

BOROUGH OF DEER LAKE, SCHUYLKILL COUNTY
COMMONWEALTH OF PENNSYLVANIA

ORDINANCE NO. 87

AN ORDINANCE OF THE BOROUGH OF DEER LAKE, SCHUYLKILL COUNTY, COMMONWEALTH OF PENNSYLVANIA, REGULATING ZONING; SUMMARIZING, CLARIFYING AND AMENDING PRIOR ZONING ORDINANCES; AMENDING THE PENALTY PROVISIONS OF ORDINANCE #28; AMENDING REGULATIONS RELATING TO FENCES, WALLS AND HEDGES; AMENDING REQUIREMENTS FOR GARAGES AND PRIVATE PARKING AREAS IN THE R-1-A DISTRICT; AMENDING THE DEFINITION OF PARCEL/LOT/ZONE LOT IN ORDINANCE #28; REQUIRING ACCESSORY USES TO BE ON THE SAME PARCEL/LOT AS THE PRINCIPAL USE IN THE R-1 AND R-1-A DISTRICTS; LIMITING THE SIZE AND NUMBER OF GARAGES ALLOWED PER PARCEL/LOT; AMENDING THE DEFINITION OF STORAGE SHED, AND AMENDING THE ALLOWABLE SIZE AND NUMBER OF STORAGE SHEDS PER PARCEL/LOT; CLARIFYING THAT USES PERMITTED BY BOARD APPROVAL SHALL BE SPECIAL EXCEPTION USES; ADDING A DEFINITION OF IMPERVIOUS SURFACE COVERAGE; ADDING A REGULATION THAT IMPERVIOUS SURFACE COVERAGE IN RESIDENTIAL DISTRICTS NOT EXCEED 50 PERCENT; ADDING A PROVISION REQUIRING A ZONING PERMIT FOR NON-INCIDENTAL FILLING, EXCAVATION AND GRADING; ELIMINATING REFERENCES TO A BOROUGH PLANNING COMMISSION; ALLOWING FOR THE APPOINTMENT OF ALTERNATE MEMBERS OF THE ZONING HEARING BOARD; ELIMINATING PROVISIONS DIRECTING THE ZONING HEARING BOARD TO ACT ON THE ADVICE OF THE MUNICIPAL SOLICITOR; DESIGNATING THE BOROUGH SECRETARY OR OTHER OFFICIALS SO DESIGNATED BY COUNCIL TO RECEIVE APPLICATIONS AND FEES; ALLOWING BOROUGH COUNCIL TO SET AND ADJUST FEES FROM TIME TO TIME BY RESOLUTION; ESTABLISHING CRITERIA APPLICABLE TO SPECIAL EXCEPTION REQUESTS; AMENDING SECTION 5.400 OF ORDINANCE #28 TO ESTABLISH THE REQUIREMENTS OF SITE PLANS FOR MOBILE HOME PARKS; AMENDING SECTION 8.201 OF ORDINANCE #28 TO ESTABLISH THE REQUIREMENTS OF SITE PLANS FOR SINGLE-FAMILY RESIDENTIAL DWELLINGS AND SITE PLANS FOR USES OTHER THAN SINGLE-FAMILY RESIDENTIAL DWELLINGS; REPEALING ORDINANCES OR PARTS THEREOF INCONSISTENT WITH THIS ORDINANCE; CONTAINING SEVERABILITY LANGUAGE; AND ESTABLISHING AN EFFECTIVE DATE.

WHEREAS, on June 8, 1971 the Borough of Deer Lake (hereinafter throughout this Ordinance "Deer Lake") adopted Ordinance #28, which is the ordinance which regulates zoning in Deer Lake; and

WHEREAS, after June 8, 1971 Deer Lake adopted several Ordinances which constitute amendments to various provisions of Ordinance #28, said amendments being summarized in the succeeding paragraphs; and

WHEREAS, on June 9, 1987 Deer Lake adopted an Ordinance titled "Ordinance #28 Amendment" which changed the zoning district of a particularly described piece of land from the R-1 District to the C-1 District, and updated the Deer Lake Zoning Map accordingly; and

WHEREAS, on July 11, 1989 Deer Lake adopted an Ordinance titled "Ordinance #28 Amendment" which changed the zoning district of a particularly described piece of land from the R-1 District to the C-1 District, and updated the Deer Lake Zoning Map accordingly; and

WHEREAS, on September 12, 1978 Deer Lake adopted Ordinance #40 which added Section 2.156.1 to Article II – Definitions of Ordinance #28, creating a definition of "Storage Shed", and which added Section 5.301.1 to Article V – Supplementary Regulations of Ordinance #28, creating set-back regulations for Storage Sheds; and

WHEREAS, on January 15, 1988 Deer Lake adopted Ordinance #49 which creates a new zoning district, the R-1-A District, to add to the 5 zoning districts originally established by Ordinance #28 (R-1, R-2, R-3, C-1 and W-1), and establishes permitted uses, accessory uses, uses requiring board approval, and minimum lot sizes, yard dimensions and building coverage for the R-1-A District; and

WHEREAS, on October 11, 1988 Deer Lake adopted Ordinance #53, which amends 5 separate sections of Ordinance #28 (4.103, 6.301, 6.304, 6.401 and 6.501) creating a new use permitted with Board approval in the R-1 District for the expansion of non-conforming uses; and

WHEREAS, on April 8, 2003 Deer Lake adopted Ordinance #71, which amends Ordinance #28 by adding Section 5.111 to Article V – Supplementary Regulations, which establishes regulations for roof pitch on single and two-family dwellings; and

WHEREAS, on November 12, 2013 Deer Lake adopted Ordinance #80, which amends Sections 4.102 and 4.106 of Ordinance #28, and presumably Sections 4.152 and 4.156 of Ordinance #49, to further limit the size of Private Garages or Private Parking Areas; and

WHEREAS, zoning in Deer Lake is therefore regulated by the following Ordinances: #28; #40; #49; #53; #71; #80; and two Ordinances titled "Ordinance #28 Amendment enacted on June 9, 1987 and July 11, 1989, respectively; and

WHEREAS, Deer Lake desires to make further amendments to its zoning regulations to create additional regulations, amend portions of prior Ordinances that are outdated, and clarify and/or affirm portions of prior Ordinances that are confusing; and

WHEREAS, Deer Lake has complied with all the various notice, review and advertising requirements set by 53 P.S. Section 10609 of the Pennsylvania Municipalities Planning Code;

NOW, THEREFORE, be it ORDAINED as follows:

1. Section 8.700, titled "Penalties", of Ordinance #28 is void as previously written, and is amended to include the following language (which shall also apply to all amending Ordinances referenced above which amend the zoning regulations established in Ordinance #28):

"Any person, partnership, corporation or legal entity who or which has violated or permitted the violation of the provisions of this or any zoning ordinance enacted by the Borough of Deer Lake shall, upon being found liable therefor in a civil enforcement proceeding commenced by the Borough of Deer Lake, pay a judgment of not more than \$500 per violation plus all court costs, including reasonable attorney fees incurred as a result thereof. Each day that a violation continues shall constitute a separate violation. All provisions of 53 P.S. Section 10617.2 of the Pennsylvania Municipalities Planning Code shall apply."

2. Section 5.102, titled "Fences, Walls, and Hedges", of Ordinance #28 is amended to read as follows:

"Notwithstanding other provisions of this ordinance, fences, walls and hedges are permitted in any yard or along the edge of any yard only as follows: no fence, wall or hedge in any front yard or along the edge of any front yard may be in excess of four (4') feet in height; no fence, wall or hedge in any side yard or along the edge of any side yard but within twenty-five (25') feet of the public roadway adjoining the front yard may be in excess of four (4') feet in height; no fence, wall or hedge in any side yard or along the edge of any side yard and more than twenty-five (25') feet from the public roadway adjoining the front yard may be in excess of six (6') feet in height; no fence, wall or hedge in any rear yard or along the edge of any rear yard may be in excess of six (6') feet in height; all wood fences must be either painted or stained on both sides; all metal-type fences susceptible to rust shall be rustproofed and painted on both sides; galvanized fences are not required to be painted; no chain-link fences shall be permitted; and any and all types of barbed wire, whether used solely as fencing or placed on top of fencing in residential districts are prohibited."

3. Ordinance #80 is clarified to amend Sections 4.102 and 4.106 of Ordinance #28 as stated therein, but also to amend Sections 4.152 and 4.156 of Ordinance #49 in the same ways by limiting a Private garage or private parking areas in Section 4.152(a) to not exceed 1000 square feet and have a minimum 4 x 12 roof pitch and prohibiting flat roofs, and by creating a maximum garage height in Section 4.156(b) of 16 feet and 1 story. The restrictions stated herein are only applicable to garages that are accessory uses.

4. Section 2.136, titled "Lot or Zone Lot", of Ordinance #28 is amended in that the title shall be expanded to read "Parcel, Lot or Zone Lot", and the definition stated therein shall be amended to read as follows:

"A tract or parcel of land which has road frontage, regardless of size, held in single and/or joint ownership, which is occupied, or is capable of being occupied, by buildings,

structures, and accessory buildings, including such open spaces as are arranged, designed, or required, and having frontage on either a public street or a private street. Either of the three terms, "Parcel", "Lot" or "Zone Lot" shall also mean plot, site or any other similar term, when such term is used in the proper context."

(The titles and definitions located in Section 2.136(a) and 2.136(b) in Ordinance #28 are not changed by this amendment).

5. All Permitted Accessory Uses in the R-1 District, as found in Section 4.102 of Ordinance #28, in the R-3 District, as found in Section 4.202 of Ordinance #28, and in the R-1-A District, as found in Section 4.152 of Ordinance #49, must be located on the same lot/parcel (as defined in Paragraph 4 of this Ordinance) as the permitted principal use.

6. Section 4.102(a) of Ordinance #28, as already amended by Section 4.102(a) of Ordinance #80, and Section 4.152 of Ordinance #49, as already amended by Ordinance #80 and Paragraph 3 of this Ordinance, and Section 4.202(a) of Ordinance #28, are hereby clarified and further amended to limit a private garage to 1,000 square feet, a minimum 4 x 12 roof pitch, to prohibit flat roofs, and to limit the number of garages allowed to one garage per parcel/lot, and to limit a private parking area to 1,000 square feet. Further, Section 4.106(b) of Ordinance #28, as already amended by Section 4.106(b) of Ordinance #80, and Section 4.156(b) of Ordinance #49, as already amended by Ordinance #80 and Paragraph 3 of this Ordinance, and Sections 4.203(1)(i) and (j), 4.203(2)(i) and (j) and 4.203(3)(i) and (j) of Ordinance #28 are hereby clarified and further amended to limit private garage heights to a maximum of 16 feet and 1 story.

7. Section 2.156.1, titled "Storage Shed", of Ordinance #40 (which itself amended Ordinance #28) is amended to read as follows:

"An accessory building for the purpose of storing equipment pertinent to the maintenance of the premises."

8. Section 5.301.1 of Ordinance #40 (which itself amended Ordinance #28) is amended to read as follows:

"A Storage Shed shall not be located closer to the public street than the required front yard setback, nor within five (5') feet of the side or rear parcel/lot lines, nor shall it exceed 288 square feet in area nor 12 feet in height, and there shall be no more than 2 Storage Sheds per parcel/lot."

9. Section 4.103 of Ordinance #28, Section 4.153 of Ordinance #49, and 4.103 of Ordinance #53 are amended to clarify that "Uses Permitted with Board Approval" are Special Exception Uses to be decided/approved by the Zoning Hearing Board of Deer Lake.

10. Article 2 of Ordinance #28, titled "Definitions", is amended to add a new Section and newly defined term as follows: "**Section 2.131.1 Impervious Surface Coverage**
Coverage of the parcel, lot or zone lot by materials which cannot be usually and/or easily penetrated by water, including but not limited to any roof, parking lot, driveway, patio, deck,

sidewalk and all areas covered by gravel or crushed stone. Larger rocks typically used in landscaping are not part of this definition.”

11. Article 5 of Ordinance #28, titled “Supplementary Regulations”, is hereby amended to include a new Section, Section 5.800, titled “Impervious Surface Coverage”, which shall state the following:

“The Impervious Surface Coverage of any Parcel, Lot or Zone Lot in an R-1, R-2, R-3 or R-1-A District shall not exceed 50 percent.”

12. Article 5 of Ordinance #28, titled “Supplementary Regulations”, is hereby amended to include a new Section, Section 5.900, titled “Filling, Excavation and Grading”, which shall state the following:

“All activities which require the moving of earth or the filling or excavation of an area on any Parcel, Lot or Zone Lot, (except for incidental or minor grading or earth moving for landscaping or agricultural purposes) shall require a Zoning Permit issued by the Zoning Officer. The Zoning Officer may consider the following in considering a permit application: whether the existing grade of a Parcel, Lot or Zone Lot will be changed so as to create an unstable slope; whether the activity will result in an unreasonable or significant increase in the flow of surface water, including onto a public right-of-way; whether the debris from any excavation will be disposed of to prevent an unsightly condition from existing on any property”.

13. Any and all references in Ordinance #28, such as the one located in Section 5.400(1), requiring submission of any plan or document to the Borough Planning Commission for review are eliminated.

14. Section 7.101 of Ordinance #28 is hereby amended to add the following sentence:

“The Borough Council may appoint up to three residents of the Borough of Deer Lake to serve as alternate members of the Board.”

15. Section 7.201(b) of Ordinance #28 is hereby amended to remove the phrase “with the advice of the Borough Solicitor and the Borough Planning Commission”, and to put in its place the phrase “with the advice of the Board’s Solicitor”.

16. Section 7.301 of Ordinance #28 is hereby amended to remove the phrase “shall be submitted to the Secretary of the Board of Adjustment” as the person to receive the application and fee, and to put in its place the phrase “shall be submitted to the Secretary of the Borough or any other person the Borough Council designates to receive such application and fee”.

17. Section 8.400 of Ordinance #28 is hereby amended to add the following sentence to the end of the first paragraph:

“The Borough Council shall establish the schedule of fees, charges and expenses and collection procedures from time to time by Resolution”.

18. Article 7 of Ordinance #28, titled "Zoning Hearing Board", is hereby amended to include a new Section, Section 7.600, titled "Criteria Applicable to All Special Exception Requests", which shall state the following:

"The granting of a special exception when specifically authorized by the terms of any zoning ordinance of the Borough of Deer Lake shall be subject to the following standards and criteria: 1) Such a use shall be one which is specifically authorized as a special exception in the zoning district wherein the applicant seeks a special exception; 2) Such special exception shall be granted subject to any applicable conditions and safeguards as required by any zoning ordinance of the Borough of Deer Lake and the zoning hearing board; 3) Such special exception shall not adversely affect the character of the zoning district, nor the property values of the district, nor the health and safety of the residents and in the general neighborhood; 4) Such special exception shall be of such 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 neighborhood; 5) Such special exception shall not conflict with the direction of building development of any Comprehensive Plan which has been adopted by the Borough Council; and 6) Services and utilities are available to adequately service the proposed special exception".

19. All references to "multi-family" or "multiple" dwellings in Section 5.400 of Ordinance #28 is hereby deleted and removed. Henceforth Section 5.400 shall require and govern a site plan or site development plan for Mobile Home Parks only. The site plan or site development plan required by this Section shall be submitted, in duplicate (in other words 2 copies) to the Zoning Officer for consideration. Following submission the terms and conditions of Sections 8.200 through 8.400 shall apply (excepting the form of application described in Section 8.201(a)-(g) since the provisions of Section 5.400 (1) through (3)(a)-(h) describe the form of application for a site development plan for a Mobile Home Park).

20. Section 8.201 of Ordinance #28 shall be retitled "Form of Application – Site Plan". The first portion of Section 8.201, through part (g), is hereby amended to read as follows:

"All applications for single-family residential dwellings, and land developments and uses other than single-family residential dwellings (excepting Mobile Home Parks which are addressed in Section 5.400), shall be made in writing and shall be accompanied by two (2) sets of plans, or site plans".

Parts (a) through (g) of Section 8.201 will be relocated into a new Section. The remaining three paragraphs of Section 8.201, the first one of which begins "One (1) copy of the plans shall be returned...", remain unchanged as stated.

21. Article 8 of Ordinance #28, titled "Administration", is hereby amended to add a new Section, Section 8.201.1, titled "Site Plan Information for Single-Family Residential Dwellings", which shall state the following:

"The following information shall be included on all site plans for a single single-family residential dwelling: 1) A statement describing the proposed use; 2) The actual dimensions and shape of the lot to be built upon, showing location of streets and adjacent property uses; 3) The dimensions, height and location on the lot of any existing or proposed (including extensions)

buildings, structures or signs; 4) The zoning district; 5) Any open spaces, parking areas, yards, fences and Impervious Surface Coverage; 6) Methods of sewer and water service; 7) Floodplain delineation; 8) Any other information reasonably required by the Zoning Officer to assist him/her in granting or denying the application”.

22. Article 8 of Ordinance #28, titled “Administration” is hereby amended to add a new Section, Section 8.201.2, titled “Site Plan Information for Uses Other than Single-Family Residential Dwellings and Mobile Home Parks”, which shall state the following:

“The following information shall be included on all site plans for uses other than single-family residential dwellings (which is dealt with in Section 8.201.1) and Mobile Home Parks (which is dealt with in Section 5.400): 1) A statement describing the proposed use; 2) A site layout drawn to scale of not less than one (1”) inch equals fifty (50’) feet showing the location, dimensions (numbers shown), and area of each lot, the location, dimensions (numbers shown) and height of existing and proposed buildings, structures and signs, location of streets, and adjacent property uses (if the application relates to property which is scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property); 3) The location, dimensions (numbers shown) and arrangements of all open spaces and yards, landscaping, fences, Impervious Surface Coverage and buffer yards including methods and materials to be employed for screening; 4) The location, dimensions (numbers shown), arrangement and capacity of all areas to be used for motor vehicle access, off-street parking, off-street loading and unloading, and provisions to be made for lighting such areas; 5) The dimensions (numbers shown), location, and methods of illumination for signs and exterior lighting generally; 6) The locations and dimensions (numbers shown) of sidewalks and all other areas to be devoted to pedestrian use; 7) Provisions relating to the disposal of sewage, and any industrial wastes, and relating to water supply; 8) The capacity and arrangement of buildings used or intended to be used for dwelling purposes; 9) A description of any proposed industrial or commercial operations in sufficient detail to indicate effects of those operations in producing fire hazards, traffic congestion, glare or other safety hazards and any methods to abate same; 10) Site contours; 11) All proposed grading and drainage provisions; 12) The zoning district; 13) Floodplain delineation; 14) A certification by the person preparing the site plan; 15) A certification of ownership and acknowledgment of the site plan by the owner or developer; and 16) Any other information reasonably required by the Zoning Officer to assist him/her in granting or denying the application.”

23. All Deer Lake Ordinances or provisions thereof inconsistent with this Ordinance are repealed to the extent necessary to give effect to this Ordinance. All provisions of Deer Lake Ordinance #28, and all Deer Lake’s various zoning Ordinances amending Ordinance #28 referenced above, remain in full force and effect unless specifically amended, modified or repealed by this Ordinance.

24. If any provision(s) of this Ordinance is ruled illegal or unenforceable by a court of competent jurisdiction, the rest and remainder of this Ordinance shall remain in full force and effect.

25. This Ordinance shall be effective immediately upon enactment, or on the first day allowed by law thereafter.

ORDAINED and ENACTED this 11 day of August, 2020.

BOROUGH OF DEER LAKE:

David B. Crouse
COUNCIL

ATTEST:

[Signature]
SECRETARY

APPROVED:

[Signature]
Mayor