

**ARTICLE 3**  
**GENERAL REGULATIONS**

**SECTION 301**      **COMPLIANCE REQUIRED**

No structure or land shall be used or occupied, and no structure or part of a structure shall be erected, demolished, altered converted or moved, unless in compliance with all applicable provisions and regulations of this Ordinance

**SECTION 302**      **INTERPRETATION AND CONFLICT**

In interpreting and applying the provisions of this Ordinance, they shall be held to the minimum requirements for the protection and promotion of the public health, safety, convenience, comfort, morals, and general welfare of the residents of Bear Creek Township. In the event of any conflict in the application of this Ordinance with other applicable public or private provisions, the following shall apply:

A.      **PUBLIC PROVISIONS**

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any other ordinance, rules or regulations previously adopted or previously issued by Bear Creek Township which are not in conflict with any provisions of this Ordinance. Where this Ordinance imposes a greater restriction upon the use of land, structure or building than any other previously adopted ordinance, rules, or regulations of Bear Creek Township, the provisions of this Ordinance shall apply.

B.      **PRIVATE PROVISIONS**

The regulations of this Ordinance are not intended to interfere with or abrogate or annul any easement, covenant or other form of private agreement or restriction, provided that where the provisions of this Ordinance impose a greater restriction, the requirements of this Ordinance shall govern. Where the provisions of any easement, covenant or other form of private agreement or restriction imposes obligations, duties and/or requirements which are more restrictive and/or impose higher standards than the requirements of this Ordinance, and such private provisions are not inconsistent with the requirements of this Ordinance, then such private provisions shall be operative and supplemental to the requirements of this Ordinance.

**SECTION 303**      **ATTACHED ACCESSORY STRUCTURES**

Accessory structures which are attached to a principal structure shall be considered a part of the principal structure and shall comply with the same yard and lot requirements applicable to the principal structure.

**SECTION 304**      **UNATTACHED ACCESSORY STRUCTURES**

**304.1**      **NONRESIDENTIAL**

When the principal use or structure is nonresidential, an unattached accessory structure shall comply with the front yard setback requirements applicable to the principal structure

or use for the zoning district in which it is located and shall not be less than fifteen (15) feet from any side yard lot line or rear yard lot line.

#### 304.2 RESIDENTIAL

When the principal structure is residential, unattached accessory structures shall only be erected within the rear yard or side yard areas of the lot subject to the following requirements:

- (A) The maximum height shall not exceed fifteen (15) feet.
- (B) An accessory structure shall not be located less than ten (10) feet from a side lot line or the rear lot line. Excluding A-1 and C-1 zoning districts, an accessory residential structure shall not exceed 1,000 square feet of floor area.

#### SECTION 305 CORNER LOT RESTRICTION

On a corner lot there shall be provided on each side thereof, adjacent to a street, a yard setback equal in depth to the required front yard setback of the prevailing zoning district in which the corner lot is located.

#### SECTION 306 TYPES OF RESIDENTIAL ACCESSORY STRUCTURES

For residential lots, permitted accessory structures shall include noncommercial greenhouses, tool or lawn sheds, private garages or carports, private noncommercial swimming pools, gazebos and noncommercial satellite antenna dishes.

#### SECTION 307 NONCOMMERCIAL SATELLITE DISH ANTENNA

A noncommercial satellite dish antenna, as so defined in this Ordinance, shall be deemed an accessory use, permitted by right in all zoning districts. Granting approval for the establishment and/or construction of a satellite dish antenna shall not restrict or imply to restrict the use or development of another zoning lot. The height of a noncommercial satellite dish antenna, including any supporting device, measured from ground level to its highest point of elevation, shall not exceed the maximum height restriction of the zoning district in which it is located.

#### SECTION 308 RESIDENTIAL ACCESSORY STRUCTURES IN A NONRESIDENTIAL ZONE

In cases when a residential structure is a nonconforming use, located in a nonresidential zone in which a residential use is not permitted by right, the proposed erection of an accessory residential structure shall be deemed exempt from classification as an expansion of a nonconforming use, but shall be subject to the regulations contained under Section 304.2 of this Ordinance.

SECTION 309      PRIVATE NONCOMMERCIAL SWIMMING POOLS

All swimming pools having a surface area of thirty (30) square feet or greater and capable of containing water to a depth, at any point, of two (2) feet or greater, shall be governed by in accordance with the following subsections:

309.1      LOCATION AND SETBACK REQUIREMENTS

Swimming pools shall be located in either the rear yard or a side yard of the property on which it is an accessory use. The swimming pool and any accessory structures thereto, shall have a minimum setback of ten (10) feet from any rear or side yard lot line.

309.2      IN-GROUND POOLS

The pool or the entire property on which the pool is located, shall be enclosed with a permanent fence not less than four (4) feet in height, which includes a gate secured with a lock. The required fencing for an in ground pool must be installed upon the completion of the excavation work and prior filling said pool.

309.3      ABOVE GROUND POOLS

An above ground pool shall be enclosed with a permanent fence not less than four (4) feet in height which includes a gate secured with a lock in accordance with the above requirements of Section 307.2 or in lieu of a fence, a barrier not less than four (4) feet in height. Said barrier may include the pool wall and any extension thereto which equals or exceeds a height of four (4) feet. Access into a pool which includes a deck shall be secured by a gate with a lock. Pools without access from a deck shall include retractable steps or any similar device which prohibits uncontrolled access into the pool when not in use. Shrubbery is not to be considered as a barrier. Decks which are attached to the pool shall not project into any required yard setback for the pool.

SECTION 310      LOTS DIVIDED BY ZONING BOUNDARIES

If a zoning district boundary line divides a lot held in single and separate ownership prior to the effective date of this Ordinance, placing eighty-five (85%) percent or more of the lot area in a particular zoning district, the location of such district boundary line may be construed to include the remaining fifteen (15%) percent or less of the lot so divided, subject to the lot of record having an area in excess of two (2) acres.

SECTION 311      PROJECTIONS INTO REQUIRED YARDS

The following projections shall be permitted into required yards and shall not be considered in the determination of yard setback requirements or building coverage:

- (A) Terraces or Patios: provided that such terraces or patios are located in the rear yard or sideyard, are not under roof, without walls or other form of enclosure and are not closer than five (5) feet to any adjacent lot line.
- (B) Projecting Architectural Features: such as bay windows, cornices, eaves, fireplaces, chimneys, window sills, or other similar architectural features

provided that any of the aforementioned features do not extend more than two (2) feet into any required setback.

- (C) Porches and Decks: provided such porches or decks are located in the rear yard or sideyard, and that such does not exceed four and one-half (4<sup>1/2</sup>) feet in depth as extended from the structure.
- (D) Handicapped Ramps: may be constructed without meeting any applicable front and/or rear yard setback requirements in any Zoning District, but shall have a minimum side yard setback of not less than five (5) feet.

#### SECTION 312      EXCEPTIONS TO HEIGHT LIMITATIONS

The height limitations of this Ordinance shall not apply to church spires, belfries, cupolas, domes, chimneys, flagpoles, water towers, skylights; or to any accessory mechanical appurtenances usually located above the roof level.

#### SECTION 313      REQUIRED ACCESS

Every building or structure hereafter erected shall have access to or be located upon a lot adjacent to a public or private street.

#### SECTION 314      LAND DEVELOPMENT APPROVAL FOR CERTAIN USES

In addition to zoning approval, the following uses are classified as a "land development," requiring approval under the applicable provisions of the Bear Creek Township Subdivision and Land Development Ordinance:

The improvement of one lot or two (2) or more contiguous lots, tracts or parcels of land for any purpose involving:

- ((A) A group of two or more residential or nonresidential buildings, whether proposed initially or cumulatively, or a single nonresidential building on a lot or lots regardless of the number of occupants or tenure.
- (B) The division or allocation of land or space, whether initially or cumulatively, between or among two or more existing or prospective occupants by means of, or for the purpose of streets, common areas, leaseholds, condominiums, building groups or other features.
- (C) A subdivision of land.
- (D) The conversion of an existing single-family detached dwelling or single family semidetached dwelling into more than three (3) residential units. Any conversion, described above that is intended to be a condominium, shall be exempt from classification as a land development.
- (E) Any nonresidential use of land, with or without structures, which encompasses five (5) or more acres of land, excluding agricultural use of land.

- (F) The development of a mobile home park or the expansion of an existing mobile home park within the context of the definition of said term as contained within this Ordinance.

SECTION 315      VISIBILITY AT INTERSECTIONS AND PRIVATE DRIVEWAYS

315.1      INTERSECTION OF STREETS

On any corner lot no visual obstruction between two and one-half (2<sup>1/2</sup>) feet and eight (8) feet in height, excluding street signs, utility poles or traffic signs, shall be erected or maintained on any corner lot within the triangle formed by the intersecting property lines of the corner lot and a line projected between points on each of those adjacent property lines, twenty (20) feet from their intersection.

315.2      PRIVATE DRIVEWAYS

No visual obstruction between two and one-half (2<sup>1/2</sup>) feet and eight (8) feet in height, shall be erected or maintained within the triangle formed between the intersection of centerlines of a street right-of-way line and a depth of ten (10) feet along the centerline of the street right-of-way and a depth of ten (10) feet along the centerline of a private driveway.

315.3      REQUIRED SETBACK

No part of a driveway for shall be located closer than ten (10) feet from a side property line.

SECTION 316      FENCES AND WALLS

The posts and/or structural supports of a fence shall be located within the interior yard space to be enclosed.

316.1      RESIDENTIAL

Fences and walls to be constructed within a residential zoning district or upon a lot in any other type of zoning district which contains a residential property, shall be permitted according to the following subsections:

A.      FRONT YARD

The maximum height of any fence or wall in a front yard shall not exceed four (4) feet in height above the adjacent ground level.

B.      SIDE AND REAR YARDS

The maximum height of any fence or wall located in a side yard or rear yard shall not exceed six (6) feet in height.

C. MATERIALS

All fences shall be constructed with materials recognized by the fencing industry and designed to provide a permanent enclosure. No barbed wire or other potentially injurious material shall be contained upon the fence or as part of the material to construct the fence.

316.2 NONRESIDENTIAL

Fences to be constructed within any commercial and/or industrial zoning district shall not exceed eight (8) feet in height above the adjacent ground level. Fences to be constructed within any industrial zoning district shall not exceed ten (10) feet in height above the adjacent ground level.

316.3 EXEMPTIONS

The provisions of this Section shall not be applied to prevent the construction of a chain link in excess of ten (10) feet in height, designed as an enclosure to a public park, a public playground or similar outdoor recreational facility.

SECTION 317 PUBLIC UTILITIES

With the exception of storage yards, the provisions and regulations of this Ordinance shall not apply to any existing or proposed building or extension thereof, used or to be used by a public utility corporation deemed necessary for the convenience or welfare of the public in accordance with Section 619 of the Pennsylvania Municipalities Planning Code, Act 247, as amended.

SECTION 318 SEWAGE DISPOSAL

The provision of sewage service to any proposed use and/or development of property shall be consistent with the Township's Act 537 Sewage Facility Plan. Any use or development of property which proposes to utilize on-lot sewage disposal shall secure approval from the Township's Sewage Enforcement Officer in accordance with the applicable governing standards of the Pennsylvania Department of Environmental Protection prior to the issuance of a zoning permit.

SECTION 319 CERTAIN EXEMPTIONS FOR SETBACK REQUIREMENTS

Any structural portion of a building, such as a deck, patio, porch or similar feature which is need of repair to the point of replacement shall be exempt from complying with the applicable setback requirements when all of the following conditions exist:

- A. The use of the building represents a use permitted by right in the district in which it is located.
- B. There are no outstanding zoning or building code violations against the owner of the property.

- C. The structural replacement shall be the exact same location and structural replacement shall be the same size and height, or less, than that which is being replaced.
- D. A photograph of the subject property, taken prior to the start of work, must be submitted to the Zoning Officer with a completed zoning permit application, along with any other information deemed necessary by the Zoning Officer to process the application.

SECTION 320      MOBILE HOMES - PERMANENT FOUNDATIONS

A mobile home shall be constructed and anchored to a permanent foundation. Under such conditions said mobile home shall be deemed to be a single family residence.

SECTION 321      REPLACEMENT OF MOBILE HOMES

The removal of a mobile home upon a property with the intent to replace it with another mobile home may be permitted in accordance with the following standards:

- 1. The property owner shall provide the Zoning Officer with advance written notice of his intent to replace the structure and the date on which the current mobile home will be removed from the lot.
- 2. The placement of the new mobile home upon the lot shall be in conformance with all applicable setback requirements and area requirements for the zoning district in which it is located.
- 3. The replacement mobile home shall conform to the governing applicable standards as set forth under the Pennsylvania Uniform Construction Code.
- 4. A new mobile home shall be located upon the lot in conformance with Section 320 and shall be connected with all utilities, including sewage, and ready for occupancy within one hundred and eighty (180) days from the date on previous mobile home was removed.

SECTION 322      TEMPORARY STRUCTURE AND/OR TEMPORARY USE

A temporary structure and/or a temporary use may be allowed in all Zoning Districts subject to the following requirements:

- a. A temporary structure and/or use shall meet all applicable setback requirements for the Zoning District in which it is to be located.
- b. The temporary structure shall be located upon a property for a period not to exceed twelve (12) months from the date on which the Zoning Permit was approved by the Zoning Officer. The twelve (12) month time limitation for a temporary structure and/or use shall be cumulative in nature. Any intermittent cessation and subsequent resumption of a temporary structure and/or use shall be included within the twelve (12) month time limitation from the date on which approval was originally issued.
- c. The use of a temporary structure shall be directly related to the principal use of the

property and the principal use of the property must be a use permitted by right in the zoning district in which it is located.

- d. Trailers placed upon a property as a field office during the construction activities for a permanent principal use shall be exempt.

The use of a temporary structure as a residence shall be permitted when the following conditions apply:

- The property on which the temporary structure is to be located represents the same property on which the applicant has secured zoning approval to construct a permanent dwelling.
  - The temporary structure has service to and is connected to all required utilities, including but not necessarily limited to electrical, water and sewage and is utilized within the context of a “Dwelling Unit” as defined in Article 2 of this Ordinance.
  - Upon the cessation of twelve (12) months from the date on which the Zoning Permit was approved by the Zoning Officer, the temporary structure shall be removed from the site unless the applicant submits and receives approval for a land development application and plan.
- e. The size of the gross floor area of a temporary structure shall not exceed that of the principal structure.
  - f. Required off-street parking and/or loading shall be provided for the use within a temporary structure in accordance with the applicable provisions contained in Article 11, Off-Street Parking and Loading.
  - g. Upon receipt of approval for a temporary structure and/or use, the twelve (12) month limitation may be extended up to an additional twelve (12) months as a variance subject to approval by the Zoning Hearing Board.

#### SECTION 323      HIGHWAY OCCUPANCY PERMIT

Zoning approval for any proposed use and/or development of a property, which includes the construction and/or relocation of a driveway onto a State Legislative Route, a County road or a Township road shall be conditioned upon the applicant securing a Highway Occupancy Permit from the applicable governing body and/or agency.

#### SECTION 324      SOIL EROSION AND SEDIMENTATION CONTROL PLAN

In accordance with the requirements of the Pennsylvania Department of Environmental Protection, any proposed development having a cumulative land disturbance equal to or in excess of five thousand (5,000) square feet shall be required to prepare and implement a Soil Erosion and Sedimentation Control Plan, in accordance with the most recent addition of the Department of Environmental Protection Erosion and Sedimentation Control Manual.

For stormwater discharges from construction activities, for any proposed development

that will disturb between one (1) and up to five (5) acres of land over the life of the project, and has a point source discharge to surface waters shall be required to secure a National Pollutant Discharge Elimination System Permit (NPDES) from the Luzerne Conservation District. No zoning permit for development shall be issued by the Township until written notification is received from the Luzerne Conservation District verifying compliance in securing the NPDES Permit.

SECTION 325      OUTDOOR FUEL BURNING FURNACES

An outdoor fuel burning furnace shall be deemed to be an accessory structure permitted in all zoning districts, as a special exception use, thereby requiring approval from the Zoning Hearing Board and subject to the supplemental standards as set forth in Article 8 of this Ordinance.

SECTION 326      USES NOT ADDRESSED WITHIN ORDINANCE

Whenever, in any district established under this Ordinance, a use is neither specifically permitted nor denied and an application is made by a landowner to the Zoning Officer for such use, the Zoning Officer shall refer the application to the Zoning Hearing Board to hear and decide such request as a special exception. The Board shall have the authority to permit the use or deny the use in accordance with the standards governing special exception applications. The proposed use may be permitted if only if it is determined to be similar to and compatible with permitted uses in the District and in no way is in conflict with the general purposes and intent of this Ordinance. The burden of proof shall be upon the applicant to demonstrate that the proposed use would meet the standards and criteria for a special exception as contained in Section 1510.2 of this Ordinance and would not be detrimental to the public health, safety and welfare and/or environmental features and characteristics of the site and/or surrounding areas.

SECTION 327      CONFLICTING REGULATIONS

In the event that any provisions within this Ordinance are found to be in conflict with another provision of this Ordinance, and/or any other ordinance, law, or regulation of the Township, State or United States Government, the most restrictive shall apply.