

MOUNT POCONO BOROUGH PLANNING COMMISSION
RE-ORGANIZATION & REGULAR MEETING AGENDA
Wednesday, February 15, 2023 – 7:00 PM

LOCATION: Borough Building located at 1361 Pocono Blvd, Mount Pocono

1. Call to Order
2. Pledge of Allegiance
3. Reorganization
 - a. Chair
 - b. Vice Chair
 - c. Borough Council Liaison
 - d. Zoning Hearing Board Liaison
4. Roll Call
____ M. Penn, ____ R. Dorkoski, ____ A. M. Harris, ____ E. Melbert, ____ S. Speno, ____ C. Connor, ____
C. Niclaus, ____ D. Jackowski
5. Preliminary Announcements
6. Consider Approval of Minutes – Regular Meeting Minutes
 - a. August 17, 2022
7. Unfinished Business
 - a. Arya Village – Borough Council Denial
8. New Business
 - a. Review Short-Term Rental Ordinance request from Borough Council
 - b. Review Tree Ordinance request from Borough Council
 - c. Annual Report - 2022
9. Project Updates
10. Liaison Reports
 - a. Borough Council
 - b. Zoning Hearing Board
11. Public Participation
12. Adjournment

**MOUNT POCONO PLANNING COMMISSION
REGULAR MEETING MINUTES
WEDNESDAY, AUGUST 17, 2022
7:00 P.M.**

Chairman M. Penn opened the regular meeting at 7:09 P.M.

Pledge of Allegiance was said by all.

Roll Call: Vice Chair P. Bucco, present; Commissioner R. Dorkoski, present via phone; Commissioner A. Harris, present; Commissioner D. Staples, absent; Commissioner E. Melbert, present; Commissioner T. Cramer, absent; Solicitor C. Connor, present; Borough Engineer C. Niclaus, present; and, Recording Secretary, D. Jackowski, present.

PRELIMINARY ANNOUNCEMENTS – Chairman M. Penn announced that Alexis Wilkinson is no longer the Borough Zoning Officer. He was advised that Shawn McGlynn, SFM Consulting, will be taking over the Zoning Officer duties starting on Monday, August 22, 2022, and will be in the office Monday's, Wednesday's, and Friday's. He was also advised that Mr. McGlynn will not be attending these meetings; however, in his opinion, it could be beneficial that the Zoning Officer be in attendance as Zoning questions may arise. It was also noted that the agenda will be sent to the Zoning Officer prior to the meeting and that questions or opinions could be asked prior to the meeting.

APPROVAL OF MINUTES – Commissioner A. Harris moved to accept the Regular Meeting minutes of Wednesday, June 15, 2022, as presented. Commissioner R. Dorkoski seconded. Motion carried unanimously.

UNFINISHED BUSINESS

Arya Village, 1221 Pocono Boulevard – In attendance representing the Arya Village project were the Applicant, Ms. Rupal Patel, and her Engineer, Christian Cobaugh.

The Applicant's Engineer C. Cobaugh reviewed the revised plans indicating that PennDOT wasn't going to allow an entrance off of SR 611 & Belmont Avenue and will have a right turn only on SR 196 (Sterling Road) with an in and out on Pine Hill Road. Borough Engineer C. Niclaus reminded the Applicant that a TIS is required to move ahead with a proper review of the plan. More discussion was had, including the buffer requirements; are they a Zoning issue or under SALDO. It was clarified if Zoning issues are involved the Applicant would have to go before the Zoning Hearing Board (ZHB) for variance(s) and that could take up to ninety (90) days.

The Planning Commission acknowledged that it was in receipt of the Borough Engineer's Technical Review #2 letter dated August 17, 2022. It was also acknowledged that there were nineteen (19) Zoning Ordinance Review items that were informational only and that the Zoning Officer shall be the jurisdictional entity on Zoning requirements. Also, there were thirty-two (32) Subdivision and Land Development Ordinance (SALDO) items outstanding; forty-two (42) Stormwater Management items; and three (3) general comments, including traffic comments not addressed and a Traffic Impact Study (TIS) that has not been submitted.

Commissioner R. Dorkoski questioned if the Applicant was looking for an approval that would give the Applicant the right to close on this property.

Solicitor C. Connor answered by stating that the Planning Commission does not have the right on whether the closing would take place or not. He advised that currently what has been submitted to the Planning Commission is not enough information for any recommendation to be made and reminded the Applicant that the Planning Commission is only a recommending body with final approval up to Borough Council. He stated that this cannot affect the closing of the property and that the Applicant has to decide if she would like to continue.

Commissioner R. Dorkoski stated that, with not receiving a complete submission, the Planning Commission cannot advise the Applicant to close on the property. He noted the following: can't see an implied approval at this time; parking space sizes are an issue; and pavers are not allowed; he reminded the Applicant "buyer beware."

After Solicitor C. Connor's suggestion to the Applicant that, again, there is not enough information and the plan needs to be cleaned up to come back before the Planning Commission and advice to the Commission not to accept this plan as-is, Vice Chair P. Bucco

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moved to accept a ninety (90) day time extension, conditional upon receiving a letter requesting such. Commissioner A. Harris seconded. Motion carried unanimously.

Commissioner E. Melbert moved to table the Arya Village project until the next regular Planning Commission meeting. Vice Chair P. Bucco seconded. Motion carried unanimously.

Commissioner R. Dorkoski moved that all the items that are outstanding that can be completed must be completed prior to coming before the Planning Commission. Vice Chair P. Bucco seconded. Motion carried unanimously.

NEW BUSINESS – Vice Chair P. Bucco moved to table the Caliper of Trees – SALDO 187-6 and Submission Requirements – SALDO 187-18 to 187-24. Commissioner R. Dorkoski seconded. After some discussion Vice Chair P. Bucco amended her motion to table Caliper of Trees – SALDO 187-6 and SALDO 187-39 Improvement Maintenance Guarantee instead. Commissioner R. Dorkoski seconded. Motion carried unanimously.

Submission Requirements – SALDO 187-18 to 187-24 – After an explanation from the Planning Commission Recording Secretary D. Jackowski, Vice Chair P. Bucco moved to adopt the following amendment to the SALDO 187-18 to 187-24 Submission Requirements: to decrease the number of submission plans from ten (10) down to four (4) including electronic submissions and to decrease likewise the number of any required supporting documents such as sewage planning module(s), including electronic submissions; approvals and/or permits from the Pennsylvania Department of Environmental Protection; and highway occupancy permit from six (6) down to two (2). Commissioner E. Melbert seconded. Motion carried unanimously.

PROJECT UPDATES – Solicitor C. Connor stated that the Development and Stormwater Agreements for the Clarius project have been finalized. He noted that Clarius is closing on the property this week and they have indicated that they have potential tenants for the warehouse and that eighty-six (86) acres will be cleared early this fall.

LIAISON REPORTS

Borough Council – Commissioner A. Harris stated that Borough Council at last night's meeting appointed a new Zoning Officer as was reported by Chairman M. Penn earlier in the meeting.

Zoning Hearing Board – No report.

PUBLIC PARTICIPATION – None

There being no public participation and no further business coming before the Planning Commission, Vice Chair P. Bucco moved to adjourn at 8:53 P.M. Commissioner A. Harris seconded. Motion carried unanimously.

Submitted by,

Diana Jackowski
Recording Secretary



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February 8, 2023

Rupal Patel
1571 Route 46
Parsippany, NJ 07054

Dear Ms. Patel;

Please be advised that on February 7, 2023, at the Mount Pocono Borough Council Regular Meeting, the Arya Village request for extension was denied. The Arya Land Development Plan was also denied due to outstanding items not being completed within the applicable time limits as extended.

The Borough invites you to resubmit a Land Development Application if and when you have a complete application to submit. Please note a future submission of a Land Development Plan will be considered as a new application and will be subject to application fees and escrow payments.

Please remit any outstanding fees as outlined in the attached worksheet with invoices immediately in the amount of \$916.50.

If you have any questions, please reach out to me.

Respectfully,

Joshua Walker

Joshua Walker
Borough Manager
Mount Pocono Borough

cc: Christian Cobaugh

Mount Pocono Borough

Memorandum

To: The Planning Commission

From: Joshua Walker, Borough Manager

Date: Monday, January 30, 2023

Dear Commissioners,

At the Borough Council work session on January 17, 2023, the Council discussed changes to, and the addition of, various ordinances. Please review the ordinances and provide recommendations. The Ordinances and comments from the Borough Council are as follows:

Short Term Rental Ordinance

- Permit only in C-1 and C-2 Commercial zones.
- Permits are non-transferrable. See Chapter 154-14 in model ordinance.

Tree Ordinance

- The Council enacted a tree ordinance in 2007. The Council repealed this tree ordinance in its entirety in 2017. The Council is now considering enacting a simple tree ordinance to include the following:
 - The tree can only be cut if it is a certain distance from the residence.
 - The tree can only be cut if it is a certain diameter.
 - The tree can only be cut if it is dying or poses a threat to its surroundings.

The Council would appreciate you reviewing these ordinances and providing comments that will be considered at the next work session.

Respectfully,

Joshua Walker

Joshua Walker
Borough Manager

INTEROFFICE MEMORANDUM

TO: MOUNT POCONO BOROUGH COUNCIL

FROM: LINDSAY SCERBO, ZONING ADMINISTRATOR

SUBJECT: SHORT TERM RENTAL ORDINANCE AMENDMENT

DATE: NOVEMBER 14, 2022

CC: JOSHUA WALKER, BOROUGH MANAGER
JAMES FARERI, BOROUGH SOLICITOR

Borough Council:

The Zoning Officer recommends the Borough Council consider an amendment to the stand-alone Rental Property Ordinance, specifically the subsection regarding Short Term Rentals. We ask that you consider the following recommendations:

- The Monroe County Model Short Term Rental Ordinance, attached to this memorandum, is an extremely helpful resource that we can use while amending the Ordinance. The Zoning Office highly recommends that we model our Ordinance after it.
- The Zoning Office agrees with your proposal that any of the current short-term rental properties in the R-2 Zoning District, that have obtained Conditional Use approval, shall be allowed to remain in that district, and upon a change in ownership, that grandfathered approval would cease. The Zoning Office believes that STRs do not reflect the nature of a residential neighborhood and can be quite a nuisance to neighboring properties.
- The Zoning Office believes that the \$500.00 fee that we are currently charging is sufficient. However, there needs to be a discussion of whether there be an inspection required for initial issuance as well as annual renewal, as the current Ordinance does not require one. It is our recommendation that we charge one flat rate for both the initial permit as well as the annual renewal.
- The Zoning Office has some concerns regarding the proposal to begin vetting owners and property managers to see if they are registered sex offenders. It is our recommendation that you seek counsel regarding this matter, as we believe it may possibly be infringing on the owner and managing agent's civil rights.
- We do not feel that it should be a requirement that there be no Short Term Rentals within 100 feet of a school bus stop. It is our belief that this would create a lot of unnecessary research on behalf of the Zoning Office as well as the local school district, as we would

have to be in contact with them for updated bus routes quite frequently. One question that we pose to you is this: If there is a legally established STR operating and a family with school-aged children moves next door, would we have to revoke the STR permit based solely on the fact that the neighboring children would be using school transportation?

- The Zoning Office does not see any issues with there being more than one short-term rental license under one ownership. In our past experience, we have not had any issues with owners maintaining multiple short-term rental properties.

1. I think that it would be helpful to define the "Code Enforcement Officer" or "Code Official". An example definition that we could add is "The official who is charged with the administration and enforcement of this chapter, or any duly authorized representative."

2. In Section 124-15(4) I think it would be helpful to mention that each unit would require separate short term rental applications/fees/etc.

3. I think that we could add a definition for "Owner." An example definition is "Any person, agent, operator, firm or corporation having a legal or equitable interest in the property; or recorded in the official records of the state, county or Borough as holding title to the property; or otherwise having control of the property, including the guardian of the estate of any such person, and the executor or administrator of the estate of such person if ordered to take possession of real property by a court."

4. We could add a definition for "tenant" An example definition is "For purposes of this chapter the term "tenant" shall refer to the primary individual (transient tenant) who signed an agreement with the owner or owner's agent for the temporary use of a TDU for 30 consecutive calendar days or less. Such individual must be at least 21 years of age."

5. In the first sentence of the Scope section of the Ordinance, I think that we should amend it to say "...non-residential structures to residential dwellings, and all existing premises within the Downtown Commercial (C-1) and General Commercial (C-2) Zoning Districts of the Borough.

6. I think we should amend the "permit required" section to state: Effective upon enactment of this chapter, all owners must obtain a STR permit for all dwelling units intended for use as STR prior to renting out a dwelling unit as a STR. Operating a STR without a STR permit is a violation of this chapter and is subject to the criminal prosecution and the penalties set forth below. Owners or their agents must complete the STR permit application and submit it to the Borough Zoning Officer for processing. No property may be used as a STR until a STR permit has been granted by the Borough Zoning Officer. The Borough will prescribe the forms and procedures for processing of STR permit applications under this chapter. The owners must provide all requested information concerning the dwelling unit and must agree, in writing, to comply with all the requirements of this chapter. STR permits are nontransferable. If ownership of a STR changes, the new owner(s) must complete a new STR permit application form before renting out any part of the dwelling unit for a short-term rental and must pay the annual fee. Upon the submission of a complete STR permit application to operate a STR, the Borough will have 15 business days to inspect the property and either grant or deny the request for a STR permit. If after 15 business days the Borough has not acted on the STR permit application, the STR permit application shall be deemed denied. If the STR permit application is denied due to the lack of information, the applicant will be given the opportunity to provide the requisite information and resubmit the STR permit application.

7. Under the permitting section in bullet point #6, I think that we should just do a subsection with all of the STR standards. What follows is an example of what I was thinking:

(1)

The STR permit shall only be issued in the name of the owner of the STR.

(2)

A separate STR permit is required for each STR.

(3)

Each owner shall maintain at least \$500,000 in liability insurance on the STR for the full duration of their STR permit annual term and provide proof of the same to the Borough.

(4)

Each owner shall provide a copy of the current Monroe County Hotel Room Excise Tax Certificate and current Pennsylvania Sales Tax License, if such Certificate is required by the applicable regulations.

(5)

A copy of their STR form agreement which states that the tenant(s)' acknowledge that violation of the STR agreement or this chapter may result in termination of the owner's STR permit.

(6)

All STRs must be either owner-occupied, or if not owner-occupied must designate a local person in charge. A person in charge, who may or may not be an/the owner, must reside in or have an office within 15 miles of the STR and be able to act as the legal agent for the owner(s). The Borough must be notified, in writing, within 14 days of the change if there is a change of ownership or in the identity of the person in charge.

(7)

The owner or person in charge shall respond to the Code Official within one hour after being notified by the Code Official of the existence of a violation of this chapter or any disturbance requiring immediate remedy or abatement. If the person in charge is not the owner, they shall immediately advise the owner of any notification of a violation. Owners and persons in charge must maintain all STR dwelling units under their ownership and/or control in compliance with all applicable Borough ordinances and regulations as established by the Borough . Owners, persons in charge, and tenants shall be liable for violations of laws and/or ordinances, including, but not limited to, occupancy violations, at STR dwelling units under their ownership, control, or occupancy.

(8)

The condition of any STR must fully comply with the health safety welfare standards as adopted by resolution of the Borough.

(9)

The owner shall limit overnight occupancy of the STR to the specific number of tenants designated in their STR permit.

(10)

Overnight occupancy of a STR shall be limited to no more than two persons per bedroom plus four additional persons per STR or a maximum of 14 occupants per STR, whichever is less. The maximum number of day guests allowed at any one time, in addition to the overnight occupants, shall not exceed 75% of the maximum overnight occupancy of the STR.

(11)

No on street or yard parking will be permitted at any time. No tents are permitted. No recreational vehicles, campers, buses or other large vehicles may be parked on the STR property at any time. Outdoor overnight sleeping of tenants or guests is prohibited on a STR property.

(12)

The owner is responsible for any trash or noise disturbance that is created or caused by any tenant. Failure to have adequate trash storage and weekly collection service or to stop a noise disturbance caused by the tenant will result in a Notice of Violation.

(13)

The number of bedrooms permitted for a STR shall not exceed the number of bedrooms approved for the dwelling unit on the sewage permit issued for such property. Where there is no sewage permit on record, the STR shall be limited to three bedrooms unless proof is provided to the Sewage Enforcement Officer that the septic system is adequate to handle additional flows. Any STR advertising more than by having the system approved by the Sewage Enforcement Officer, or by providing a septic permit previously issued by a Sewage Enforcement Officer. If a sewage system malfunction occurs, the STR of the dwelling unit shall be discontinued until the malfunction is corrected in accordance with the Borough and Pennsylvania Department of Environmental Protection requirements.

(14)

A STR shall not have any outside appearance indicating a change of use from the surrounding residential uses.

(15)

Fireworks and floating lanterns are prohibited.

(16)

Subleasing all or a portion of the dwelling unit is prohibited.

B.

STR permit posting requirements. Each STR permit granted will include a public notice placard. It is the owner's responsibility to post the notice on the front door of the STR.

This notice shall remain on the front door at all times, and it is the owner's responsibility to ensure that it remains legible.

C.

All Short Term Rentals shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:

_ (All of the stuff that you had listed in the draft)

8. I am not sure if a section on what is to be included in the application is necessary, as we will be the ones creating the document.

9. We need to change the section number listed in 154-17(E) so that it refers to section 154-19 (Inspections required).

10. In the fee section, should we change "as may be established by resolution duly adopted by the Borough Council" to "in accordance with the Official Fee Schedule?"

11. In section 159-19(A) we should add at the end "...operating requirements are being complied with."

12. In 159-19(B) we could add "...with this chapter or any other applicable Ordinances. Rather, the STR permit indicates that the dwelling unit is either set to be inspected on a routine basis or, if inspected, the dwelling unit met this chapter or other applicable ordinance requirements on the day and at the time of the inspection."

13. For the Violations and Penalties Section, I think that this wording may be helpful:\

A.

Any violation of this chapter which has not been corrected within the time frame set forth in the notice of violation shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$500 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction, to enforce compliance with this chapter. All fines, penalties, costs and reasonable attorneys' fees collected for the violation of this chapter shall be paid to the Borough for its general use.

B.

In addition to, but not in limitation of, the provisions of this section, the Zoning Officer or Code Official may either revoke, or deny an application to renew, a STR permit, for

failure to comply with the STR permit, the provisions of this chapter or to provide accurate information on the STR permit application. The STR permit will be revoked, or application to renew denied, for a period of one year for two uncured or repeated violations of this chapter. The Zoning Officer or Code Official shall issue, in writing, a notice of revocation or denial to the owner. (I am unsure if we should give them three violations within a year before we revoke their license. Shawn and Jim, What are your thoughts?)

14. In 154-25, I think that we should amend subsection A to state “30 days of the date of the determination appealed from” rather than the denial of an application or revocation of a permit.

ORDINANCE NO. ____ - 2023

AN ORDINANCE AMENDING CHAPTER 154 ARTICLE III OF THE MOUNT POCONO BOROUGH CODE OF ORDINANCES TO REGULATE SHORT TERM RENTAL UNITS WITHIN THE BOROUGH AND ESTABLISH PENALTIES FOR VIOLATIONS.

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CHAPTER 154, ARTICLE III SHORT TERM RENTALS

§ 154-10 Title

This Chapter shall be known as and may be cited as "The Mount Pocono Borough Short Term Rental Ordinance."

§ 154-11 Scope

A. The provisions of this Chapter shall apply to all residential dwelling units, conversions of

non-residential structures to residential dwellings, and all existing premises within the Borough. The owner of the subject property shall be responsible for compliance with the provisions of this Chapter and the failure of an owner, agency, managing agency, local contact person, or renting occupants to comply with the provisions of this Chapter shall be deemed noncompliance by the owner.

B. This Chapter shall also not apply to a resort, camp, hotel/motel/inn, bed and breakfast, boarding house, or group home, as defined within the Zoning Ordinance.

§ 154-12 Interpretation

This Chapter is not intended to, and does not, excuse any landowner from compliance with the Borough Ordinance, as amended from time to time. Whenever possible, this Chapter and the Zoning Ordinance should be construed and interpreted as being consistent, and not in conflict.

§154-13 Definitions

For the purposes of this Chapter, words and terms used herein shall be interpreted as follows:

BEDROOM - A room or space designed to be used for sleeping purposes with two means of egress (one of which may be a window acceptable under the building code) and in close proximity to a bathroom. Space used for eating, cooking, bathrooms, toilet rooms, closets, halls, storage or utility rooms and similar uses are not considered Bedrooms. Space used or intended for general and informal everyday use such as a living room, den, and sitting room or similar is not to be considered a Bedroom.

DWELLING UNIT - One or more rooms, occupied or intended for occupancy, as separate living quarters by a single family maintaining a household, the members of which have unrestricted access to all other parts thereof, with cooking, sleeping, and sanitary facilities provided therein, for the exclusive use of that single family.

PERSON IN CHARGE – A person or agent with actual authority to represent the owner for purposes of contact and communication regarding the owner's Short Term Rental. A Person in Charge must reside or have an office within approximately fifteen (15) miles of the Short Term Rental Property and be able to act as legal agent for the owner. The Borough must be notified, in writing, within fourteen (14) days if there is a change in the identity of the Person in Charge.

SHORT TERM RENTAL - Any Dwelling Unit utilized as a single-family residence rented for

the purpose of overnight lodging for a period of thirty (30) days or less, and which meets the definition of "Hotel" for the purpose of imposing an excise tax by the County of Monroe as defined in the County of Monroe Ordinance No. 2004-03, as amended.

SHORT TERM RENTAL PERMIT - Permission granted by the Borough to utilize a Dwelling Unit for Short Term Rental Use.

§ 154-14 Permit Required

No owner of any property in the Borough shall operate a Short Term Rental in the Borough without first obtaining a Short Term Rental Permit from the Zoning Officer. Operation of a Short Term Rental without such Short Term Rental Permit is a violation of this Chapter. Short Term Rentals are only permitted in C-1 Commercial and C-2 Commercial zoning districts. Short Term Rentals are not permitted in any other zoning district. Permits may not be transferred to any new owner of the property. If any owner who currently possesses a Short Term Rental Permit sells the property, the Short Term Rental Permit becomes null and void upon the completion of the sale of the land.

§154-15 Permit Requirements

A. Short Term Rental Permit applications shall contain all of the following information:

1. The name, address, telephone number and email address of the owner. If the owner does not have a managing agency, agent or local contact person then the owner shall provide a 24-hour telephone number. If the owner uses a managing agency, agent or local contact person then that managing agency, agent or local contact person shall have written authorization to accept service for the owner. If the owner resides at a location over approximately fifteen (15) miles from the Short Term Rental Property, an agent or local contact person must be selected to act as Person in Charge for the property.
2. The name, address and 24-hour telephone number of the managing agency, agent or local contact person.
3. The total number of bedrooms and maximum number of overnight guests.

4. If the building is a multi-unit structure, the total number of dwelling units in the structure and the number of dwelling units being used as Short Term Rentals.
 5. A diagram or photograph showing the location and number of on-site parking spaces.
 6. If not on a central sewer system, a septic system evaluation certifying the existing system is functioning as intended and proof the tank was pumped within the past three (3) years for approval by the Sewage Enforcement Officer. Maximum occupancy shall be limited by the capacity of the sewage disposal system.
 7. Copies of current Monroe County Hotel Room Excise Tax Certificate and current Pennsylvania Sales and Use Tax Permit.
 8. Signatures of both the owner and the local managing agent or local contact person.
 9. Trespass waiver signed by the owner allowing access to the property for the Enforcement Officer for the purpose of inspection to verify compliance with this Ordinance.
 10. Copy of the current recorded Deed for the Property establishing ownership.
 11. Each owner shall maintain at least \$500,000 in general liability insurance on the Short Term Rentals for the full duration of their license term and provide proof of the same to the Borough.
 12. Written notice to the home owner's association, indicating the intent to make application for and use the subject residential property for a Short Term Rental, when applicable.
- B. A Short Term Rental Permit shall be issued only to the owner of the Short Term Rental property.
1. A separate Short Term Rental Permit is required for each Dwelling Unit; for Two-Family

or Multi-Family Dwellings, a separate Permit shall be required for each Dwelling Unit being rented as a Short Term Rental.

2. A Short Term Rental Permit is effective for a period of one (1) year, or until any of the conditions of the Short Term Rental which are governed by this Chapter are changed, whichever shall first occur. A Short Term Permit must be renewed annually and also when any of the conditions of the Short Term Rental which are governed by this Chapter are changed.
3. The Borough will prescribe forms and procedures for the processing of Permit Applications under this Ordinance.

§154-16 Short Term Rental Standards

- A. Overnight occupancy of a Short-Term Rental shall be limited to no more than (i) two (2) persons per bedroom plus four (4) additional persons, or (ii) a maximum of fourteen (14) occupants, whichever is less.
- B. The maximum number of day guests allowed at any one time, in addition to the overnight occupants, shall be seventy-five percent (75%) for the maximum overnight occupancy of the Short Term Rental.
- C. The number of bedrooms permitted for a Short Term Rental shall not exceed the number of bedrooms approved for the Dwelling Unit on the sewage permit issued for such property. Where there is no sewage permit on record, the Short Term Rental shall be limited to three (3) bedrooms unless proof is provided to the Sewage Enforcement Officer that the septic system is adequate to handle additional flows. Any Short Term Rental advertising more than five (5) bedrooms shall provide proof that the septic system is adequate to handle such flows by having the system approved by the Sewage Enforcement Officer, or by providing a septic permit previously issued by a Sewage Enforcement Officer. If a sewage system malfunction occurs, Short Term Rental of the Dwelling Unit shall be discontinued until the malfunction is corrected in accordance with Borough and Pennsylvania Department of

Environmental Protection requirements.

D. Outdoor parking for overnight and day guests shall be limited to available parking areas on the Short Term Rental property. In no event shall parking for Short Term Rental guests include spaces in any public street right-of-way or on any lawns or vegetated areas.

E. Neither Short Term Rental occupants nor guests shall engage in disorderly conduct or disturb the peace and quiet of any nearby neighborhood or person by loud, unusual or excessive noise, by tumultuous or offensive conduct, public indecency, threatening, traducing, quarreling, challenging to fight, or fighting, or creating a dangerous or physically offensive condition.

F. The owner shall use best efforts to assure that the occupants or guests of the Short Term Rental do not create unreasonable noise or disturbances, engage in disorderly conduct, or otherwise violate provisions of the Borough Code or any state law pertaining to noise or disorderly conduct including, but not limited to, notifying the occupants of the rules regarding Short Term Rentals and responding when notified that occupants are violating laws, ordinances or regulations regarding their occupancy.

G. The owner shall, upon notification that occupants or guests of the Short Term Rental have created unreasonable noise or disturbances, engaged in disorderly conduct or otherwise violated provisions of the Borough Code or state law pertaining to noise or disorderly conduct, promptly use best efforts to prevent a recurrence of such conduct by those occupants or guests.

H. Overnight occupancy of recreational vehicles, camper trailers and tents at the property where the Short Term Rental is located shall not be allowed. Outdoor overnight sleeping of occupants or guests of the Short Term Rental is prohibited.

I. A Short Term Rental shall not have any outside appearance indicating a change of use from the surrounding residential uses.

J. Fireworks and floating lanterns are prohibited.

K. Subleasing all or a portion of the dwelling unit is prohibited.

L. All Short Term Rentals shall have a clearly visible and legible notice posted within the dwelling unit on or adjacent to the front door containing the following information:

1. The name of the owner of the unit or the managing agency, agent, property manager, or local contact authorized in writing to accept service for the owner of the unit and a

telephone number at which that party can be reached on a 24-hour basis.

2. The E-911 address of the property.
3. The maximum number of occupants permitted to stay in the dwelling unit and the maximum number of day guests permitted at any one time.
4. The maximum number of all vehicles allowed to be on the property and the requirement that all guest parking must be parked in the available parking areas on the property and not in or along any private, community or public street right-of-way or on any lawn or vegetated area on the property.
5. The trash pick-up day and notification that trash and refuse shall not be left or stored on the exterior of the property.
6. Notification that an occupant or guest may be cited and fined for creating a disturbance or for violating other provisions of the Borough Code, including parking and occupancy limits.
7. Notification that Short Term Rental occupants and guests are required to make the dwelling unit available for inspection by the Enforcement Officer upon request.

M. All Short Term Rentals shall be equipped with the following:

1. Smoke detectors in each bedroom;
2. Smoke detectors outside each bedroom in common hallways;
3. Smoke detectors on each floor;
4. GFI outlets for outlets located within six (6) feet of water source;
5. Aluminum or metal exhaust from dryer;
6. Carbon monoxide detector if open flame (oil or gas) furnace, gas or wood fireplace, or wood-burning stove;
7. Carbon monoxide detector if garage is attached;
8. Fire extinguisher in kitchen;
9. Stairs (indoor and outdoor) in good condition; and
10. Swimming pools, hot tubs and spas must meet the barrier requirements as indicated in Appendix G of the 2009 International Residential Code.
11. Any other occupancy requirements which may be added by Ordinance revision by the Borough Council.

N. Compliance with the requirements of this section shall be considered conditions of a Short Term Rental Permit, the violation of which may result in a revocation of that permit by the Enforcement Officer.

§154-17 Fees, term and renewal

- A. Short Term Rental fees, payable to the Borough upon the filing of a Short Term Rental Permit application, shall be in such amount as may be established by resolution duly adopted by the Borough Council.

B. Any Short Term Rental Permit is good for a period not to exceed one (1) year from the date of issuance and must be renewed annually. Short Term Rental Permit renewal fees, payable to the Borough upon the filing of a Short Term Rental Permit renewal application, shall be in such amount as may be established by resolution duly adopted by the Borough Council.

C. Short Term Rental Permit renewal applications shall contain information regarding any changes from the immediately preceding application with respect to matters governed by this Ordinance.

D. Verification that all owed hotel and sales taxes have been paid shall be made before Permit renewal is granted.

E. Short Term Rental Permit renewal shall require inspections outlined in Section §154-18.

§154-18 Enforcement Officer

The administrator of this article shall be the Enforcement Officer as appointed by the Borough, which shall include any appointed Assistant Enforcement Officers. The Enforcement Officer shall have the responsibility and authority to administer and enforce all provisions of this Chapter.

§154-19 Inspections Required

A. All Short Term Rentals shall be subject to inspections by the Enforcement Officer to verify application information, Permit, Permit renewal and/or operating requirements.

B. The issuance of a Short Term Rental Permit is not a warranty that the premises is lawful, safe, habitable, or in compliance with this Chapter.

C. If there is reason to believe that any provision of this Chapter is being violated, the Borough Council may or may cause, through an authorized representative of the Borough, entry onto premises for the purpose of inspection of any and all premises, properties, buildings and/or structures located within the Borough for ascertaining the existence of violations. In those matters where the nature of an alleged violation is such that an inspection of the interior of a building or structure is necessitated, prior arrangements must be made with the owner or his agent to secure access thereof.

§154-20 Marketing

The marketing of a Short Term Rental in which the advertised occupancy exceeds the maximum occupancy requirements permitted by this Chapter, or which promotes any other activity which is prohibited by this Chapter, shall be a violation of this Chapter.

§154-21 Notice of Violation

If it appears to an Enforcement Officer that a violation of this Chapter exists or has occurred, the Enforcement Officer shall send a written Notice of Violation to the owner by personal delivery or by both United States first class and certified mail. The Enforcement Notice shall identify the premises which is the subject of the violation, enumerate the conditions which constitute the violation, cite the specific sections of this Chapter which are violated, indicate the action required to correct the violation, and provide a time frame (established by the Enforcement Officer based upon the nature of the violation) to correct the violation.

§154-22 Nuisance

In the interest of promoting the public health, safety and welfare, and minimizing the burden on the Borough and community services and impacts on residential neighborhoods posed by Short Term Rentals, a violation of any of the provisions of this Chapter is declared to be a public nuisance.

§154-23 Violations and penalties

A. This Chapter shall be enforced by action brought before a Magisterial District Judge in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure. Any person, partnership, corporation or other entity who or which violates or permits a violation of the provisions of this Chapter shall, upon conviction in a summary proceeding, pay a fine of not less than \$100 nor more than \$1,000 per violation, plus all court costs and reasonable attorney's fees incurred by the Borough in the enforcement proceedings, and/or be imprisoned to the extent allowed by law for the punishment of summary offenses. Each day or portion thereof that a violation exists or continues shall constitute a separate violation. Further, the appropriate officers or agents of the Borough are hereby authorized to seek equitable relief, including injunction to enforce compliance with this Chapter. All fines, penalties, costs and reasonable attorney's fees collected for the violation of this Chapter shall be paid to the Borough for its general use.

B. In addition to, but not in limitation of, the provisions of Subsection A. and §154-22, the Enforcement Officer may either revoke, or deny an application to renew, a Short Term Rental Permit for three (3) uncured or repeated violations of this Chapter in any rolling

twelve (12) calendar month period. The revocation or denial to renew a Short Term Rental Permit shall continue for six (6) months for the first set of three (3) uncured or repeated violations, and continue for one (1) year for any subsequent sets of violations.

§154-24 Owners severally responsible

If the premises are owned by more than one owner, each owner shall severally be subject to prosecution for a violation of this Chapter.

§154-25 Appeals

A. Appeals of a determination of the Enforcement Officer under this Chapter to deny any application for, or to renew, a Short Term Rental Permit, or to revoke a Short Term Rental Permit, shall be filed with the Borough Council within thirty (30) days of the date of the denial of application or revocation of permit. Appeal shall be processed as follows:

1. All appeals shall be in writing and signed by the Appellant on forms prescribed by the Borough, and shall be accompanied by a fee, the amount of which shall be established by the Borough Council, which may include notice and advertising costs, and necessary administrative overhead in relation to the hearing.
2. Each appeal shall fully set forth the determination appealed from, a detailed reason or basis for the appeal, and the relief sought. Every appeal shall refer to the specific provision of circumstances of the case

B. Hearings

The Borough Council shall conduct hearings and make decisions pursuant to the Act of December 2, 1968 (P.L. 1133, No. 353), known as the "Local Agency Law", and in accordance with the following requirements:

1. Written notice shall be given to the Appellant, the Enforcement Officer, and to any person who has made timely request for same. Written notices shall be given at such time and in such manner as shall be prescribed by rules of the Borough Council, but not less than fifteen (15) days prior to the hearing.
2. The hearing shall be held within 60 days from the date the appeal is filed, unless the Appellant has agreed in writing to an extension of time.

3. The hearings shall be conducted by the Borough Council. The decision or, where no decision is called for, the findings shall be in writing by the Borough Council within forty-five (45) days after the conclusion of the hearing, unless the Appellant has agreed in writing to an extension of time, and shall be communicated to the Appellant and any other parties who have entered their written appearance and requested a copy of the decisions, at the addresses provided by them either by personal delivery or by United States First Class mail postage prepaid.

4. The Chairman or Acting Chairman of the Board or the hearing officer presiding shall have power to administer oaths and issue subpoenas to compel the attendance of witnesses and the production of relevant documents and papers, including witnesses and documents requested by parties.

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

6. Formal rules of evidence shall not apply, but irrelevant, immaterial or unduly repetitious evidence may be excluded.

7. The Borough Council may, but is not required to, make a stenographic record of the proceedings. In the event a stenographic record of the proceedings is not provided by the Borough Council, a stenographic record shall be made and kept at the request of any party agreeing to pay the costs thereof. Any party or other person desiring a copy of the stenographic record shall order the copy directly from the stenographer who prepared the same and shall pay the cost imposed by the stenographer for the copy directly to the stenographer.

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

§154-26 Severability

In any section, provision, or portion of this Ordinance shall be held invalid or unconstitutional by any Court of competent jurisdiction, such decision shall not affect any other section, clause, provision or portion of this Ordinance so long as it remains legally enforceable minus the invalid portion. The Township reserves the right to amend this Ordinance or any portion thereof from time to time as it shall deem advisable in the best interest of the promotion of the purposes and intent of this Ordinance, and the effective administration thereof.

§154-27 Repealer

All Ordinances or parts of Ordinances which are inconsistent herewith are hereby repealed.

§154-28 Effective Date

This Ordinance shall become effective five (5) days after enactment.

Adoption

ORDAINED AND ENACTED this _____ day of _____ 20__ by the Borough Council of Mount Pocono.

[SIGNATURE BLOCK]

INTEROFFICE MEMORANDUM

To: Mount Pocono Borough Council
From: Lindsay Scerbo, Zoning Administrator
Subject: Tree Ordinance Adoption
Date: January 12, 2023
Cc: Shawn McGlynn, Borough Zoning Officer
Joshua Walker, Borough Manager

Borough Council:

The Zoning Office recommends to Borough Council that you consider the following recommendations regarding the adoption of a standalone Tree Ordinance.

- §197-5 of the proposed Ordinance states that there may be no clearing on any improved parcels. With that, we believe that it would be beneficial to include a definition of an improved parcel to the Ordinance.
- §197-11 lists a definition for “Remove or Removal.” Within the definition itself, the word remove is used multiple times, which could be quite counterintuitive and ineffective in relaying the meaning of the definition itself.
- §197-7(A) of the proposed Ordinance states that a tree survey and protection plan shall be required when submitting applications for any building, zoning, demolition, or tree removal permits in the Borough. It is the opinion of the Zoning Office that a tree survey and protection plan is not necessary for all permit applications being submitted. For example, if a person is to submit a zoning permit application for a change of use to a no-impact home based occupation, why should we require that they produce a tree survey and protection plan if there will be no impact on the exterior of the property?

- The Zoning Office has collaborated with the Monroe County Conservation District to get their opinion of this proposed Ordinance. A Conservation Specialist for the MCCD stated that they did not see any regulations within the proposed Ordinance that would supersede the regulations set forth by the Department of Environmental Protection or National Pollutant Discharge Elimination System (NPDES) requirements. An additional comment made by the Conservation Specialist is that issues may arise when the Ordinance requires an Erosion and Sediment Control Plan (E&S) approved by the MCCD, yet one may not be required by Chapter 102, Erosion and Sediment Control, of the PA DEP regulations.
- The extensive list of exemptions that you have created for this Ordinance may rule out a majority of the tree removal, grading, filling, or vegetation removal that would be happening in the Borough. With that in mind, it should be considered if it is worth adopting this Ordinance or not, based on the fact that a majority of the projects in the Borough would be excluded from the regulations set forth in this Ordinance.

BOROUGH OF MOUNT POCONO
MONROE COUNTY, PENNSYLVANIA
ORDINANCE NO. 5 OF 2017

NOTICE OF INTENTION TO ADOPT ORDINANCE REPEALING ORDINANCE NO. 6 OF
2007 ADOPTED BY THE BOROUGH COUNCIL OF THE BOROUGH OF MOUNT
POCONO ON JUNE 18, 2007 RELATING TO TREES

WHEREAS, on June 18, 2007 the Borough passed Ordinance No. 6 of 2007 relating to trees in the Borough of Mount Pocono; and

WHEREAS, the Borough believes that the goal and purpose of such Ordinance - that is the protection of trees and prohibition of clear cutting of commercial properties - is already addressed in the Borough Subdivision and Land Development Ordinance; and

WHEREAS, the Borough believes that it is not in the best interest of the Borough to require residential property owners to obtain permits for the cutting down of trees on residential properties; and

WHEREAS, in the judgment of the Council the Ordinance is unnecessary in order to protect trees in the Borough of Mount Pocono.

NOW, THEREFORE, the Borough of Mount Pocono ordains as follows:

1. Ordinance No. 6 of 2007 adopted June 18, 2007 and codified in the Borough Code of Ordinances at Chapter 197 is repealed in its entirety effective immediately.

ENACTED AND ORDAINED by Order of Mount Pocono Borough Council this 2nd day of October, 2017.

BOROUGH OF MOUNT POCONO

By: /s/
Karl E. Davis, Council President

Attest:

/s/
Lori Noonan, Borough Secretary

The above Ordinance is hereby approved this 2nd day of October, 2017.

By: /s/
Frederick Courtright, Mayor

Chapter 197

TREES

- | | |
|---|--|
| § 197-1. Findings. | § 197-7. Tree survey and protection plan. |
| § 197-2. Purpose. | § 197-8. Tree survey inspection. |
| § 197-3. Applicability; permit/approval; exemptions. | § 197-9. Tree protection during construction. |
| § 197-4. Clearing, grading and filling of unimproved parcels. | § 197-10. Ground cover and landscaping. |
| § 197-5. Clearing, grading and filling of improved parcels. | § 197-11. Definitions and word usage. |
| § 197-6. Tree preservation standards. | § 197-12. Administrative fee. |
| | § 197-13. Violations and penalties; other remedies; action to abate. |

[HISTORY: Adopted by the Borough Council of the Borough of Mount Pocono 6-18-2007 by Ord. No. 6-2007. Amendments noted where applicable.]

GENERAL REFERENCES

Floodplain management — See Ch. 100.
Stormwater management — See Ch. 179.

Subdivision and land development — See Ch. 187.
Zoning — See Ch. 215.

§ 197-1. Findings.

The Borough Council finds that:

- A. In 2005, the Borough of Mount Pocono adopted the Regional Comprehensive Plan for Coolbaugh Township, the Borough of Mount Pocono, Tobyhanna Township and Tunkhannock Township which calls for tree and woodland protection, management and planting, land clearing limitations for development, and no touch or limited clearance buffer zones around the perimeter of new developments;
- B. The Borough of Mount Pocono contains a diversity and abundance of trees and natural vegetation that are of economic, recreational, and environmental value to the Borough and makes it a desirable place for residents and visitors;
- C. The abundance of trees and natural vegetation contributes to the Borough's unique wooded mountain character and distinguishes the Borough from many other communities;
- D. The appearance of the Borough of Mount Pocono contributes to the economic prosperity and general welfare of the Borough;
- E. Growth and development in the Borough of Mount Pocono often results in the removal of trees and natural vegetation, thereby contributing to its depletion; and

- F. It is necessary to protect and manage trees and natural vegetation as valuable assets in order to protect and enhance the health, safety, and welfare of the citizens of the Borough of Mount Pocono.

§ 197-2. Purpose.

The Borough Council declares that the intent of this chapter is to:

- A. To promote the public health, safety, and general welfare of the citizens of the Borough without preventing the reasonable development of land;
- B. To encourage site development, including clearing, excavation, and filling, in such a manner as to minimize hazards to life, health, and property;
- C. To preserve and enhance the Borough's physical and aesthetic character by preventing untimely and indiscriminate removal or destruction of trees and ground cover;
- D. To minimize surface water runoff and diversion which may contribute to flooding;
- E. To reduce siltation in the streams, lakes, storm sewer systems, and roadside drainage facilities;
- F. To reduce the risk of slides and the creation of unstable building sites;
- G. To promote building and site planning practices that are consistent with the natural topography, soils, and vegetative features while at the same time recognizing that certain factors such as disease, danger of falling, proximity to existing and proposed structures and improvements, interference with utility services, protection of scenic views, and the realization of a reasonable enjoyment of property may require the removal of certain trees and ground cover;
- H. To insure prompt development, restoration and replanting and effective erosion control of property after land clearing and grading; and
- I. To implement the goals and objectives of the Regional Comprehensive Plan.

§ 197-3. Applicability; permit/approval; exemptions.

- A. Applicability. The terms and provisions of this chapter shall apply to all real property, public or private, lying within the municipal boundaries of the Borough of Mount Pocono.
- B. Permit approval. No person shall engage in any tree or vegetation clearing, grading or filling without having obtained:
 - (1) A permit in accord with this chapter;
 - (2) A zoning permit in accord with Chapter 215; or
 - (3) Preliminary subdivision or land development approval in accord with Chapter 187.

C. Exemptions. The provisions of this chapter shall not apply to:

- (1) The correction of emergency situations involving immediate danger to life.
- (2) The routine maintenance of existing lawn, landscaping and trees.
- (3) The removal of dead trees or of diseased or damaged trees, or trees in locations, that constitute a hazard to life or property.
- (4) Clearing, grading and filling of not more than 1,000 square feet of land area for gardening for home consumption.
- (5) Agriculture in accord with a conservation plan or erosion and sedimentation control plan approved by the Monroe County Conservation District.
- (6) Forest management operations on parcels of five acres or more in accord with a timber harvesting plan following generally recognized best management practices and a soil erosion and sedimentation control plan approved by the Monroe County Conservation District. (The buffer requirements in § 197-4A and B shall apply.)
- (7) Trimming of trees when necessary to conduct a survey or site examination for the preparation of subdivision plats, plans or tree surveys.
- (8) Removal or trimming of any tree in an existing utility easement or public right-of-way, provided such work is done by or under the direct control of the operating utility company and said company has received all necessary licenses or permits to provide utility service within the easement and said company has documented the need for said removal or trimming.
- (9) Removal or trimming of any tree located within an existing or proposed public easement, stormwater management tract or facility, provided that only the minimum area reasonably necessary for the public service or use shall be considered for purposes of determining whether there is necessity for tree removal.
- (10) Removal or trimming of any tree or vegetation at any intersection or in any road right-of-way required to maintain public safety.

§ 197-4. Clearing, grading and filling of unimproved parcels.

Clearing of trees and vegetation, grading and filling shall be in accord with an overall plan approved in accord with Chapter 187 or Chapter 215. Until such time as the development plan is approved for the parcel in accord with Chapter 187 or a permit is issued in accord with Chapter 215, the following requirements shall apply:

- A. Trees and vegetation in setback areas. No tree or vegetation clearing shall be conducted within the setback area established for structures for the zoning district in which the parcel is located. (See Chapter 215.)
- B. Additional buffer area. In addition to the nonclearing area required in Subsection A above, an additional buffer of not less than 50 feet in width shall be maintained. Existing vegetation in this buffer area shall not be disturbed except that trees may be harvested to

the extent that the basal area of trees in the fifty-foot buffer area shall not be reduced below 50% of the basal area present before cutting or below 65 square feet per acre, whichever is higher. "Basal area" is the area in square feet per acre occupied by tree stems at 4.5 feet above the ground, normally measured by a calibrated prism or angle gauge.

- C. Grading and filling. No grading or filling shall be conducted.

§ 197-5. Clearing, grading and filling of improved parcels.

In cases where a parcel has been improved, no clearing of trees and vegetation, grading or filling shall be conducted except as specifically authorized in accord with the permit or approval issued for the parcel or as may otherwise be permitted under this chapter.

§ 197-6. Tree preservation standards.

- A. Subdivisions and land developments. The provisions of Chapter 187 shall apply to all subdivisions and land developments.
- B. All other projects (including dwellings). In cases where tree removal is not proposed as part of a subdivision or land development governed by Chapter 187, the following standards shall apply:
- (1) Front and rear setback areas.
 - (a) All projects shall be laid out in such a manner as to minimize the removal of healthy trees and shrubs within the front (along any road right-of-way) and rear setback areas established for structures for the zoning district in which the parcel is located.
 - (b) A minimum of 40% of all trees of three inches or greater DBH shall be preserved.
 - (c) Trees of six inches or greater DBH (mature trees) shall be preserved insofar as possible, and trees of 12 inches or greater DBH (specimen trees) shall not be removed unless approved by the Borough for just cause.
 - (2) Side setback areas. There shall be no limitation on clearing of vegetation in side setback areas.
 - (3) Documentation. The applicant shall document that tree removal in regulated areas is minimized. If challenged by the Borough, the applicant shall produce evidence, such as written documents or plans certified by a registered landscape architect or other person deemed qualified by the Borough, showing that no alternative layouts are possible and that no alternative clearing or grading plan would reduce the loss of mature trees.
 - (4) Preservation criteria. The following criteria shall be used by the Borough to make the final determination of which trees shall be preserved.

- (a) The outermost branches of the tree(s) are at least five feet from any proposed buildings or structures.
 - (b) The outermost branches of the tree(s) are at least five feet from any proposed changes in grade, drainage structure, utility corridor, parking or load/unloading area, sidewalk, on-site sewage system, or any other excavations.
 - (c) The tree(s) are clear of any proposed sight triangles and do not, by their location or apparent health, pose any undue threat to the public health, safety, or welfare. The Borough may permit some landscape material to be placed in the clear sight triangle when it determines that the type of material and its location will not create a hazard to motorists or conflict with utility locations.
 - (d) If trees are diseased or are excessive in number and thinning will promote and enhance the healthy development of the remaining trees, the Borough may require the removal of the trees.
- (5) Protection of designated trees. Trees designated to be preserved shall be identified in the field prior to any clearing and shall be physically protected throughout the construction process. A temporary physical barrier, such as a snow fence, shall be erected a minimum of one foot outside the drip line on all sides of individual trees or tree masses prior to major clearing or construction. The barrier shall be placed to prevent disturbance to, or compaction of, soil inside the barrier and shall remain until construction is complete. The barrier shall be shown on the plan.

§ 197-7. Tree survey and protection plan.

- A. Plan required. When an application for a building, zoning or demolition permit is required, or when an application for a tree removal permit must be filed pursuant to this chapter, a tree survey and protection plan shall be submitted to the Borough. When submitted in connection with a building, zoning or building permit, the tree survey and protection plan shall be administered as part of the associated application.
- B. Plan content. The tree survey and protection plan shall include the following:
 - (1) Dimensions of the property and required zoning setback areas.
 - (2) Location, type and size of all existing trees or tree stands, and a notation of whether each such tree or tree stand is to be preserved or removed.
 - (3) Location of all structures, freestanding signs, parking areas, drives, vehicular use areas, curb, cuts, retention/detention areas, other improvements and other features on or proposed for the lot.
 - (4) Location of existing and proposed overhead or underground power lines and other utility lines, such as but not limited to water and sewer, and adjacent rights-of-way.
- C. Tree marking. The applicant shall mark all trees to be preserved with brightly colored plastic ribbon prior to the tree survey inspection required in § 197-8. In lieu of marking

individual trees, the applicant may designate and delineate with a barrier (see § 197-9B) tree preservation areas.

§ 197-8. Tree survey inspection.

Following the receipt of a complete application for a tree removal permit, the Zoning Officer shall schedule and conduct an inspection of the proposed development site within such period of time as may reasonably be required to verify the information contained on the application. The applicant or his designee shall be advised as to the date and time of the inspection and given an opportunity to participate. Following inspection the Zoning Officer, consistent with the purpose of this chapter, shall advise the applicant in writing of any recommended changes in the applicant's proposed tree removal and protection plan.

§ 197-9. Tree protection during construction.

- A. Protection required. No person shall encroach or place solvents, material, construction machinery or temporary soil deposits within one foot of the area outside the drip line, as defined herein, of any protected tree or any tree within a tree protection zone.
- B. Barrier. Existing trees designated to be protected shall be identified in the field prior to any clearing and shall be physically protected throughout the construction process. A temporary physical barrier, such as a snow fence, shall be erected a minimum of one foot outside the drip line on all sides of individual trees, tree masses, or woodlands prior to major clearing or construction. The barrier shall be placed to prevent disturbance to, or compaction of, soil inside the barrier and shall remain until construction is complete. The barrier shall be shown on the tree preservation plan.
- C. Barrier removal. All tree protection devices must remain in functioning condition until the certificate of use is issued.
- D. Replacement. Any tree designated in the tree protection plan to be saved which is damaged during construction or as a result of construction, as determined by the Zoning Officer, shall be treated in accord with accepted American Association of Nurserymen (AAN) standards, or replaced in accord with AAN standards with a tree or trees equal to the caliper value of the tree removed. However, any specimen damaged as described above shall be replaced with trees of a total caliper equal to two times the caliper value of the tree removed or damaged and no replacement tree shall be less than six inches caliper. Replacement trees, maintenance and guarantees shall meet the requirements of § 187-56G and § 187-56H.

§ 197-10. Ground cover and landscaping.

Any part of a site which has been cleared under permit of this chapter 197, or which has been cleared, graded or filled under permit of Chapter 187 or Chapter 215, and which is not used for buildings, structures, loading or parking spaces and aisles, sidewalks, designated storage areas or other improvements, shall be provided with an all-season vegetative ground cover and shall be landscaped in accord with AAN standards. (See § 187-56 for land developments and major subdivisions.)

- A. Topsoil. Except as approved under permit of Chapter 187 or Chapter 215, no topsoil shall be removed from the site and shall be retained on the site as necessary for proper site stabilization.
- B. Planting. The site shall be prepared with suitable soil to support the vegetative ground cover, plants and trees proposed, and all vegetative ground cover, plants and trees proposed shall be suitable for the intended purpose and shall be installed and maintained in accord with the requirements of § 187-56G and § 187-56H.
- C. Certificate of use/occupancy. No certificate of use or occupancy shall be issued until the site has been stabilized and planted in accord with this chapter, soil erosion and sedimentation control regulations, and other applicable regulations, or a performance guarantee is provided in accord with Subsection D below.
- D. Performance guarantee. In cases where the required stabilization and planting cannot be completed due to weather or other circumstance, the Zoning Officer may accept a performance guarantee to ensure the completion. The amount of the performance guarantee shall be based on a bona fide contractor's estimate provided by the applicant, plus 10%. The form of the guarantee shall comply with § 187-37A.

§ 197-11. Definitions and word usage.

- A. For the purposes of this chapter, certain words or terms used herein shall be interpreted as follows:
 - (1) Words used in the singular shall include the plural, and the plural the singular; words used in the present tense shall include the future tense.
 - (2) The word "person" includes individual, firm, corporation, partnership, joint venture, limited-liability company, association, principal, trustee, municipal corporation, political subdivision, special district, or other entity, or any agent or representative of any of the foregoing.
 - (3) The word "shall" is mandatory and not discretionary. The word "may" is permissive.
 - (4) The word "lot" includes the words parcel, land, site, and any other real property, whether or not legally designated as a lot for purposes other than this chapter, including multiple lots that have been or will be merged and all new lots that will be created through subdivision.
- B. As used in this chapter, the following terms shall have the meaning indicated in this section. Words not defined herein shall be interpreted so as to give them the meaning they have in common usage and to give this chapter its most reasonable application.

AAN STANDARDS — Tree and plant standards set by the American Association of Nurserymen.

CALIPER — The diameter of a tree trunk measured at six inches above the ground for trees less than or equal to four inches in diameter at six inches above the ground. For

trees with a diameter greater than four inches at six inches above ground the caliper shall be measured at 12 inches above ground.

CLEARING — Any activity which removes the vegetative ground cover and/or trees.

DAMAGE — Severe decline, disfigurement, discoloration, defoliation, removal or death of any tree which is intentionally caused or is the result of recklessness or negligence.

DBH — Diameter at breast height which is the measurement of a tree's diameter taken at 4.5 feet above the ground.

DEMOLITION — Demolition shall include the destruction of all or part of a structure or the removal of all or part of any structure to any off-site location.

DRIP LINE — A line encircling a tree corresponding to the furthest extension of the branches of a tree which line is used, in turn, to calculate crown spread.

EXCAVATION — Any digging, scooping or other methods of removing earth materials.

FILLING — Any depositing or stockpiling of earth, stone or vegetative materials.

GRADING — Any excavating or filling of earth materials or any combination thereof, including the land in its excavated or filled condition.

GROUND COVER — A low-growing dense growth of plants, such as grass, pachysandra or crown vetch, planted for ornamental purposes or to stabilize the soil and prevent soil erosion.

HEALTHY — As defined by the International Society of Arboriculture.

REMOVE or REMOVAL —

- (1) The actual removal of trees;
- (2) Direct or indirect actions capable of resulting in the effective removal of trees through damage or poison; or
- (3) Similar actions directly or indirectly capable of resulting in the death of a tree subject to the provisions of this chapter.

TREE — A living, woody plant having a well-defined stem, a more or less well-defined crown and which is capable of attaining a height of at least 15 feet.

TRIM — To reduce, shorten, diminish or prune a tree or parts of a tree without substantially altering the existing shape or damaging the tree or shortening its life span.

§ 197-12. Administrative fee.

A nonrefundable administrative fee, in an amount established by Council resolution, shall be paid by the applicant.

§ 197-13. Violations and penalties; other remedies; action to abate.

- A. Compliance. Failure to comply with any provision of this chapter shall be a violation of this chapter.
- B. Fine; imprisonment. Any person who has violated or permitted the violation of any provisions of this chapter shall, upon judgment thereof by any Magisterial District Judge, be sentenced to pay a fine of not less than \$100 nor more than \$1,000 per day of violation, together with the costs of suit, and/or shall be committed to the Monroe County Prison for a period not exceeding 30 days. Each day of violation shall constitute a separate offense for which a summary conviction may be sought. All judgments, costs, interest and reasonable attorney fees collected for the violation of this chapter shall be paid over to the Borough.
- C. Other remedies. In addition to the fines, judgments, and/or imprisonment remedies of § 197-13B, the Council reserves the right to pursue independent and cumulative remedies at law or equity, including a demand for reimbursement of all court costs and reasonable attorney fees.
- D. Abatement by Borough and recovery of costs. In addition, if the owner or person in control of any premises, act or condition constituting a violation of this chapter fails to respond to a notice of violation directing the correction of the violation within the time limit prescribed by the notice, or fails to appeal, or fails to comply with the determination of the appeal, the Zoning Officer and/or the Council shall be empowered to cause such work of abatement to be commenced and/or completed by the Borough and the cost and expense thereof with a penalty of 10%, plus expenses, constable, attorney, engineering and consulting fees and interest, shall be collected from the owner of such premises in the manner provided by law.

MOUNT POCONO BOROUGH PLANNING COMMISSION

2022 ANNUAL REPORT

In accordance with the Pennsylvania Municipalities Planning Code (PMPC), the Mount Pocono Borough Planning Commission hereby submits the following 2022 Annual Report to the Mount Pocono Borough Council.

The Planning Commission held a total of three (3) Regular Monthly Meetings during 2022, held two (2) informal meeting due to lack of a quorum & cancelled eight (8) meetings, also due to lack of a quorum. Note: The Planning Commission decreased its members from seven (7) to five (5) per Borough Council.

DISCUSSIONS:

- Rezoning 94 Winona informal review (3/16/22 – no quorum); reviewed & not recommend to Borough Council (4/20/22)
- Clarius Land Development Plan reviewed & recommended with conditions to Borough Council (2/17/21)

CONDITIONAL USE:

- 3360 SR 940 STR informal review (3/16/22 – no quorum); reviewed & recommend with conditions to Borough Council (4/20/22)

IMPROVEMENTS: None

SITE PLAN: None

SKETCH PLAN:

- Mount Pocono Municipal Authority (MPMA) informal review (12/21/22 – no quorum); reviewed

MINOR SUBDIVISION PLAN:

- Bizio informal review (3/16/22 – no quorum); reviewed & recommended with conditions to Borough Council (4/20/22)

PRELIMINARY LAND DEVELOPMENT & LAND DEVELOPMENT PLANS:

- Bizio LDP informal review (3/16/22 – no quorum); reviewed & recommended with conditions to Borough Council (4/20/22)
- Popeye's LDP retroactively accepted (3/16/22 – no quorum); reviewed/ accepted waiver requests & tabled (4/20/22); reviewed & recommended with some of the waivers requested to Borough Council (5/18/22)
- Arya Village LDP accepted & reviewed (6/15/22); reviewed the incomplete plan & recommended a ninety (90) day extension to Borough Council (8/17/22)

FINAL PLANS: None

SEWAGE FACILITIES PLANNING MODULES: None

ORDINANCE REVIEWS & RECOMMENDATIONS:

- Tabled Caliper of Trees Amendment – SALDO 187-6 (8/17/22)
- Tabled Improvement Maintenance Guarantee Amendment – SALDO 187-39 (8/17/22)
- Reviewed & recommended Submission Requirements Amendment – SALDO 187-18 to 187-24 to Borough Council (8/17/22)

MISCELLANEOUS: None

WORK SESSIONS: None

WORKSHOPS ATTENDED: None

PRESENTATIONS: None

Respectfully submitted by,

Michael Penn, Planning Commission Chairman