordinance.

**Comment [RFH93]:** Why refer to 406?

Section 1110. RESERVED

Section 1110.1. APPLICABILITY OF JUDICIAL REMEDIES. Nothing contained in this article shall be construed to deny the appellant the right to proceed directly to court where appropriate, pursuant to the Pennsylvania Rules of Civil Procedure No. 1091 (relating to action in mandamus).

Section 1110.2. ZONING HEARING BOARD'S FUNCTIONS; VARIANCES.

A. The Board shall hear requests for variances where it is alleged that the provisions of the zoning Ordinance inflict unnecessary hardship upon the applicant. The Board may by rule prescribe the form of application and may require preliminary application to the Zoning Enforcement Officer. The Board may grant a variance, provided that all of the following findings are made where relevant in a given case:

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1. That there are unique physical circumstances or conditions, including irregularity, narrowness, or shallowness of Lot size or shape, or exceptional topographical or other physical conditions peculiar to the particular property and that the unnecessary hardship is due to such conditions and not the circumstances or conditions generally created by the provisions of the zoning Ordinance in the neighborhood or district in which the property is located.

2. That because of such physical circumstances or conditions, there is no possibility that the property can be developed in strict conformity with the provisions of the zoning Ordinance and that the authorization of a variance is therefore necessary to enable the reasonable Use of the property.

3. That such unnecessary hardship has not been created by the appellant.

4. That the variance, if authorized, will not alter the essential character of the neighborhood or district in which the property is located, nor substantially or permanently impair the appropriate Use or development of adjacent property, nor be detrimental to the public welfare.

5. That the variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

B. In granting any variance, the Board may attach such reasonable conditions and safeguards as it may deem necessary to implement the purposes of this act and the zoning Ordinance.

Section 1112. RESERVED.

Section 1112.1. ZONING HEARING BOARD'S FUNCTIONS; SPECIAL EXCEPTION. The Board shall hear and decide requests for such special exceptions in accordance with the standards and criteria provided in Article X of this Ordinance. In granting a special

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exception, the Board may attach such reasonable conditions and safeguards, in addition to those expressed in the Ordinance, as it may deem necessary to implement the purposes of the zoning Ordinance as expressed in sections 105 and 106 of this Ordinance.

Section 1113. RESERVED.

Section 1113.1. RESERVED.

Section 1113.2. RESERVED.

Section 1113.3. PARTIES APPELLANT BEFORE THE BOARD. Appeals under section 1109.1.A.1, 2, 3, 6, 7, and 8 may be filed with the Board in writing by the Landowner affected, any officer or agency of the municipality, or any person aggrieved. Requests for a variance under section 1110.2 and for special exception under section 1112.1 may be filed with the Board by any Landowner or any tenant with the permission of such Landowner.

Section 1114. RESERVED.

Section 1114.1. TIME LIMITATIONS.

A. No person shall be allowed to file any proceeding with the Board later than 30 days after an application for development, preliminary or final, has been approved by an appropriate municipal officer, agency or body if such proceeding is designed to secure reversal or to limit the approval in any manner unless such person alleges and proves that he had no notice, knowledge, or reason to believe that such approval had been given. If such person has succeeded to his interest after such approval, he shall be bound by the knowledge of his predecessor in interest. The failure of anyone other than the Landowner to appeal from an adverse decision on a

**Comment [RWS94]:** MPC 913.2 Governing Body's Function, Conditional Use – missing, need legal review [there are **no** conditional uses defined, but we believe Special Exceptions (all?) should be Conditional Uses]

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challenge to the validity of the Ordinance or map pursuant to section 1116.2 [\[Preliminary Opinion\]](#) shall preclude an appeal from a final approval except in the case where the final submission substantially deviates from the approved tentative approval.

B. All appeals from determinations adverse to the Landowners shall be filed by the Landowner within 30 days after notice of the determination is issued.

Section 1115. RESERVED.

Section 1115.1. STAY OF PROCEEDINGS.

A. Upon filing of any proceeding referred to in section 1113.3 and during its pendency before the Board, all land development pursuant to any challenged Ordinance, order or approval of the Zoning Enforcement Officer or of any agency or body, and all official action thereunder, shall be stayed unless the Zoning Enforcement Officer or any other appropriate agency or body certifies to the Board facts indicating that such stay would cause imminent peril to life or property, in which case the development or official action shall not be stayed otherwise than by a restraining order, which may be granted by the Board or by the court having jurisdiction of zoning appeals, on petition, after notice to the Zoning Enforcement Officer or other appropriate agency or body. When an application for development, preliminary or final, has been duly approved and proceedings designed to reverse or limit the approval are filed with the Board by persons other than the applicant, the applicant may petition the court having jurisdiction of zoning appeals to order such persons to post bond as a condition to continuing the proceedings before the Board.

B. After the petition is presented, the court shall hold a hearing to determine if the filing of the appeal is frivolous. At the hearing, evidence may be presented on the merits of the case. It shall be the burden of the applicant for a bond to prove the appeal is frivolous. After consideration of all evidence presented, if the court determines that the appeal is frivolous, it shall grant the petition for a bond. The right to petition the court to order the appellants to post bond may be waived by the appellee, but such waiver may be revoked by him if an appeal is taken from a final decision of the court.

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C. The question whether or not such petition should be granted and the amount of the bond shall be within the sound discretion of the court. An order denying a petition for bond shall be interlocutory. An order directing the responding party to post a bond shall be interlocutory.

D. If an appeal is taken by a respondent to the petition for a bond from an order of the court dismissing a zoning appeal for refusal to post a bond and the appellate court sustains the order of the court below to post a bond, the respondent to the petition for a bond, upon motion of the petitioner and after hearing in the court having jurisdiction of zoning appeals, shall be liable for all reasonable costs, expenses and attorney fees incurred by the petitioner.

Section 1116. RESERVED.

Section 1116.1. VALIDITY OF ORDINANCE; SUBSTANTIVE QUESTIONS.

A. A Landowner who, on substantive grounds, desires to challenge the validity of an Ordinance or map or any provision thereof which prohibits or restricts the Use or development of land in which he has an interest shall submit the challenge either:

1. to the Zoning Hearing Board under section 1109.1(a); or
2. to the governing body under section 1109.1(b)(4), together with a request for a curative amendment under the provisions of section 907 of this Ordinance.

B. Persons aggrieved by a Use or development permitted on the land of another by an Ordinance or map, or any provision thereof, who desires to challenge its validity on substantive grounds shall first submit their challenge to the Zoning Hearing Board for a decision thereon under section 1109.1.A.1.

C. The submissions referred to in subsections (a) and (b) shall be governed by the following:

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1. In challenges before the Zoning Hearing Board, the challenging party shall make a written request to the Board that it hold a hearing on its challenge. The request shall contain the reasons for the challenge. Where the Landowner desires to challenge the validity of such Ordinance and elects to proceed by curative amendment as permitted under Article IX of this Ordinance, his application to the governing body shall contain, in addition to the requirements of the written request hereof, the plans and explanatory materials describing the Use or development proposed by the Landowner in lieu of the Use or development permitted by the challenged Ordinance or map. Such plans or other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a permit, so long as they provide reasonable notice of the proposed Use or development and a sufficient basis for evaluating the challenged Ordinance or map in light thereof. Nothing herein contained shall preclude the Landowner from first seeking a final approval before submitting his challenge.

2. If the submission is made by the Landowner to the governing body under subsection A.2 of this Section, the request also shall be accompanied by an amendment or amendments to the Ordinance proposed by the Landowner to cure the alleged defects therein.

3. If the submission is made to the Borough, the Borough solicitor shall represent and advise it at the hearing or hearings referred to in section 1109.1.B.4.

4. The Borough may retain an independent attorney to present the defense of the challenged Ordinance or map on its behalf and to present their witnesses on its behalf.

5. Based upon the testimony presented at the hearing or hearings, the Borough Council or the zoning Board, as the case may be, shall determine whether the challenged Ordinance or map is defective, as alleged by the Landowner. If a challenge heard by a governing body is found to have merit, the governing body shall proceed as provided in section 907 of this Ordinance. If a challenge heard by a Zoning Hearing Board is found to have merit, the decision of the Zoning Hearing Board shall include recommended amendments to the challenged Ordinance which will cure the defects found. In reaching its decision, the Zoning Hearing Board shall consider the amendments, plans and explanatory material submitted by the Landowner and shall also consider:

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(a) the impact of the proposal upon roads, sewer facilities, water supplies, schools and other public service facilities;

(b) if the proposal is for a residential Use, the impact of the proposal upon regional housing needs and the effectiveness of the proposal in providing housing units of a type actually available to and affordable by classes of persons otherwise unlawfully excluded by the challenged provisions of the Ordinance or map;

(c) the suitability of the site for the intensity of Use proposed by the site's soils, slopes, woodlands, wetlands, flood plains, aquifers, natural resources and other natural features;

(d) the impact of the proposed Use on the site's soils, slopes, woodlands, wetlands, flood plains, natural resources and natural features, the degree to which these are protected or destroyed, the tolerance of the resources to development and any adverse environmental impacts; and

(e) the impact of the proposal on the preservation of Agriculture and other land uses which are essential to public health and welfare.

6. The governing body or the Zoning Hearing Board, as the case may be, shall render its decision within 45 days after the conclusion of the last hearing.

7. If the governing body or the zoning Board, as the case may be, fails to act on the Landowner's request within the time limits referred to in paragraph (6), a denial of the request is deemed to have occurred on the 46th day after the close of the last hearing.

D. The Zoning Hearing Board or governing body, as the case may be, shall commence its hearings within 60 days after the request is filed unless the Landowner requests or consents to an extension of time.

E. Public notice of the hearing shall include notice that the validity of the Ordinance or map is in question and shall give the place where and the times when a copy of the request, including any plans, explanatory material or proposed amendments may be examined by the public.

F. The challenge shall be deemed denied when:



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1. the Zoning Hearing Board or governing body, as the case may be, fails to commence the hearing within the time limits set forth in subsection (d);
2. the governing body notifies the Landowner that it will not adopt the curative amendment;
3. the governing body adopts another curative amendment which is unacceptable to the Landowner; or
4. the Zoning Hearing Board or governing body, as the case may be, fails to act on the request 45 days after the close of the last hearing on the request, unless the time is extended by mutual consent by the Landowner and municipality.

**Comment [RWS95]:** Missing MPC G

H. A Landowner who has challenged on substantive grounds the validity of a zoning ordinance or map either by submission of a curative amendment to the governing body under subsection A.2 or to the Zoning Hearing Board under section 1109.1.A.1 shall not submit any additional substantive challenges involving the same parcel, group of parcels or part thereof until such time as the status of the Landowner's original challenge has been finally determined or withdrawn: Provided, however, that if after the date of the Landowner's original challenge the municipality adopts a substantially new or different zoning ordinance or zoning map, the Landowner may file a second substantive challenge to the new or different zoning ordinance or zoning map under subsection A.

**Comment [RWS96]:** H is really I in MPC. Left out H from MPC.

Section 1116.2. PROCEDURE TO OBTAIN PRELIMINARY OPINION. In order not to unreasonably delay the time when a Landowner may secure assurance that the ordinance or map under which he proposed to build is free from challenge, and recognizing that the procedure for preliminary approval of his development may be too cumbersome or may be unavailable, the Landowner may advance the date from which time for any challenge to the ordinance or map will run under section 1114.1 of this Ordinance by the following procedure:

A. The Landowner may submit plans and other materials describing his proposed Use or development to the Zoning Enforcement Officer for a preliminary opinion as to their compliance with the applicable ordinances and maps. Such plans and other materials shall not be required to meet the standards prescribed for preliminary, tentative or final approval or for the issuance of a Building permit so

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long as they provide reasonable notice of the proposed Use or development and a sufficient basis for a preliminary opinion as to its compliance.

B. If the Zoning Enforcement Officer's preliminary opinion is that the Use or development complies with the ordinance or map, notice thereof shall be published once each week for two successive weeks in a newspaper of general circulation in the municipality. Such notice shall include a general description of the proposed Use or development and its location, by some readily identifiable directive, and the place and times where the plans and other materials may be examined by the public. The favorable preliminary approval under section 1114.1 and the time therein specified for commencing a proceeding with the Board shall run from the time when the second notice thereof has been published.

Section 1117. APPLICABILITY OF ORDINANCE AMENDMENTS. When an application for either a special exception or Conditional Use has been filed with either the Zoning Hearing Board, or Council, no change or amendment of the zoning or other governing ordinance shall affect the decision on such application adversely to the applicant and the applicant shall be entitled to a decision in accordance with the provisions of the Borough zoning Ordinance as it stood at the time the application was duly filed.

**Comment [RWS97]:** Not agree with the MPC; omissions.

**Deleted:** it stood

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE TWELVE  
SUPPLEMENTARY PROVISIONS

1201. SIGNS

A. GENERAL PROVISIONS.

1. A Building permit shall be required for all Signs whether permanent or temporary. Such permits may be obtained from the Borough Office. A drawing of such Sign together with a location map showing the proposed location of the Sign shall be required for all permanent Signs.

2. All Signs must be erected and maintained in a safe and orderly condition. Any Sign found to be in violation of this Ordinance may be removed by the Borough at the owner's expense.

3. Temporary Signs erected for directional reasons must not exceed six (6) inches by twenty four (24) inches in size and must be removed within twenty-four (24) hours after Use.

B. SIZE. All Signs must conform to the following limitations in size.

1. House and Residential Name Signs no more than forty-eight (48) inches by forty-eight (48) inches must be erected in such a manner and in such location that they do not interfere in any way with snow plowing or road maintenance vehicles. Only one (1) Sign shall be permitted at the roadway and for properties that abut Indian Lake, one (1) additional Sign shall be permitted at the shoreline. Signs erected near the public roadway shall not encroach upon the Borough road easement.

2. Commercial Location Signs shall be no more than thirty-six (36) inches by sixty (60) inches and must not be erected on the Borough road right of way.

3. Real Estate Sales Signs shall be no more than twenty-four (24) inches by thirty-six (36) inches and must be located on the property being sold and may also be placed at an nearby intersection so as to permit directional guidance to the property being

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sold. A maximum of two Signs shall be permitted per property. Additionally, placement of one receptacle for enclosure of sale brochures is permitted at the property or at a nearby intersection.

4. Directional Signs shall be no more than six (6) inches by thirty (30) inches, shall be used to indicate the direction or distance to a public or business facility and shall be erected at a point approved by the Zoning Enforcement Officer which shall be a common point for other Signs of that type where possible.

5. All other Signs shall not exceed a dimension of eighteen (18) inches by thirty (30) inches and must not be erected on the Borough road right of way.

C. REMOVAL.

1. All Real Estate Sales Signs shall be removed within forty-eight (48) hours after the closing is held on the property on which the Sign is located takes place. The Sign must be removed by the owner of the Sign or the owner of the property. In the event the Sign is not removed as set forth above, the Zoning Enforcement Officer shall prepare a notice which shall describe the Sign and state that if the Sign is not removed within five (5) days of the receipt of the notice, it will be removed by the Borough of Indian Lake and all costs incidental to said removal shall be considered a debt owed to the Borough by the owner of the property and may be recovered in an appropriate court action by the Borough. Notice by certified mail to the owner of the property on which the Sign is located shall constitute adequate legal notice.

2. All political Signs advocating election of a political candidate or advocating a particular ballot provision shall be removed within seven (7) days after the election takes place. The Sign must be removed by the owner of the Sign or the owner of the property. In the event the Sign is not removed as set forth above, the Zoning Enforcement Officer shall prepare a notice which shall describe the Sign and state that if the Sign is not removed within five (5) days of the receipt of the notice, it will be removed by the Borough of Indian Lake and all costs incidental to said removal shall be considered a debt owed to the Borough by the owner of the Sign and the owner of the property and may be recovered in an appropriate court action by the Borough. Notice by certified mail to the owner of the property on which the Sign is located shall constitute adequate legal notice.

1202. FENCES.

A. GENERAL PROVISIONS.

1. Retaining walls and Fences constructed of split rail, stones, bricks or decorative concrete blocks less than two (2) feet in Height, do not require a permit.

2. A Building permit shall be required for the erection of all Fences and walls in any zoned area except for those Fences and walls identified in subsection A.1. of this section.

3. Fences must be constructed of plastic, wooden split rails, wooden Boards, stones, bricks, or decorative concrete blocks. Wrought iron decorative Fences are permitted provided that the surface coating is maintained in good repair. Under no circumstances are chain link Fences permitted.

4. Except for Fences surrounding swimming pools, Fences that create more than a twenty-five (25%) visual obstruction shall be no more than four (4) feet above ground level in any location. Fences that create less than a twenty-five (25) percent visual obstruction shall be no more than six (6) feet above ground level in any location. No Fence shall be constructed parallel to the lake front closer than one hundred (100) feet from the natural shore line. Fences built perpendicular to the lake front along the side property line may be built to the natural shore line; however, the portion of the Fence that is within one-hundred (100) feet from the shoreline must not create more than twenty-five (25%) visual obstruction. If a property owner elects to construct a Fence within the easement area (10' from side property line), they will be required to bear any costs associated with removal or displacement should the Borough require access within the area of easement and in no case may the Fence be constructed within two (2) feet of the side property line.

5. Fences shall be at least twenty-five (25) feet from the center of a Borough road where the Fence is installed parallel to the property line that abuts a Borough road.

1203. SCREENS

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A. GENERAL PROVISIONS.

1. A Building permit shall be required for the erection of all Screens in any zoned area except for Screens required under section 1306 of this Ordinance.

2. Screens must be constructed of plastic, wooden split rails, wooden Boards, stones, bricks, or decorative concrete blocks.

3. Screens shall be no more than eight (8) feet above ground level in any location. No Screen shall be constructed closer than one hundred (100) feet from the natural shore line except as required by section 1306 of this Ordinance. Umm there in no section 1306

Comment [RFH98]: 1206.B.3.a

4. A property owner may not construct more than three (3) Screens on a Platted Lot. No Screen may be installed in a manner at an angle to another Screen greater than ninety (90) degrees unless there is at least twelve (12) feet of separation at the nearest point.

1204. SWIMMING POOLS

A. GENERAL PROVISIONS.

Above ground pools exceeding two (2) feet in depth are prohibited. In-ground pools are permitted only upon the following conditions:

1. The pool is to be used solely by the occupants of the home and their guest and no fee is to be charged.

2. The pool shall be enclosed in a gated see-through Fence not less than six (6) feet in Height and maintained in good condition. The materials used for construction of such a Fence are constrained by the provisions of Section 1202 of this Ordinance.

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Subject to the restrictions of this Ordinance in Sections 1202, pool Fences shall otherwise comply with state regulations relating to pool Fences. Where more restrictive, this Ordinance shall control. The gate must be locked at all times when pool is unattended.

3. All pools shall conform to the Pennsylvania Department of Health standards and existing pools shall have ninety (90) days from the date of enactment of this Ordinance to conform to said standards.

4. In the case of a private single Family pool, it shall be located no closer than ten (10) feet from any side property line and no closer than forty feet from any Front or Rear property line. If it is a pool serving a larger group of residents on a tract where clustered homes have been built, the pool shall be not closer than one hundred (100) feet from any property line.

1205. SPAS/HOT TUBS

A. GENERAL PROVISIONS. Spas or hot tubs are permitted without a permit upon the following conditions:

1. The spa or hot tub does not exceed sixty-five (65) square feet.
2. The spa or hot tub is to be used solely by the occupants of the home and their guests and no fee is to be charged.
3. The spa or hot tub must be covered when not being used.

1206. PORTABLE TOILETS

A. DEFINITION. Portable toilets are defined as self-contained sewage facilities that are moveable and require pumping as a means of sewage disposal.

B. Requirement for a permit. Permits are required in the following circumstances:

1. Portable toilets in any district that will be on-site for more than one week require a permit as to location approved by the Zoning Enforcement Officer and also require a permit from the Borough Sewage Enforcement Officer.

2. No permit is required for portable toilets at construction sites under an active Building permit provided that the portable toilet is located within one-hundred (100) feet of a Building under construction.

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3. In all Districts portable toilets requiring a permit must meet the following additional requirements:

(a) Visibility: Portable Toilets shall not be visible from the Lake or the roads maintained by the Borough. Visibility that is obscured by a decorative Structure such as a Screen is permissible.

(b) Placement: In residential zones except for park areas (R-1, R-2) portable toilets must be set back a minimum of twenty (20) feet from side property lines and one-hundred (100) feet from the Front property line and must be placed so as to permit access by pumping trucks. In commercial zones (C-RH, C-RG, C-M, C-G) portable toilets must be set back a minimum of twenty (20) feet from side property lines and fifty (50) feet from the Front property line and must be placed so as to permit access by pumping trucks.

(c) Pumping schedule will be at least monthly during seasonal periods of Use.

(d) Season removal and replacement is permitted without a permit provided that the portable toilet is replaced in the same location for which it was permitted.

4. On zoned park areas (P-1), only one portable toilet shall be permitted in the park area provided that the provisions of this subsection B.1 of this section are met. In addition, the following additional provisions shall apply:

(a) Visibility: Portable Toilets shall not be visible from the Lake or the roads maintained by the Borough. Visibility that is obscured by a decorative Structure such as a lattice Screen or Decorative Wall may be permitted.

(b) Placement: Portable toilets must be set back a minimum of twenty (20) feet from side property lines and fifty (50) feet from the natural shoreline and must be placed so as to permit access by pumping trucks. Where the topography of the property does not permit placement more than fifty (50) feet from the natural shoreline, the Zoning Enforcement Officer shall have the



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discretion to permit placement no closer than twenty (20) feet from the natural shoreline provided that the location permits access by pumping trucks.

(c) Pumping schedule will be at least monthly during seasonal periods of Use.

(d) Approval regarding installation of a portable toilet must be obtained by a total of at least four (4) park Lot owners prior to issuance of a permit. Indian Lake Borough as an owner of a Lot of each park shall abstain with regard to approval required by this section.

(e) A permit may be requested by the one or more park Lot owners; however, all persons joining in the submission of an application for permit for placement of a portable toilet shall be jointly and severally liable for maintenance of the facility, for any remediation that is required by the Zoning Enforcement Officer or for any fines assessed for non-compliance.

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ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE THIRTEEN  
INTERPRETATION OF ORDINANCE

1301. INTERPRETATION

In their interpretation and application, the provisions of this Ordinance shall be held to be minimum requirements, adopted for the promotion of the public health, safety or the general welfare. Ambiguity shall be resolved in favor of the property owner. Whenever the requirements of this Ordinance are at variance with the requirements of any other lawfully adopted rules, regulations or variances, the most restrictive or that imposing the higher standards shall govern. Whenever a provision of this Ordinance is at variance with the Municipalities Planning Code, 53 P.S. §§10101-11202 as amended, the Municipalities Planning Code shall govern.

ZONING ORDINANCE NO \_\_\_\_\_  
INDIAN LAKE BOROUGH  
ARTICLE FOURTEEN  
REPEALING CLAUSE

1401. REPEALING CLAUSE.

If any sentence, clause or section of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses or sections of this Ordinance. It is hereby declared as the intent of the Borough Council of the Borough of Indian Lake that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentences, clauses or sections thereof not been included herein.

All other ordinances or parts of ordinances inconsistent with the provisions of this Ordinance are hereby repealed.

It is the intention of this Ordinance, or any amendments or supplements hereto, to establish a complete and exclusive system of zoning rules and regulations for the Borough of Indian Lake, Somerset County, Pennsylvania.

Ordained and Enacted this \_\_\_\_\_ day of \_\_\_\_\_, 2009.

BOROUGH OF INDIAN LAKE

Attest:

\_\_\_\_\_  
Secretary

By: \_\_\_\_\_  
President of Council

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