

POCONO TOWNSHIP  
MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. 121

AN ORDINANCE OF POCONO TOWNSHIP, MONROE COUNTY, PENNSYLVANIA, AMENDING AND REVISING THE POCONO TOWNSHIP SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, ORDINANCE NO. 77, AS PREVIOUSLY AMENDED, TO ADD PROVISIONS FOR THE SUBMISSION, REVIEW AND PROCESSING OF MINOR SUBDIVISIONS FOR CERTAIN LOT CONSOLIDATIONS, LOT LINE ADJUSTMENTS AND MINOR REVISIONS TO PREVIOUSLY APPROVED PLANS; TO ADD A DEFINITION FOR "LOT LINE ADJUSTMENT"; TO ADD AN EXTERIOR ELEVATION SUBMISSION REQUIREMENT FOR CERTAIN TYPES OF DEVELOPMENT; AND TO ADD REQUIREMENTS FOR COMMON OPEN SPACE, RECREATION AREAS AND IN-LIEU FEES WITH RESPECT TO THE SAME.

WHEREAS, it is the desire of the Pocono Township Board of Supervisors to amend, revise and revise Ordinance No.77, known as the "Pocono Township Subdivision and Land Development", as previously amended, to add provisions for the submission, review and processing of minor subdivisions for certain lot consolidations, lot line adjustments and minor revisions to previously approved plans; to add a definition for "Lot Line Adjustment"; to add an exterior elevation submission requirement for certain types of development; and to add requirements for common open space, recreation areas and in-lieu fees with respect to the same.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, and it is hereby ordained and enacted by the authority of the same, to wit:

**ARTICLE I.** Section 2.102 Submission Requirement, is hereby amended to provide as follows:

**"Section 2.102 Submission Requirement**

- A. Except as provided in Section 2.102B, all required plans, applications, fees and supporting data shall be presented by certified mail or delivered in person to the Administrator not less than ten (10) days prior to the Planning Commission meeting at which the same is to be submitted to the Planning Commission. The Administrator will issue a receipt indicating the date the filing was received by the Administrator. The Administrator shall review the filing prior to the Planning Commission meeting at which the same is to be submitted, to make a preliminary determination whether the filing is generally in compliance with the submission requirements of this Ordinance, and shall report his or her findings to the Planning Commission at its next regularly scheduled meeting. Any filing received less than ten (10) days prior to a regularly scheduled meeting of the Planning Commission

will not be placed on the agenda for consideration until the next regularly scheduled meeting of the Planning Commission, unless the Planning Commission, in its sole discretion, otherwise agrees due to exceptional or unusual circumstances.

- B. With respect to Minor Subdivisions to combine adjacent lots within recorded subdivisions (lot consolidations), any submission that qualifies as a “lot line adjustment”, and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions concerning a plan previously granted final plan approval, all required plans, applications, fees and supporting data shall be presented by certified mail or delivered in person to the Administrator at least ten (10) days prior to the Board of Supervisors’ meeting at which the same is to be submitted to the Board of Supervisors. The Administrator will issue a receipt indicating the date the filing was received by the Administrator. The Administrator shall review the filing prior to the Board of Supervisors’ meeting at which the same is to be submitted, to make a preliminary determination whether the filing is generally in compliance with the submission requirements of this Ordinance, and shall report his or her findings to the Board of Supervisors at it’s next regularly scheduled meeting. Any filing received less than ten (10) days prior to a regularly scheduled meeting of the Board of Supervisors will not be placed on the agenda for consideration until the next regularly scheduled meeting of the Board of Supervisors, unless the Board of Supervisors, in its sole discretion, otherwise agrees due to exceptional or unusual circumstances.”

**ARTICLE II:** Section 2.103 County and Other Agency Reviews, is hereby amended to provide as follows:

**“Section 2.103 County and Other Agency Reviews**

- A. Except as provided in Section 2.103B, the Planning Commission shall review the filing at its next regularly scheduled meeting at which a quorum is present to determine if the submission is complete. If the submission is incomplete, the Planning Commission shall reject the submission indicating the deficiencies. If the submission is complete, the Planning Commission shall issue a receipt to the Applicant or his representative stating that the submission has been accepted for review. The date the submission receipt is issued (the “Submission Receipt Date”) constitutes the official date of submission for purposes of plan review. If the next regularly scheduled meeting of the Planning Commission at which a

quorum is present occurs more than thirty (30) days from the filing of a complete application with the Administrator the Submission Receipt Date shall be the date which is thirty (30) days following the date the complete application is filed with the Administrator. Once the submittal has been accepted for review the Administrator shall transmit copies of the Application and plan to the appropriate agencies and other individuals as provided in Section 2.202-B and C for review and recommendation, unless the Applicant has already done so directly.

- B. With respect to Minor Subdivisions to combine adjacent lots within recorded subdivisions (lot consolidations), any submission that qualifies as a “lot line adjustment”, and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions concerning a plan previously granted final plan approval, the Board of Supervisors shall review the filing at its next regularly scheduled meeting at which a quorum is present to determine if the submission is complete. If the submission is incomplete, the Board of Supervisors shall reject the submission indicating the deficiencies. If the submission is complete, the Board of Supervisors shall issue a receipt to the Applicant or his representative stating that the submission has been accepted for review. The date the submission receipt is issued (the “Submission Receipt Date”) constitutes the official date of submission for purposes of plan review. If the next regularly scheduled meeting of the Board of Supervisors at which a quorum is present occurs more than thirty (30) days from the filing of a complete application with the Administrator the Submission Receipt Date shall be the date which is thirty (30) days following the date the complete application is filed with the Administrator. Once the submittal has been accepted for review the Administrator shall transmit copies of the Application and plan to the appropriate agencies and other individuals as provided in Section 2.202-B and C for review and recommendation, unless the Applicant has already done so directly.

**ARTICLE III:** The last sentence of the first paragraph of Section 2.203A is hereby revised to provide as follows:

“Three (3) reproducible prints on stable base mylar or approved equal material and eight (8) (except with respect to Minor Subdivisions to combine adjacent lots within recorded subdivisions [lot consolidations], any submission that qualifies as a “lot line adjustment”, and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions

concerning a plan previously granted final plan approval, where only four (4) shall be required) blue or black lined prints together with appropriate supportive data shall be submitted by certified mail or delivered in person to the Administrator.”

**ARTICLE IV:** The first sentence of Section 2.203B is hereby revised to provide as follows:

“After the Commission (or the Board of Supervisors in the case of Minor Subdivisions to combine adjacent lots within recorded subdivisions [lot consolidations], any submission that qualifies as a “lot line adjustment”, and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions concerning a plan previously granted final plan approval) has determined that the Final Plan submission includes the required material as specified by the Ordinance, the Commission (or the Board of Supervisors with respect to in the case of Minor Subdivisions to combine adjacent lots within recorded subdivisions [lot consolidations], any submission that qualifies as a “lot line adjustment”, and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions concerning a plan previously granted final plan approval) shall issue a submission receipt for the Final Plan at a regular meeting.”

**ARTICLE V:** The following paragraph is added to the end of Section 2.203D.

“In the event that the Final Plan involves a Minor Subdivisions to combine adjacent lots within recorded subdivisions [lot consolidations], any submission that qualifies as a “lot line adjustment”, and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions concerning a plan previously granted final plan approval, the Commission will not be involved with respect to the review of the same, and therefore any action required by the Commission pursuant to the provisions of this Section, shall be instead taken by the Board of Supervisors, where applicable and necessary.”

**ARTICLE VI:** A new Section 2.305 is hereby added, which shall provide as follows:

**“2.305. Submission of Final Plan for Minor Subdivisions to combine adjacent lots within recorded subdivisions (lot consolidations), any submission that**

qualifies as a "lot line adjustment", and/or any submission in the determination of the Board of Supervisors, which may be based upon the advice of the Township engineer, which will only involve revisions to a previously approved plan and those revisions only involve changes in the supporting documentation or engineering details or to correct erroneous data or minor omissions concerning a plan previously granted final plan approval.

- A. Final Plans shall be drawn at a scale not to exceed 1 inch equals 100 feet provided all bearings, distances and other information can be legibly and accurately presented on the plan. Plans shall be prepared on a standard sheet of 12" by 18", 18" by 24" or 24" by 36" except when the Board of Supervisors approves other size plans. The plans for recording shall be a clear, legible, reproducible original or print on linen, "mylar" or comparable quality material."
- B. The submission shall include a certified copy of the original subdivision plan which is filed in the Monroe County Recorder of Deeds office, with the lots that are proposed to be joined highlighted (if applicable).
- C. The submission shall include a certified copy of the current deed to each property involved.
- D. The plan shall show at least the following:
  - 1. Name and address of all owners of record.
  - 2. Name, address seal and signature of the registered Professional Land Surveyor responsible for the plan.
  - 3. Date of the plan and of each revision.
  - 4. North arrow.
  - 5. Graphic and written scale.
  - 6. Deed reference and tax assessment parcel identification number for each lot.
  - 7. All original lot, tract or boundary information, acceptable to the Township, sufficient to establish the location, bearing and length of every boundary, street or lot line. If this information is from the original subdivision plan, it shall be so noted and the precision

shall conform to that of the original subdivision plan. If the information is established by survey, lengths shall be indicated to the hundredth of a foot and bearings shall be indicated to the nearest second.

8. The original lot numbers indicated on the appropriate lots as well as the proposed lot number.
9. Building setback lines.
10. Any existing buildings located on the lots.
11. Reference monuments and or lot markers, as appropriate.
12. Lot lines to be eliminated, shown with a broken line and labeled, "Lot line to be eliminated".
13. Name and/or number and right-of-way width of any street or road abutting the property.
14. Names of owners and/or lot numbers of adjacent properties.
15. Water courses, lakes, streams, ponds, wetland, etc.
16. Flood Hazard Areas and Steep Slope Areas.
17. The area of each lot, existing and proposed.
18. A Reference to the recorded subdivision plan where the lots were originally subdivided including the recording information.
19. The zoning district.
20. The latest U.S.G.S. Quadrangle map or portion thereof with the perimeter of the involved properties plotted thereon to scale.
21. A signature block on the plan for the approval by the Board of Supervisors, including a space for the date of approval and the signature of the Secretary of the Board.
22. Certificate of Ownership and Acknowledgment of Plan in the form set forth in Appendix "C", which shall be accurately completed,

signed by the Owner of the property, dated and notarized.

23. Certificate of Accuracy and Compliance, in the form set forth in Appendix "D", dated, signed by the Registered Professional Land Surveyor responsible for the plan and embossed with his or her seal.

E. The plan shall also show or be accompanied by the following:

1. A Development Agreement and Performance Guaranty, if the required or promised improvements have not be completed before submission of the Final Plan.
2. Exterior elevations of any proposed buildings if the property is to be developed for a use other than a single family detached dwelling.

F. The following shall be on the plan, in the form of protective covenants and/or notes:

1. "This Plan is under and subject to all of the rules, regulations, requirements and restrictions as set forth in both the Pocono Township Subdivision and Land Development Ordinance and the Pocono Township Zoning Ordinance, as amended."
2. In the event the Subdivision incorporates a Private Access Street as defined in this Ordinance, the following shall appear on the Plan: "The improvement and maintenance of the Private Access Street shall be the sole responsibility of those persons benefitting by the use thereof."
3. "Lot number \_\_\_\_\_ and Lot number \_\_\_\_\_ shall be joined together and become one inseparable lot and cannot be subdivided or sold separately or apart therefrom without prior Township approval."
4. "Well and sewage disposal systems shall be constructed in accordance with recommended standards of the Pennsylvania Department of Environmental Protection."
5. "Individual owners of lots must apply to the Township for a Sewage Permit prior to undertaking the construction of an on-lot

sewage disposal system.”

6. “The Planning Commission and the Supervisors have not passed upon the feasibility of any individual lot or location within a lot being able to sustain any type of well or sewage disposal system.”
7. “By approval of this Plan the Township has neither confirmed nor denied the existence and/or extent of any wetland areas whether or not delineated on the Plan and any encroachment thereon for any reason whatsoever shall be the sole responsibility of the Subdivider and/or Developer, his heirs, successors and assigns and shall be subject to the jurisdiction of the Army Corps of Engineers and/or the Pennsylvania Department of Environmental Protection and the said encroachment shall conform to the rules and regulations of the jurisdictional agencies.”
8. In the event the Plan will require access to a highway under the jurisdiction of the Pennsylvania Department of Transportation, the following shall appear on the Plan: “A HIGHWAY OCCUPANCY PERMIT IS REQUIRED PURSUANT TO SECTION 420 OF THE ACT OF JUNE 1, 1945 (PL 1242, NO. 428) KNOWN AS THE “STATE HIGHWAY LAW” BEFORE DRIVEWAY ACCESS TO A STATE HIGHWAY IS PERMITTED.” The Plan shall be further marked to indicate that access to the State Highway shall be only as authorized by a highway occupancy permit.
9. “The Applicant, his heirs, successors or assigns will implement all requirements and obtain all permits and approvals as required by any and all local, state or federal agencies and authorities and does hereby acknowledge and agree that if said permits and approvals are not obtained as required, then any and all approvals given by Pocono Township will become null and void with no further action on the part of the Township.”
10. When easements are not delineated specifically, “The approval of this Plan by the Board of Supervisors does not have the affect of altering, redefining or extinguishing any easements of record, existing on or over the subject property.”
11. “This plan supercedes the Plot Plan filed in the Monroe County Recorder of Deeds Office in Plot Book Volume \_\_\_\_\_, Page

\_\_\_\_\_, but only to the extent depicted on this Plan. In all other respects, the said recorded plan shall remain in full force and effect.”

12. Specific additional restrictions or covenants that the Board of Supervisors deems appropriate.

**ARTICLE VII:** The following definition is added as Section 6.234 G.:

**“G. Lot Line Adjustment.** The revision or deletion of one or more lot lines in such a way that all of the following are true:

1. No new lots will be created beyond what was previously approved;
2. No additional street segments or significant changes in alignment are proposed other than what was previously approved;
3. No additional non-conformities will be created under the Township Zoning Ordinance, and
4. No new land development will occur other than the land development that was previously approved.”

**ARTICLE VIII:** The following requirement is added to Sections 2.302D.16. and 2.304C.4.,

“Exterior elevations of any proposed buildings if the property is to be developed for a use other than a single family detached dwelling.”

**ARTICLE IX:** A new Section 3.212 is hereby added, which shall provide as follows:

**“3.212 COMMON OPEN SPACE, RECREATION AREAS AND IN-LIEU FEES**

A. Purposes. To provide adequate open spaces, recreational lands and recreational facilities to serve new inhabitants/occupants of new subdivisions/land developments, for both active and passive recreation, as is specifically authorized by section 503(11) of the Pennsylvania Municipalities Planning Code (MPC); and to recognize and implement the joint HJP Open Space and Recreation Plan adopted by Pocono Township in 2003, or any successor plan, as part of a regional effort.

B. Applicability. This section shall apply to any subdivision for which a preliminary plan or a combined preliminary/final plan and any land development for which a plan is

submitted after the effective date of this amendment. This section shall not, however, apply to plans that the Board of Supervisors determines only involve adjustments or corrections to an approved preliminary plan or a preliminary plan that was before the Township for consideration as of the date of the adoption of this Section, provided the adjustments do not increase the number of proposed dwelling units.

C. Submission Information.

1. The applicant shall submit the following with the subdivision or land development plan:
  - a. A description of the anticipated population characteristics of the future occupants of the subdivision/land development, such as likely age groups.
  - b. The method by which the applicant wishes to comply with the requirements of this Section, such as payment of recreation fees, dedication of public recreation land, dedication of land to a homeowners association, construction of recreational facilities or another method.
2. The preliminary and final plans shall contain a sheet depicting the land proposed for use in meeting common open space and recreational facilities requirements, or a note stating that the applicant proposes to pay fees-in-lieu of land. The plan shall also describe any improvements or facilities that the applicant proposes to make to the land.
3. The proposal for common open space, installation of recreation facilities and/or fees shall be offered for review by the Planning Commission and the Pocono Township Park and Recreation Committee and/or HJP Park and Recreation Commission. The Board of Supervisors may require changes to the proposal for common open space, recreational facilities and/or fees in compliance with this Section. If an applicant does not prove compliance with this Section or refuses to dedicate common open space where the Board of Supervisors does not agree to fees-in-lieu of land dedication, the Board of Supervisors shall have grounds to deny approval of the submission.

D. Limitations on Use of Fees.

1. Any fees collected under this section shall be placed in an interest-bearing account and shall be accounted for separately from other Township funds. Such account shall be controlled by Pocono Township, and any interest earned shall be added to and become a part of the funds in that account.
2. To ensure that the lands and facilities are accessible to the inhabitants of the subdivision/land development(s) that paid fees towards their cost, such fees shall only be used within a 5-mile radius of the boundaries of the

subdivision or land development that paid the fees, unless the Board of Supervisors determines that a proposed improvement is regional in nature and would clearly serve the entire population of the Township. In addition, the Township may commit fees to public recreation areas in adjacent Townships or Boroughs that would be intended to serve the inhabitants of the subdivision/land development where the fees originated.

3. Such fees shall only be used for the following: acquisition of public open space, development of public active or passive recreation facilities, landscaping of public open space, and closely related engineering and design work.
4. Unless the Township identifies fees for a different set of facilities or recreation area, priority shall be given to the design and development of the HJP Regional Park located on Golden Slipper Road in Jackson and Pocono Townships and connecting greenway areas. This regional area is considered to be a centrally located recreation area providing programs and facilities for the entire Township.
5. The Township shall use any fee paid within three years of the date of payment for the intended open space or recreation purpose.

E. Land Dedication. Any subdivision or land development regulated under this Section shall be required to dedicate the specified amount of common open space, unless the Board of Supervisors and the applicant mutually agree to the payment of recreation fees-in-lieu of land, the construction of recreational facilities, the reservation/donation of common open space through an allowed alternative ownership method, or a combination of any of the foregoing.

1. Generally, it is the intent of this Section that subdivisions/land developments of 5 or fewer dwelling units or under 5 acres of non-residential land, that do not include land that is adjacent to existing publicly owned land, should pay a recreation and open space fee in lieu of dedicating land and/or constructing recreational improvements. However, if the applicant does not agree to pay such fees, then land shall be required to be dedicated.
2. The land and fee requirements of this section shall be based upon the number of new dwelling units that would be permitted on the lots of a subdivision or land development after approval.
3. Prime Open Space. For the purposes of this section, the term "Prime open space" shall mean land proposed to be dedicated as common open space that would meet all of the following standards:
  - a. less than 6 percent slope,
  - b. not a "wetland" under Federal and/or State regulations,

- c. be part of a contiguous tract of at least 2 acres (which may include existing adjacent common open space), and
  - d. not be within the 100 Year Floodway as defined by official floodplain maps of the Township, as prepared by the Federal Emergency Management Agency.
4. Amount of Residential Common Open Space – If a subdivision or land development is required to dedicate common open space, the following amounts for each permitted new dwelling unit shall apply, unless revised by resolution of the Board of Supervisors:

Percentage of the Total Required Common Open Space that Would Meet the Definition of "Prime Open Space"	Minimum Required Common Open Space Per Permitted Dwelling Unit
0 % to 25.0 %	5,200 square feet
25.1 % to 75.0 %	2,600 square feet
75.1 % to 100 %	1,300 square feet

5. Amount of Non-Residential Common Open Space – If a non-residential subdivision or land development is required to dedicate common open space, the following amounts of common open space shall be required, unless revised by resolution of the Board of Supervisors:

Percentage of the Total Required Common Open Space that Would Meet the Definition of "Prime Open Space"	Minimum Percentage of Development Tract Required to be Dedicated as "Common Open Space"
0 % to 25.0 %	6 percent
25.1 % to 75.0 %	4 percent
75.1 % to 100 %	3 percent

6. Other Ordinances. Any required land dedication or fees under this Section shall be in addition to any land dedication or improvement requirements of any other Township ordinance.

F. Fees. If the Board of Supervisors and the applicant agree that a proposed

subdivision or land development will pay fees-in-lieu of dedicating open space, this fee shall be as established by the Township Fee Schedule, which may be updated by resolution of the Board of Supervisors. The fee is based on the value of comparable undeveloped land.

G. Decision on Land vs. Fees. It is desirable to reach a tentative agreement on whether land dedication or a permissible alternative is to be applicable at the sketch plan stage, although the formal decision shall be made during the review of the first official plan submittal. The Township reserves the right to determine, on a case-by-case bases whether dedication of land or the payment of an in-lieu fee is preferable. The Township should, at a minimum, consider the following in making this determination:

1. Whether the land in that location would serve a valid public purpose,
2. Whether there is potential to make a desirable addition to an existing public or School District open space and/or recreation area, and/or greenway corridor identified in the HJP Open Space and Recreation Plan
3. Whether the proposed land would meet the objectives and requirements of this section and any relevant policies of the Township or Regional Comprehensive Plan and the HJP Open Space and Recreation Plan,
4. Whether the area surrounding the proposed development has sufficient existing recreation and open space land, and whether it is possible for pedestrians and bicyclists to reach those lands,
5. Any recommendations that may be received from the Planning Commission, the Township Engineer, the Pocono Township Park Board, HJP Park and Recreation Commission, any other Township park and/or recreation commission, the Pocono Mountain School Board or School District staff.

H. Common Open Space and Recreation Land to be Dedicated.

1. Suitability. Land required to be dedicated shall be suitable for its intended purpose, in the determination of the Board of Supervisors, as park land, non-commercial active or passive recreation uses, preserved open space and/or the construction of permanent non-commercial recreational facilities,. The applicant shall state what improvements, if any, the applicant intends to make to the land to make it suitable for its intended purpose, such as grading, landscaping, or development of trails. Such land shall be free of construction debris at the time of dedication.

2. Ownership. Required common open space shall be offered for dedication to the Township, unless the Board of Supervisors agrees to accept a transfer to any of the following: Pocono Mountain School District, Monroe County, PA Bureau of State Parks, the PA Fish and Boat Commission, the PA Game Commission, a homeowner association, a single property owner in the case of agricultural land or

an environmental organization acceptable to the Board of Supervisors. The Board of Supervisors is under no obligation to accept an offer of dedication to the Township, but shall have the authority to ensure that an appropriate long-term method will be in place to own and maintain common open space. In the case of a rental development, the Township may permit the common open space to be retained by the owner of the adjacent residential rental buildings.

- a. If required common open space is to be owned by a homeowner association, the applicant shall be required to establish such association in a form that requires all property owners within the subdivision/land development to annually contribute to the maintenance of the common open space.
- b. Any homeowner association agreements regarding required common open space shall be subject to acceptance by the Board of Supervisors, based upon a review by the Township Solicitor. The provisions of Section 705(f) of the State Municipalities Planning Code should serve as a model, in concept, for the maintenance responsibilities /enforcement provisions of such agreement. An acceptable process and timeline shall be established for the transfer of the lands and maintenance responsibilities to the homeowners' association
  - i. If common open space is to be owned by a property-owner association, the developer shall be required to establish such association in a form that requires all property owners within the development to annually contribute to the maintenance of the common open space.
  - ii. Prior to the sale of any dwelling unit or lot, all deeds shall require each unit/lot owner to pay fees on a regular basis for the maintenance and other expenses of the common open space. The property-owners association shall be incorporated with covenants and bylaws providing for the filing of assessments. The bylaws and covenants shall also provide that , if the maintenance is not performed by the association as required, the Township may have the maintenance work performed, in which event, after providing notice to the unit/lot owners, the Township shall have the authority to place municipal liens upon any or all units/lots in the subdivision/land development association to recover the maintenance costs and expenses, as well as all legal costs and expenses (including but not limited to attorney fees) if the property-owners association does not fulfill its responsibilities.
- c. Where another form of ownership is not practical, the Board of

Supervisors may permit the required open space to be added onto a privately owned lot, provided a permanent conservation easement protects the open space from development.

- d. Transfer to another Entity. If the approved plan states that ownership of and/or responsibilities to maintain the Common Open Space are limited to a particular entity, then any transfer of ownership or responsibilities to another entity shall require pre-approval by the Board of Supervisors. Where land is to be owned by a conservation organization, a process should be established for the land to transfer to a different organization if the first organization is not able to fulfill its obligations.
  - e. The Board of Supervisors may require that the required common open space be dedicated to the Township, as opposed to a private entity. The Board of Supervisors shall not be required to accept dedication of any open space.
3. Deed Restrictions/Conservation Easements. Common Open Space shall be protected from future development and subdivision by a permanent conservation easement or deed restriction, acceptable to and enforceable by the Board of Supervisors. Such restriction may also be enforceable by other parties. Such restrictions shall prohibit the construction of any buildings, except buildings for non-commercial recreation or that are necessary to support maintenance of the open space.
  4. Priority. Priority shall be given to dedication of land that: a) would be suitable for additions to existing public schools and public parks, or b) would preserve woods, steep slopes or other important natural features or land along a creek or river, or c) would be suitable for centralized active recreation, or d) would connect top open space areas through greenways, or e) would serve as passive recreation for hiking and related activities.
  5. Suitability. Land that is not suitable for active or passive recreation shall not be permitted to meet the requirements of this section, including areas within a stormwater detention basin that are not suitable for recreation. Portions intended for active recreation shall be well drained, of less than 4 percent average finished slope and not require filling in of a wetland for use. Areas within existing or proposed street rights-of-way, areas needed to meet a requirement for an individual lot, areas within driveways providing access to other lots/lands, and portions of land that have a width of less than fifty (50) feet are also not suitable.
  6. Access and Contiguousness. Common open space within a subdivisions or land development shall be contiguous, except as may be specifically exempted by the Board of Supervisors, and shall have adequate access for maintenance and by pedestrians.
  7. Lands Close to Buildings. For the purposes of this section, no land shall

be used to meet the minimum common open space requirements of this section if such land is within:

- a. 20 feet of any building, other than a noncommercial recreation building or a building necessary to support maintenance of the open space, or
  - b. 15 feet of any vehicle parking areas, other than parking areas specifically developed to only serve the common open space for non-commercial recreation.
8. Other Ordinances. Any required land dedication or fees under this Section shall be in addition to any land dedication or improvement requirements of any other Township ordinance.
  9. Sewage Facilities in Common Open Space. Sewage facilities of adjoining lot/unit owners within that subdivision/land development may be located as an alternate location on the common open space when lot size does not allow an alternate sewage disposal site. Adequate easements shall be established to clarify rights and responsibilities. Community sewage facilities for that subdivision/land development may be located in the common open space subject to review by the Township Planning Commission and approval by the Township Board of Supervisors to determine if the proposed facilities are compatible to the proposed use of the open space. If buildings are associated with the sewage disposal, additional open space shall be provided in an amount equal to the space occupied by the building.
  10. Wells. Wells of adjoining lot/unit owners within that subdivision/land development or community water supplies for that subdivision/land development may be located in common open space when using a conservation subdivision design. Adequate easements shall be established to clarify rights and responsibilities. If buildings are associated with the water supply, additional open space shall be provided in an amount equal to the space occupied by the building.
  11. Residual Lands. If only a portion of a larger tract of land is currently proposed to be subdivided, or the applicant owns one or more adjacent tracts that are not currently proposed to be subdivided, the applicant shall provide a sketch of a possible future land dedication on these adjacent lands in case they would be developed in the future.
  12. Coordination with Future Adjacent Dedication. The Board of Supervisors may require that a required land dedication within a property currently being subdivided/developed be placed along an edge of the property so that it may, in the future, be combined with open space on the edge of an adjoining property when that adjoining property is subdivided or developed. The intent is to coordinate currently proposed open space with future development, over the long-term.

I. Combination of Land and Fees. Upon mutual agreement of the Board of Supervisors and the applicant, the Township may accept a combination of common open space and fees-in-lieu of land to meet the requirements of this section for a subdivision or land development. For a residential development, this combination shall be based upon the common open space requirement applying for a certain number of dwelling units and the fee-in-lieu of land requirement applying for the remaining number of dwelling units. Section 07 including requirements for common open space and recreation land to be dedicated should be considered when applying section 08.

J. Timing of Residential Fees. Fees required by this Section for all of the permissible dwelling units shall be paid prior to the recording of the final plan, except as follows:

1. If the required fee would be greater than \$2,000, and the applicant and the Board of Supervisors mutually agree, in a binding development agreement, to the payment of all such fees prior to the issuance of any building permits within each clearly defined phase or sub-phase of the development, then such fees are not required to be paid prior to recording of the final plan, but may instead be paid within the requirements of that development agreement.
2. If the applicant and the Board of Supervisors mutually agree to the payment of such fees in installments, then all such fees shall not be considered to be "paid" for the purposes of any applicable time limitations for utilization under the Municipalities Planning Code until all such fees are paid in full, including all installments and phases.

K. Timing of Non-Residential Fees. Fees required by this Section for any non-residential subdivision or land development shall be paid prior to the recording of the final plan of a subdivision or land development, as applicable.

L. Facilities in Place of Land or Fees. If there is mutual agreement by the Board of Supervisors and the applicant, the requirements of this Section may be met (a) by the applicant constructing agreed upon permanent noncommercial recreation facilities within the proposed subdivision or land development or on nearby public open space, if the applicant clearly proves to the satisfaction of the Board of Supervisors that those facilities will be approximately equal in market value to the land or fees that would otherwise be required, and would reduce the future burden upon the Township in providing for recreational facilities. Such facilities do not necessarily need to be open to the public if they are not constructed on publicly owned land, but such facilities shall, at a minimum, be open to residents of the subdivision or land development in connection with the approval of which the facilities are constructed; or (b) if the applicant donates appropriate public recreation land to the Township or the Pocono Mountain School District, which the Board of Supervisors determines to be suitable for public recreation. In such case, the applicant shall provide a written appraisal from a Pennsylvania licensed real estate appraiser that the fair market value of the donation is equal to or greater than the amount of the

value of land that would otherwise be required to be dedicated or the amount of the fee-in-lieu of dedication.

**ARTICLE X:**        **Severability.** If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not effect or impair any remaining provisions, sentences, clauses, sections, or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that such remainder shall be and shall remain in full force and effect.

**ARTICLE XI:**        **Repealer.** All ordinances or parts of ordinances or resolutions conflicting or inconsistent with any of the provisions of this Ordinance are hereby repealed, but only insofar as same are in direct conflict or directly inconsistent with this Ordinance.

**ARTICLE XII:**        **Effective Date.** This Ordinance shall take effect five (5) days after enactment.

**ORDAINED AND ENACTED** into an Ordinance at a regular meeting of the Board of Supervisors of Pocono Township, Monroe County, Pennsylvania, this 30<sup>th</sup> day of March, 2006.

**BOARD OF SUPERVISORS POCONO  
TOWNSHIP**

BY: L. Patrick Ross  
L. Patrick Ross, Chairman

BY: Willard C. Anglemyer  
Willard C. Anglemyer, Vice-Chairman

BY: H. Jane Cilurso  
H. Jane Cilurso, Supervisor

ATTEST:

H. Jane Cilurso  
Secretary

(TOWNSHIP SEAL)