

1. Section 105 states, “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 special exceptions or variances (minor concessions) granted by 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.
 - What or where did this come from, don’t see the need to state this in the purpose and intention of ordinance. Would recommend removing it.
2. Definitions:
 - A. Building Line: A line formed by the intersection of 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 cantilevered or projected section of a building, the vertical plane will be established by the most projected surface. All yard requirements are measured to the building line.
 - Believe it could be simplified to read, “A line parallel to the property line touching that part of a building closest to the property line.”
 - B. Decorative Wall: A rigid structure used as a barrier that is constructed of a solid material of less than twelve (12) lineal feet in any one direction erected for the purpose of enclosure, privacy, or as a total shield to view.
 - What if it the wall is more than 12 feet in length, is it classified as a fence?
 - Don’t see the purpose of 12 feet if it is for the purpose of enclosure, privacy, or as a total shield to view.
 - C. Deck: Artificial surface constructed above grade.
 - Would consider using something like, “an elevated platform, either freestanding or attached to a building that is supported by pillars or posts.

- D. Floor Area, Usable: The sum of the horizontal areas of all interior rooms as measured from the surface of the interior walls.
- Would exclude all equipment rooms and areas not intended to be used for human habitation.
- E. Lot Line: A property boundary line of any lot held in single or joint ownership, except in the case of multi-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 street line established by the edge of the cartway, 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.
- Would replace, “same as the street line established by the edge of the cartway” with “the same as the edge of the street right-of-way line”.
- F. Mobile Home: A transportable, single family dwelling intended for or capable 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.
- Not a bad definition but once it would be placed on a permanent foundation it would become a single family dwelling.
 - Could consider, “A residential dwelling that was fabricated in an off site manufacturing facility, designed to be a permanent residence, and built prior to enactment of the Federal Manufactured Home Construction and Safety Standards.”
 - Could also change the name to be political correct and include, “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.
- G. Patio: Artificial surface constructed at grade.

- Could consider, “A level, landscaped and/or surfaced area, directly adjacent to a principal building constructed at or near grade.”.
3. Section 301. The Commercial Recreational District (CR) is being divided into two districts; a Commercial Residential Hotel District and a Commercial Recreational Golf District.
 - The residents need to see a proposed Zoning Map to verify locations of these districts.
 - Without no map to refer to I assume that this opens up the ski slope area to residential and whatever area is it the CRH district.
 4. Section 405.A.4 The language requires a site plan showing surveyed locations of features.
 - Should require changing language to read, “must be prepared by a registered land surveyor or registered engineer and including his or her seal.”.
 5. Section 408. The language at the end of the paragraph reads, “...may be required at anytime in an amount to be determined and approved by the Borough Council.”.
 - Could consider changing language to read, “Shall be required at time of the approval in an amount to be determined by the Borough Engineer and approved by the Borough Council.”.
 6. Section 415 states, “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.”
 - Is this really necessary, is this current practice? What are the resident’s feelings on this?
 7. Section 416. Creates parking requirements.
 - Although many of these uses may not occur in the Borough, I see no disadvantage to having these requirements.
 8. Section 417. Grading Requirements. Section A (1) refers to, “..Where the contractor certifies that the cut be into sedimentary rock or other material which is sufficiently durable to remain stable and maintain the cut without slippage”.

- Would suggest this to read, “..Where a registered 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”.
9. Section 417. Grading Requirements. Section A (2) refers to, “..the contractor 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.”.
- Would suggest this to read, “..the contractor must have a registered engineer 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...”.
10. Section 417. Grading Requirements. Section B (1) refers to, “The density of any fill material to be used shall be verified by the contractor 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.”.
- Would suggest this to read, “The density of any fill material to be used shall be verified by a registered 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.”.
11. Section 501. Proposed. In this District, the land and structures may be used and structures may be erected, altered, enlarged and maintained for the following uses only, or a use consistent with the zoning classification.
- What is a “use consistent with the zoning classification”?
 - This language opens the door for the Zoning Enforcement Officer and Council to decide what a consistent use is.
 - Would strongly suggest that any use not expressly listed for a Zoning District not be permitted in that district, unless authorized as a conditional use or a use by special exception in accordance with the provisions the Ordinance.

- Would create a use classified as "Uses Not Specifically Listed" and permit those uses only as a conditional use in one particular district of the Boroughs choosing.

12. Article Seven. Proposed. In this District, the land and structures may be used and structures may be erected, altered, enlarged and maintained for the following uses only, or a use consistent with the zoning classification.

- What is a "use consistent with the zoning classification"?
- This language opens the door for the Zoning Enforcement Officer and Council to decide what a consistent use is.
- Would strongly suggest that any use not expressly listed for a Zoning District not be permitted in that district, unless authorized as a conditional use or a use by special exception in accordance with the provisions the Ordinance.
- Would create a use classified as "Uses Not Specifically Listed" and permit those uses only as a conditional use in one particular district of the Boroughs choosing.

13. Section 701.D.1 Proposed: 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-G property owner consisting of, but not limited to, trees, plants, shrubbery and/or an ornamental fence or wall to provide a sufficient visual buffer from the adjacent residential structures.

- What is a residential area? Would use the term residential use and/or residential zoning district.

14. Section 703. Boathouses, Boat Lifts, Lake Walkways (Docks), Boat Slips, Seawalls and Storage Lockers.

- No comments. The residents would have better knowledge as to how this affects them.

15. Section 801. 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.

- What are they getting at with prior contractual commitments by the Borough are considered conforming for purposes of this Ordinance? Do not like this language at all and would request these sentences be removed.
- What is consistent with the zoning classification or traditional uses existing within the zone?
- This language opens the door for the Zoning Enforcement Officer and Council to decide what a consistent use is.
- Would strongly suggest that any use not expressly listed for a Zoning District not be permitted in that district, unless authorized as a conditional use or a use by special exception in accordance with the provisions the Ordinance.
- Would create a use classified as "Uses Not Specifically Listed" and permit those uses only as a conditional use in one particular district of the Boroughs choosing.

16. Section 801.A.13. Multifamily Dwelling is now a permitted use????

17. Proposed Section 803. C-RG Commercial Recreational Golf. 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.

- What are they getting at with prior contractual commitments by the Borough are considered conforming for purposes of this Ordinance? Do not like this language at all and would request these sentences be removed.
- What is consistent with the zoning classification or traditional uses existing within the zone?

18. Proposed Section 901.B.1 refers to Somerset County Building Inspections.

- This should be changed to current Building Code Official.

19. Proposed Section 907 states, “The Borough of Indian Lake may by Ordinance on its own motion or after report thereon by the Planning Commission and subject to the procedures outlined herein amend...”.
 - Should insist on “on its own motion or” be removed.
 - Although the MPC states in section 609(a), “for the preparation of amendments to zoning ordinances, the procedure set forth in section 607 for the preparation of a proposed zoning ordinance shall be optional”. Section 609(c) reads, “In the case of an amendment other than that prepared by the planning agency, the governing body shall submit each such amendment to the planning agency at least 30 days prior to the hearing on such proposed amendment to provide the planning agency an opportunity to submit recommendations.”.
20. Section 907.C. refers to petition of 51% of the Landowners within the Borough.
 - Where did this come from, should be removed, it eliminates a single landowner or small group of residents requesting changes to the ordinance.
21. Section 908.C needs to stay consistent with Section 609 of the MPC, what is proposed is not.
22. Proposed Section 907, 908, 909, 910, 911, 912 and 913 should stay as consistent with MPC, even if the language is used word for word from the MPC. A land use/zoning attorney or professional consultant should be used to draft this section.
23. Article 10 Special Exceptions: This section needs completely rewritten. A land use/zoning attorney or professional consultant should be used to draft this section. Most of the items listed are variance requests not special exceptions use request. A special exception is a permission or approval granted an applicant to use land in a district for a purpose other than that generally permitted outright in that district. The permission or special exception is granted by the zoning hearing board in accordance with the standards contained in the zoning ordinance, provided generally that the specific application of the use would not prove injurious to the public interest. It is important to realize that the term special exception is a misnomer. It is neither special nor is it an exception. It is not a deviation from the zoning ordinance. An applicant for a special exception is following the zoning ordinance. A special exception is a use envisioned by the ordinance, and, if the express standards and criteria established by

the ordinance are met, the use is one permitted by the ordinance. The difference between a use permitted without qualification and a use permitted by special exception, and it is a significant difference from the point of view of an applicant, is that an applicant for a special exception is subject to the jurisdiction of the zoning hearing board. The function of the board is to determine whether the application is consistent with the public interest as defined in specific standards and criteria established in the ordinance. This generally involves factual determinations, and the board is vested with discretion in evaluating the evidence presented to it. All special exceptions for each zoning district are specifically listed under the provisions for each district. If the use an applicant desires is not permitted in the zone by right, and is not specifically listed as a special exception, the application cannot be granted. The zoning hearing board may not attach conditions to a special exception application, which essentially serve a nonzoning purpose. (Be careful imposing an owner-occupancy condition because the personal identity of an occupant has no relationship to public health, safety or welfare.) See, *Kulak v. ZHB of Bristol Township*, 128 Pa.nCommonwealth Ct. 457, 563 A.2d 978 at 980 (1989)

24. Article 11, ZHB. Some of this article is word for word the MPC, while other sections are completely left out, why is this? This need to follow the MPC (not items dealing with joint boards but all other sections).
25. Section 1204 Pools. Pools are covered under the PA UCC; this section should follow the UCC and does not.
26. There is no Conditional Uses in the ordinance, why is this? A conditional use is nothing more than a special exception that falls within the jurisdiction of the governing body rather than the zoning hearing board. Conditional uses are optional; that is, conditional uses may be provided for in the zoning ordinance if desired. The governing body must adhere to the express standards and criteria set forth in the ordinance, or else the conditional use approval or denial could be overturned in court. Uses, which could be provided as conditional uses rather than as special exceptions, are often those uses that could have a direct effect upon the lives of all persons within the community. Such uses would be specifically listed under the various districts, and to use land for any of these purposes a conditional use application would have to

be filed. The governing body would then have the opportunity to thoroughly examine the proposal and to impose any reasonable safeguards necessary to implement the purposes of the ordinance and to protect the public's general welfare.

27. Although there are certain square footage requirements and lot coverage requirements I would substantially add on the density requirements. There is nothing dealing with minimum lot sizes or number of dwelling units per acre in the ordinance. Both should be included. How was the lot coverage determined? What is the total square footage of development that could occur if district were built out? All these questions need to be answered during the drafting of a Zoning ordinance.
28. There are a number of uses that are not included in the ordinance. Really need to include use classified as "Uses Not Specifically Listed" and permit those uses only as a conditional use in one particular district of the Boroughs choosing.
29. How were the districts and uses determined and what studies were completed to come up with the uses in each district? I would tend to believe that more than two residential districts are needed to address different intensities of residential development.