

PENN LAKE PARK BOROUGH

ORDINANCE NO. OF 2007

**AN ORDINANCE OF THE BOROUGH OF PENN LAKE PARK
LUZERNE COUNTY, PENNSYLVANIA
WETLANDS PROTECTION ORDINANCE**

WHEREAS, the Borough Council recognizes the that wetlands are a significant environmental feature found throughout the Borough and its environs and;

WHEREAS, said wetlands are deemed to be a valuable resource which can enhance, benefit or advance environmental goals by:

- Improving water quality by filtering suspended and dissolved materials and chemicals that pass through them.
- Helping to control flooding by storing water during times of particularly heavy rainfall, snowmelt or high water discharge from adjacent streams.
- Helping to support ground water recharge via the slow release of absorbed water.
- Acting as an effective means to prevent soil erosion by anchoring the soil along the banks of streams and lakes.
- Supporting a variety of plants and wildlife dependent upon the ecosystem of wetlands.
- Providing a setting for outdoor recreation and educational opportunities.
- Helping to preserve the natural aesthetic beauty of the Borough.

WHEREAS, the Borough Council based upon the above goals deems it to be in the best interests and general welfare of the citizens and residents of this Borough to regulate development to insure the wetlands within Penn Lake Park Borough remain protected resource within the Borough

NOW, THEREFORE, be it and it is hereby Ordained, Enacted and Resolved as follows:

SECTION 1 DEFINITIONS

WETLANDS:

Those areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions, including swamps, marshes, bogs and similar areas. Said areas shall also meet the most current applicable state and federal regulated by the PA DEP and the U.S. Army Corps of Engineers.

CODE ENFORCEMENT OFFICER:

The person authorized by the Borough Council to administer and enforce applicable codes and ordinances of Penn Lake Park Borough, including the provisions of this Ordinance.

DEVELOPMENT:

For the purposes of this Ordinance the term development shall be limited to the following:

new residential or nonresidential structures proposed to be constructed upon a vacant or otherwise undeveloped lot. Accessory structures shall be excluded from the term development.

In-ground swimming pools.

An above-ground pool, if the land disturbance beyond the foot print of the pool, exceeds more than 50% of the depth of the pool (See Sample Drawing in Appendix)

STRUCTURE:

Any man-made object having an ascertainable stationary located on or in land or water, whether or not affixed to the land. -

SITE PLAN:

A plan required prior to the issuance of a building permit which includes but is not limited to the following:

- (A) A plan drawn to scale, indicating the actual dimensions and shape of the lot to be developed.
- (B) The exact size and location on the lot of existing and/or proposed structures, buildings and/or development.
- (C) **If applicable**, the location of the boundaries of all delineated wetlands.
- (D) The existing use and/or proposed use of the property.
- (E) Existing and/or proposed access to the site, including the name of the public street and/or road.
- (F) Any other information deemed necessary by the Code Enforcement Officer to determine conformance with the provisions and regulations of this Ordinance.

SECTION 2 DOCUMENTATION OF THE PRESENCE OR ABSENCE OF WETLANDS

The building permit for any development shall not be issued by the Code Enforcement Code Officer until the applicant provides documentation which addresses as to whether any wetlands are located upon the site. If no wetlands are located within the site, a

certification of the absence of wetlands shall be so noted upon the site plan, which shall be certified by a person with appropriate training and experience in the identification of wetlands. If wetlands are located within the site, a delineation of all wetlands boundaries, upon the site shall be provided by a person with appropriate training and experience in the identification of wetlands. The inclusion of wetlands upon the site shall require a complete survey, delineation and total acreage of said wetlands boundaries included upon the plans.

In the case of delineation of wetlands, the wetland boundaries, as provided by the applicant, must be verified by either the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Resources based upon a jurisdictional determination of said agencies.

SECTION 3 DEVELOPMENT RESTRICTIONS

No new development shall be permitted which encroaches upon wetlands without the securing approval of a DEP Chapter 105 Permit, and/or any other applicable permits from either the U.S. Army Corps of Engineers or the Pennsylvania Department of Environmental Resources based upon a jurisdictional determination of said agencies.

SECTION 4 EXEMPTIONS

Any lot created from an approved subdivision following the date of enactment of this Ordinance shall be exempt from the provisions of Section 2 when the following conditions exist:

A wetlands study was performed as a requirement or condition of the subdivision from which the lot was created and no wetlands were found upon the subject lot.

or

A wetlands study was performed as a requirement or condition of the subdivision from which the lot was created, and although wetlands were found and delineated upon the subject lot, the proposed development does not encroach upon delineated wetlands.

SECTION 5 VIOLATIONS, PENALTIES AND ENFORCEMENT REMEDIES

Any property owner or person in violation of the provisions of this Ordinance shall, upon being found liable therefore in a civil enforcement proceeding commenced by Penn Lake Park Borough or the Code Enforcement Officer, shall pay a judgment of not more than five hundred dollars (\$500) plus all court costs, including reasonable attorney fees incurred by the Penn Lake Park Borough as a result of said proceedings. No judgment shall commence or be imposed, levied or payable until the date of the determination of a violation by the district justice. If the defendant neither pays nor timely appeals the judgment, the Borough may enforce the judgment pursuant to the applicable rules of civil procedure. Each day that a violation continues shall constitute a separate violation. All judgments, costs and reasonable attorney fees collected for the violation of this Ordinance shall be paid over to Penn Lake Park Borough.

SECTION 6 SEVERABILITY

The provisions of this Ordinance are declared to be severable and, if any section, subsection, sentence or clause or part thereof is for any reason held to be invalid, or unconstitutional by a court of competent jurisdiction in the Commonwealth of Pennsylvania, such decision shall not affect the validity of any remaining sections, subsections, sentences, clauses or parts of this Ordinance.

SECTION 7 REPEALER

All ordinances, parts of ordinances, resolutions or parts of resolutions, inconsistent or in conflict with this Ordinance are hereby repealed to the extent of such inconsistency.

**APPROVED AND ENACTED BY THE PENN LAKE PARK BOROUGH
COUNCIL ON THIS _____ DAY OF _____, 2007**

CHAIRMAN

ATTEST:

SECRETARY