

**ARTICLE IX
ADMINISTRATION**

Section 901. Enforcement.

A. Zoning administrative officer. Provisions of this Ordinance shall be administered and enforced by the Township Zoning Officer, who shall be appointed by the Township Supervisors. The Township Zoning Officer may not hold any elective office in the township.

B. Duties and powers of Zoning Officer. It shall be the duty of the Zoning Officer to enforce literally the provisions of this Ordinance and all rules, conditions and requirements adopted or specified pursuant thereto, and he shall have such duties and powers as are conferred on him by this Ordinance and as are reasonably implied for that purpose. The Zoning Officer's duties shall include but are not limited to the following:

1. Receipt of applications for and issuance of zoning permits and sign permits.

2. Keeping an official record of all business and activities, including complaints of a violation of any of the provisions of this Ordinance and of the action taken consequent to each such complaint. File copies of all applications received, permits issued, reports and inspections made in connection with any use, structure, building, sign and/or land shall be retained as long as they remain in existence, or as otherwise permitted by law.

3. Making of inspections as required to fulfill his duties. The Zoning Officer shall have the right to enter any building or structure or enter upon any land at any reasonable hour in the course of his duties.

4. Issuance of permits for special exception uses, conditional uses and for variances only after the same have been approved by the Zoning Hearing Board or Board of Supervisors, as appropriate, in accordance with the regulations of this Ordinance.

5. Keeping this Ordinance and the Zoning Map up to date so as to include all amendments thereto.

6. Issuance of certificates of use and occupancy in accordance with the terms of this Ordinance.

7. Issuance of Timber Harvesting Permits in accordance with the terms of this Ordinance and other applicable Township ordinances.

8. Identification and registration of nonconforming uses, structures and dimensions created as a result of the adopting of this Ordinance and Official Zoning Map or created as a result of amendments thereto and issuance of certificates, upon application, with respect to the same.

9. Issuance of enforcement notices and institution of civil enforcement proceedings as a means of enforcement.

10. In specific instances involving Timber Harvesting the Zoning Officer may order the operator and landowner to immediately cease and desist any operation upon finding that (1) corrective action has not been taken by the date specified in the notice of violation; (2) the operation is proceeding without a permit; or (3) the operation is causing an immediate environmental risk. Cease and desist orders shall be in writing, shall be issued to the operator and the landowner, and shall remain in effect until, as determined by the Zoning Officer, the operation is brought into compliance with this Ordinance and the Subdivision and Land Development Ordinance.

11. Issuance of Temporary Use and Structure Permits in accordance with the terms of this Ordinance.

C. Enforcement Notice. The Zoning Officer shall serve an enforcement notice on any person, firm, corporation, partnership or other entity responsible for violating any of the provisions of this Ordinance or in violation of a detailed statement or a plan approved thereunder. The enforcement notice shall be in writing and shall state:

1. The name of the owner of record and any other person against whom the township intends to take action;

2. The location of the property in violation;

3. The specific violation with a description of the requirements which have not been met, citing in each instance the applicable provisions of this 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 procedures set forth in this Ordinance; and

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.

Section 902. Zoning Permit.

No building, structure, or sign shall be erected, constructed, moved, demolished, added to or structurally altered, nor shall any use of any land, building, structure or sign be changed or expanded, without a zoning permit therefore issued by the Zoning Officer. No such permit shall be issued except in conformity with the provisions of this Ordinance, and:

A. the applicant supplying satisfactory evidence, where applicable, that the property and the proposed use thereof is in compliance with all well and sewage ordinances then in effect in Pocono Township, as well as the Sewage Facilities Act of the Commonwealth of Pennsylvania and regulations promulgated pursuant thereto by the Pennsylvania Department of Environmental Protection; and

B. the applicant supplying, where applicable, storm water management plans approved by the Pocono Township Board of Supervisors in accordance with the applicable Pocono Township storm water management ordinances, and an erosion and sedimentation control plan approved by the applicable governmental body or agency charged with that responsibility, with respect to any proposed construction, excavation, or other earth-moving activity; and

C. submission by the applicant of a certificate from the Monroe County Tax Claim Bureau that there are no delinquent real estate taxes due with respect to the property, and a certificate from the Pocono Township Secretary that as of the date specified in that certificate (which shall no predate the application for a zoning permit by more than fourteen [14] days) there are no

delinquent assessments, fines, penalties or user charges imposed by the Township with respect to the property; and

D. a copy of the current recorded deed for the property to prove ownership of the same, which shall contain all pages and show all recording information; and

E. a copy of any written construction contract or agreement that may have been entered into with respect to any construction or other work to be performed on the property for which a permit is being requested; and

F. a copy of the approved building plans from PA L&I that the structure meets the minimum requirements for fire and panic emergencies in addition to any special separate letters for pressure vessels-elevators or other items under their control. This section shall apply to any and all construction and/or conversions which are within Pennsylvania Department of Labor and Industry jurisdiction; and

G. if a construction or conversion involves what would ordinarily be within Pennsylvania Department of Labor and Industry jurisdiction but the applicant contends an exemption from that jurisdiction, a copy of a certification from Pennsylvania Department of Labor and Industry that the construction and/or conversion is exempt will be required in lieu of the approval set forth in Subsection F. hereinabove.

Section 903. Certificate of Use and Occupancy.

A certificate of use and occupancy shall be required upon completion of the work contemplated. It shall be unlawful to use and/or occupy any structure, building, and/or land or portions thereof in any manner until a certificate of use and occupancy has been issued.

A. Form of application. The application for certificate of use and occupancy shall be submitted in such form as the Zoning Officer may prescribe.

B. Issuance of certificate of use and occupancy.

1. The Zoning Officer shall inspect any structure, building, sign and/or land or portions thereof and shall determine the conformity with this Ordinance. If he is satisfied that the completed work is in conformity with this Ordinance, any applicable building ordinances or codes, and with the work

listed in the zoning permit, he shall issue a certificate of use and occupancy.

2. Certificate of use and occupancy shall be granted or refused in writing, within 10 days from the date of application or the application shall be deemed approved.

3. In zoning districts in which performance standards are imposed, no certificate of use and occupancy shall become permanent until the Zoning Officer has reinspected the facility and determined that it is in compliance with all performance standards. The owner of the facility shall request in such form as the Zoning Officer may prescribe, that the Zoning Officer reinspect said facility. Such request shall be made no less than 30 nor more than 45 days after the facility is fully operating, but in no event shall such request be made more than 120 days after the certificate of use and occupancy has been issued. The Zoning Officer shall reinspect the facility within 30 days of receipt of such notification and he shall notify the applicant, in writing, within 10 days thereof that:

a. The facility is in full compliance with all performance standards and the certificate of use and occupancy is permanent; or

b. The facility does not comply with the performance standards and that the certificate of use and occupancy is still temporary and may be revoked if the applicant does not correct all violations. Requests for additional reinspection and action by the Zoning Officer for correction of violations shall follow the same procedure and requirement as described in this section for reinspection. If the Zoning Officer fails to reinspect a facility within 30 days of receipt of notification requesting reinspection, the facility shall be deemed to be in full compliance with all performance standards and the certificate of use and occupancy shall be considered permanent without further action on the part of the applicant.

4. Before an occupancy permit may be issued by the Zoning Officer for any project, construction and/or conversion within the jurisdiction of the Pennsylvania Department of Labor and Industry, a copy of the occupancy permit by the Pennsylvania Department of Labor and Industry must be submitted to the Zoning Officer.

5. Smoke detectors. Every building to be used for human habitation, erected after the effective date of this

Ordinance, shall be equipped with approved smoke detectors. A minimum of one detector for each floor of the dwelling unit, including basement, is required.

C. Temporary Certificate of Use and Occupancy.

Upon the request of an applicant, the Zoning Officer may issue a temporary Certificate of Use and Occupancy. Such temporary Certificate may permit an activity to occur in all or part of a structure before the entire work covered by the Permit has been completed.

1. However, such temporary Certificate shall only be issued if the applicant proves to the Zoning Officer that the activity or occupancy can occur safely without endangering public health or safety.

2. The temporary Certificate shall establish in writing a maximum time period under which it is valid. A six (6) month maximum time period shall apply if not otherwise specified.

3. Failure to receive a permanent Certificate of Use and Occupancy within such time period shall be a violation of this Ordinance.

4. The temporary Certificate may be conditioned upon compliance with certain specific requirements within certain time periods.

Section 904. Timber Harvesting Permit.

A. Notification of commencement and completion.

1. For all timber harvesting operations that are two (2) acres or more the Landowner shall apply for a permit to the Zoning Officer at least 45 calendar days before the operation commences and notify the Zoning Officer (7) business days before the operation is complete.

2. No timber harvesting shall occur until a permit has been issued by the Zoning Officer. The applicant shall specify in writing the land on which harvesting will occur, the expected size of the harvest area, and the anticipated starting and completion date of the operation.

3. The permit shall be valid for one year and for Timber Harvesting only.

B. Logging plan.

1. Every Landowner on whose land timber harvesting is to occur or impacts the Township or Township roads shall obtain a permit and prepare a written logging plan in the form specified by any applicable Township ordinances.

2. No timber harvesting shall occur until a plan and permit has been approved by the Zoning Officer, after review and recommendation by the Pocono Township Planning Commission including the Township Engineer.

3. The provisions of the plan shall be followed throughout the operation. The plan shall be available for inspection at the harvest site at all times during the operation and shall be provided to the Zoning Officer as part of the application for the permit.

C. Responsibility for compliance.

The landowner, applicant and the operator shall be jointly and severally responsible for complying with the terms of the logging plan and permit.

D. Relationship of state laws, regulations, and permits to the Timber Harvesting Permit and logging plan.

Any permits required by state laws and regulations shall be attached to and become part of the Timber Harvesting Permit and the logging plan.

E. Revocation of Permit.

The Zoning Officer may revoke a permit theretofore issued in the following instances:

1. Where the Zoning Officer finds there has been any false statement or misrepresentation as to a material fact in the application, plan or information on which issuance of the permit was based.

2. Where the Zoning Officer determines that the permit was issued in error and should not have been issued in accordance with applicable law.

3. Where the operator or landowner fails or refuses to comply with a written order issued by the Zoning Officer within the time fixed for compliance therewith.

4. Where the Zoning Officer finds there has been Land Disturbance in the form of Earth Moving relative to excavation and grading operations that are not part of a Logging Plan. Such instances shall warrant immediate cease and desist orders as per Section 901.C.7.

Section 905. Schedule of Fees, Charges and Expenses.

A. The Board of Supervisors shall establish a schedule of fees, charges and expenses and collection procedures for zoning permits, certificates of occupancy, timber harvesting permits, special exceptions, variances and appeals and other matters pertaining to this Ordinance.

B. The schedule of fees shall be posted in the office of the Zoning Officer and may be altered or amended by the Board of Supervisors.

C. Until all application fees, charges and expenses have been paid in full, no action shall be taken on any application or appeal.

Section 906. Amendments.

A. The provisions of this Ordinance and boundaries of zoning districts as set forth on the Official Zoning Map may from time to time be amended or changed by the governing body of the municipality.

B. Procedure. The following procedures shall be observed prior to making any amendment or change of this Ordinance or parts thereof, including the Official Zoning Map.

1. Every such proposed amendment or change not initiated by the Planning Commission shall be referred to the Planning Commission at least 30 days prior to the governing body holding a public hearing thereon to provide the Planning Commission an opportunity to submit recommendations.

2. The recommendations, if any, of the Planning Commission shall be submitted in writing to the governing body.

3. All proposed amendments to this Ordinance shall be submitted to the County Planning Commission for its recommendations at least 30 days prior to the public hearing.

4. Curative amendments. A landowner who desires to challenge on substantive grounds 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 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 916.1 of the Pennsylvania Municipalities Planning Code, as amended.

5. Before voting on the enactment of an amendment, the governing body shall hold a public hearing thereon, pursuant to public notice. In addition, if the proposed amendment involves a zoning map change, notice of said public hearing shall be conspicuously posted by the municipality at points deemed sufficient by the municipality along the tract to notify potentially interested citizens. The affected tract or area shall be posted at least one week prior to the date of the hearing.

a. In addition to the requirement that notice be posted under subsection 5. above,

(1) Where the proposed amendment involves a zoning map change, notice of the public hearing shall be mailed by the municipality 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 municipality. 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.

(2) This clause shall not apply when the rezoning constitutes a comprehensive rezoning.

6. Within 30 days after enactment, a copy of the amendment to the zoning ordinance shall be forwarded to the county planning agency or, in counties where no planning agency exists, to the governing body of the county in which the municipality is located.

C. Public Notice. Notice shall be 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 the hearing and the particular nature of the matter to be considered at the hearing. The first publication shall not be more than 30 days and the second publication shall not be less than seven days from the date of the hearing.

D. Publication, Advertisement and Availability of Ordinances.

1. Proposed zoning ordinances and amendments shall not be enacted unless notice of 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 not greater than the cost thereof. The governing body shall publish the proposed ordinance or amendment once in one newspaper of general circulation in the municipality not more than 60 days nor less than 7 days prior to passage. Publication of the proposed ordinance or amendment shall include either the full text thereof or the title and a brief summary, prepared by the municipal solicitor and setting forth all the provisions in reasonable detail. If the full text is not included:

a. A copy thereof 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 shall be filed in the county law library or other county office designated by the county commissioners, who may impose a fee no greater than that necessary to cover the actual costs of storing said ordinances.

2. In the event substantial amendments are made in the proposed ordinance or amendment, before voting upon enactment, the governing body shall, at least ten days prior to enactment, readvertise, 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.

Section 907. Remedies.

In case any building, structure, landscaping or land is or is proposed to be erected, constructed, reconstructed, altered, converted, maintained or used in violation of this Ordinance, the Board of Supervisors or, with the approval of the Board of Supervisors, the Zoning Officer or other officer of the township 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 township at least 30 days prior to the time the action is begun by serving a copy of the complaint on the Board of Supervisors. No such action may be maintained until such notice has been given.

Section 908. Violations and Penalties.

Any person, partnership, corporation or other entity who or which has violated or permitted the violation of the provisions of this Ordinance shall, upon being found liable therefor in a civil enforcement proceeding commenced by the township, pay a judgment of not more than \$500, plus all court costs, including reasonable attorney's fees incurred by the township as a result thereof. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the District Justice who has jurisdiction over the action. If the defendant neither pays nor timely appeals the judgment, the township 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 Justice determining that there has been a violation further determines that there was a good faith basis for the person, partnership, corporation or other entity violating this 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 the determination of a violation by the District Justice, and thereafter each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney's fees collected for the violation of this Ordinance shall be paid to the township for its general use.

Section 909. Appeals.

Proceedings for securing review of any ordinance, decision, determination or order of the Township Supervisors, its agencies or officers adopted or issued pursuant to this Ordinance shall be in accordance with the Pennsylvania Municipalities Planning Code, as amended.

Section 910. Public Utilities Corporation Excepted.

This Ordinance shall not apply to any existing or proposed buildings or extension thereof used or to be used by a public utility corporation if, upon petition of the corporation, the Public Utility Commission shall, after a public hearing, decide that the present or proposed situation of the building in question is reasonably necessary for the convenience or welfare of the public. It shall be the responsibility of the Pennsylvania Public Utility Commission to ensure that both the corporation and the municipality in which the building or proposed building is located have notice of the hearing and are granted an opportunity to appear, present witnesses, cross-examine witnesses presented by other parties and otherwise exercise the rights of a party to the proceedings.

Section 911. Board of Supervisors' Functions - Conditional Uses.

The Board of Supervisors shall hear and decide applications for conditional uses specifically authorized in this Ordinance pursuant to the provisions of Section 516 of this Ordinance.

The proposed use shall comply with those criteria specifically listed in Article V of this Ordinance. In addition, the proposed use must comply with all other applicable regulations of the Ordinance.

Section 912. Temporary Use and Structure Permits.

A Zoning Permit for a temporary use or structure may be issued by the Zoning Officer for any of the following:

A. A Temporary Permit may be issued for customary, routine and accessory short-term special events, provided that:

1. Such total events shall be limited to a maximum of twelve (12) total days per calendar year for all activities; and

2. Proof of the provision for adequate sanitary facilities acceptable to the SEO, parking and traffic control, security, trash removal, etc., related to the temporary use shall be provided at the time of application for permit.

3. The event shall not exert a detrimental effect upon the uses of land and activities normally permitted in the district.

B. A Temporary Permit may be issued for temporary storage and office trailers that are necessary to serve on-site construction, while construction is actively underway under a valid Township permit.

C. A Temporary Permit may be issued for Temporary Sales if all the following are met:.

1. The property is located in a zoning district that allows sales.

2. The operator shall have received any business permits required by the Township.

3. Any signs visible from a public street shall comply with this Ordinance.

4. Any structure shall meet applicable setbacks.

5. A permit under this Ordinance shall be required from the Township, which shall be displayed while the activity is open for business.

6. In no way shall the use or activity exert a detrimental effect upon the uses of land and activities normally permitted in the district.

7. Proof of the provision for adequate sanitary facilities acceptable to the SEO, parking and traffic control, safe sight distances, security, trash removal, etc., related to the temporary use shall be provided at the time of application for permit.

D. The applicant shall completely remove any structure or use authorized by the Temporary Permit upon expiration of the permit without cost to the Township.

E. Time Period. The Zoning Officer shall state a reasonable maximum time period on the temporary permit. If no

time limit is stated, then a maximum seven (7) day time period shall apply. A temporary permit may be renewed for just cause.

F. An application for a Temporary Use or Structure Permit may be denied if the Zoning Officer believes the activity would obstruct safe sight distances.

Section 913. Compliance with Township Subdivision and Land Development Ordinance.

If a use, structure or event regulated under this Ordinance would also be regulated by the Pocono Township Subdivision and Land Development Ordinance ("SALDO"), then any permit or approval under this Zoning Ordinance shall automatically be conditioned upon compliance with the SALDO. (See the definitions of "Land Development" and "Subdivision" in Article II of this Ordinance).