ORDINANCE NO. 2 OF 2026
BEAR CREEK TOWNSHIP
LUZERNE COUNTY, PENNSYLVANIA

AN ORDINANCE TO AMEND THE BEAR CREEK TOWNSHIP ZONING ORDINANCE AND ZONING MAP TO CREATE A NATURAL RESOURCE PROTECTION OVERLAY AND TO PROVIDE FOR ASSOCIATED ORDINANCE CRITERIA AND MAPPING.

WHEREAS, Article VI of the Pennsylvania Municipalities Planning Code, 53 P.S. § 10601, *et seq.*, authorizes Bear Creek Township to enact and repeal zoning ordinances, zoning maps, and amendments thereto within Bear Creek Township; and

WHEREAS, Bear Creek Township deems it to be in the best interest and general welfare of the residents of the Township to update and amend the Bear Creek Township Zoning Ordinance and Zoning Map such that a Natural Resource Protection Overlay applies to lands throughout the Township; and

WHEREAS, the Board of Supervisors of Bear Creek Township desires to add standards and provisions to the Zoning Ordinance to address the land- and water-based natural resources present throughout the Township; and

WHEREAS, The Township finds that said standards and provisions may relate to the resources including but not limited to lakes, ponds, wetlands, 100-year floodplains, steeply sloping lands, moderately sloping lands, hydric soils, prime agricultural soils (Class I and Class II), woodlands, thereby warranting specialized zoning and performance standards to protect the public health, safety, and welfare;

NOW, THEREFORE, BE IT ORDAINED AND ENACTED, by the Board of Supervisors of Bear Creek Township as follows:

Section 1.

Add Article XVIII Natural Resource Protection Overlay and to the Bear Creek Township Zoning Ordinance to address and incorporate Ordinance criteria related to the following: Purpose and Objectives, Compliance, Natural Resource Mapping, Site Capacity Calculations, Natural Resource Restrictions, as well as Environmental, Hazard and Nuisance Restrictions.

Article XVIII Natural Resource Protection Overlay

§ 127-181. Purpose and objectives.

A. Purpose. The Natural Resource Protection Overlay has been adopted to protect and promote the health, safety, and general welfare of the Township by establishing regulations to allow for the proper and controlled development of the Township, to provide for environmental protection and to maintain the scale and intensity of development in the Township that can be supported by the community's natural systems and its carrying capacity.

B. Regulations that apply to the Natural Resource Protection Overlay have been deemed necessary are intended to protect the rights of the residents of the Township to enjoy clean air, pure water, and the natural, scenic, historic, and aesthetic value of the environment and, in particular, to

preserve and conserve the rural and natural features of the Township. The basic tenet of the Natural Resource Protection Overlay is to geographically locate development in accordance with the preservation and conservation of critical or irreplaceable natural features of the Township.

C. The Natural Resource Protection Overlay is based on the following community development objectives:

(1) To protect and provide for the public health, safety and general welfare of Bear Creek Township.

(2) To guide the future growth and development of Bear Creek Township, in accordance with the Comprehensive Plan of Bear Creek Township.

(3) To provide for adequate light, air and privacy; to secure safety from fire, flood and other danger; and to prevent overcrowding of the land and undue congestion of population.

(4) To protect the character and social economic stability of Bear Creek Township and to encourage the orderly and beneficial development of Bear Creek Township.

(5) To preserve the natural beauty and topography of Bear Creek Township and to ensure appropriate development with regard to these natural features.

(6) To protect and regulate land in critical areas which may be unsuitable for development.

(7) To prevent the pollution of air, streams, and ponds; to assure the adequacy of drainage facilities; to safeguard the water table; and to encourage the prudent use and management of natural resources throughout the Township in order to preserve the integrity and stability of the community and the natural environmental characteristic of the land.

(8) To protect and conserve the value of land throughout Bear Creek Township and the value of buildings and improvements upon the land and to minimize the conflicts among the uses of land and buildings.

(9) To maintain the scale and intensity of development within the Township to be consistent with historic development patterns and the carrying capacity of the Township's various natural resources.

§ 127-182. Compliance.

All uses and activities situated within the Natural Resource Protection Overlay shall comply with the following standards:

A. Lots greater than 5 acres in size situated within the A-1, R-1, R-2, B-1, B-2 and I-1 zoning districts shall be subject to the standards of the Natural Resource Protection Overlay.

B. In the case where intense development is proposed within the Natural Resource Protection Overlay, such development shall require a conditional use approval as an intense development and as defined by this Chapter. See also, § 127-56. Environmental Impact Statement.

(1) Any proposed non-residential or mixed-use development consisting of buildings/structures

with a cumulative total of 100,000 GFA or greater shall require a conditional use approval.

(2) Any proposed residential development consisting of more than 20 dwelling units shall require a conditional use approval.

§ 127-183. Natural resource mapping.

A. All applications for zoning approvals, site plans, land development approvals and grading permits shall include maps delineating the natural and historic resources as defined within this Article.

B. All mapping shall be based on most current natural resource data sources created and/or published and/or made available through the United States Department of Agriculture, the United States Federal Emergency Management Agency, United States Geologic Service, Luzerne County high-resolution aerial photography, the Pennsylvania Department of Environmental Protection and the Pennsylvania Spatial Data Access portal or its equal.

C. Applicants may submit alternative site-specific natural resource data sources such as topographic surveys, soil sampling, etc.. for the Township Engineer to review and approval as pan acceptable equivalent. If the Township Engineer does not accept the alternative sources offered by the Applicant, the Applicant is entitled to apply to the Township's Zoning Hearing Board for a variance in accordance with §127-160 of this Chapter.

D. Hydric soils shall include the following soils series as per the US National Resources Conservation Service, SUURGO Soils maps and database:

Ag	Alluvial land
At	Atherton silt loam, gray subsoil variant
Bf	Basher soils
BrA	Braceville gravelly loam, 0 to 3 percent slopes
BrB	Braceville gravelly loam, 3 to 8 percent slopes
BrC	Braceville gravelly loam, 8 to 15 percent slopes
ClA	Chippewa silt loam, 0 to 3 percent slopes
ClB	Chippewa silt loam, 3 to 8 percent slopes
CnB	Chippewa silt loam, 0 to 8 percent slopes, extremely stony
Ho	Holly silt loam
McB	Mardin channery silt loam, 3 to 8 percent slopes, very stony
MoB	Morris channery silt loam, 0 to 8 percent slopes
MoC	Morris channery silt loam, 8 to 15 percent slopes
MsB	Morris channery silt loam, 0 to 8 percent slopes, extremely stony
MsC	Morris channery silt loam, 8 to 15 percent slopes, extremely stony
Mu	Muck

Ps Pope soils

RdA Rexford loam, 0 to 3 percent slopes

RdB Rexford loam, 3 to 8 percent slopes

VoB Volusia channery silt loam, 0 to 8 percent slopes

VoC Volusia channery silt loam, 8 to 15 percent slopes

VrB Volusia channery silt loam, 0 to 8 percent slopes, extremely stony

VrC Volusia channery silt loam, 8 to 15 percent slopes, extremely stony

Wa Wayland silt loam

WrB Wurtsboro channery loam, 3 to 8 percent slopes

WrC Wurtsboro channery loam, 8 to 15 percent slopes

WtB Wurtsboro extremely stony loam, 3 to 8 percent slopes

WtD Wurtsboro extremely stony loam, 8 to 25 percent slopes

E. Prime agricultural soils, Class I and Class II, shall include the following soils series as per the National Resources Conservation Service, SUURGO Soils maps and database:

Class I

Ln Linden soils

Ps Pope soils

Class II

Bf Basher soils

BrA Braceville gravelly loam, 0 to 3 percent slopes

BrB Braceville gravelly loam, 3 to 8 percent slopes

ChA Chenango gravelly loam, 0 to 3 percent slopes

ChB Chenango gravelly loam, 3 to 8 percent slopes

LaB Lackawanna channery silt loam, 3 to 8 percent slopes

MaB Mardin channery silt loam, 3 to 8 percent slopes

OlB Oquaga and Lordstown channery silt loams, 3 to 8 percent slopes

WlB Wellsboro channery silt loam, 3 to 8 percent slopes

WrB Wurtsboro channery loam, 3 to 8 percent slopes

§ 127-184. Site capacity calculations.

A. The purpose and intent of this Section is to encourage the conservation of the valuable and environmentally sensitive natural resources within the Township and to prevent the long-term degradation of the environment to the common benefit of the community; in conformance

with the purpose of the Pennsylvania Municipalities Planning Code, and in the furtherance of meeting the Community Goals and Objectives as outlined in §127-3 of this Chapter.

B. The following standards and site capacity calculation methodologies are established to promote sound development practices by limiting, minimizing and/or restricting development from areas of a lot that are not appropriately suited for said development activity; by guiding said activities in other areas within the same lot, which are intrinsically suited for site disturbance and/or development activities.

C. Site capacity calculations.

(1) Applicability. The following site capacity calculations in this Section shall be submitted with all preliminary and final plans by an Applicant for any subdivision or land development, unless otherwise provided in this Section. In addition, see requirements defined in Article V of this Chapter for each zoning district. The calculations in §127-184C(1)(a), (b), (c) and (d) shall only apply to the Township's A-1, R-1, R-2, B-1, B-2 and I-1 zoning districts. The calculations shall be completed to at least three decimal points.

(a) Calculation for gross lot area.

[1] Determine the acreage as per an actual property survey: _____acres

[2] Subtract the following:

[a] Land within existing roads and their ultimate rights-of-way and 50% of land within pre-existing overhead electric transmission rights-of-way: _____acres

[b] Land without development opportunities due to pre-existing restrictions such as restrictive conservation easements: _____acres

[3] Equals gross site area: _____acres

(b) Calculation for resource protection lands:

[1] In the event two or more protected natural resources overlap, only the resource with the highest resource protection ratio shall apply and be included in the calculation. All areas containing only one protected natural resource shall apply and shall be computed in accordance with §127-184C(1)(b)(3)(Column II).

[2] All calculations shall be completed using the Natural Resource Protection Restrictions Worksheet outlined in §127-184C(1)(b)[3].

[3] Natural Resource Protection Restrictions Worksheet:

	Minimum	**Resource Protection**

Natural Resources	Required Resource Protection Ratio (I)	Acres of Land in Natural Resource (II)	Land (Column I x Column II) (III)
Lakes or ponds	1.00	_____	_____
Wetlands	1.00	_____	_____
100-year floodplains	0.95	_____	_____
Steeply sloping lands (slopes greater than 25%)	0.95	_____	_____
Hydric soils	0.90	_____	_____
Prime agricultural soils, Class I	0.60	_____	_____
Woodlands	0.60	_____	_____
Moderately sloping land (15% to 25% slopes)	0.50	_____	_____
Prime agricultural soils, Class II	0.40	_____	_____
	Total acreage of resource protection land (sum all lines of Column III)		_____

(c) Determine net developable lot area.

_____ Acres –	_____Acres	= _____Acres
Gross lot area	Resource protection land (from Column III above)[2]	Net developable lot area

(d) Determine maximum development intensity.

[1] If the Applicant proposes a residential development, determine maximum number of permitted dwelling units as per:

_Acres --

Net developable lot area	x	_____DU/ Acre	=	_____Dwelling Units
		Maximum permitted density		Total number of permitted dwelling units (round up if figure is equal to or greater than 0.5; round down if under 0.5

[2] If the Applicant proposes a non-residential development, determine maximum permitted impervious surfaces as per:

_____ Acres	x	_____	=	_____
Net developable lot area		Maximum impervious surface ratio (unless the applicable zoning district regulations state that maximum impervious surface is based upon each individual lot)		Maximum impervious surface permitted on the lot

§ 127-185. Natural resource restrictions.

A. General.

(1) The natural resource restrictions, as contained herein, shall apply to all uses.

(2) Site alterations, regrading, filling, or clearing of vegetation prior to approval of final plan by the Board of Supervisors shall be a violation of this Chapter. However, this Section shall not prohibit any land management practices that may be necessary for the ecological improvement of any stream, pond, lake, or wetland or for forest production, provided that all applicable permits have been obtained from all appropriate state and federal regulatory agencies.

(3) All proposed subdivisions and site plans either wholly or partly within resource protection lands as identified in §127-184C(1)(b) shall be subject to the following restrictions, unless specifically exempt by provision of this Section.

(a) All proposed site plans and subdivisions, the area of which is either wholly or partly within resource protection lands, shall have an Earth Disturbance Plan as part of the preliminary plan submission.

(b) Contents of an Earth Disturbance Plan.

[1] A metes and bounds base map.

[2] The location, type and extent of all natural features and resources on the lot.

[3] Areas and limits of all primary and ancillary grading and earthwork.

[4] The delineation of the earth disturbance envelope(s) of the lot. The total land area within the earth disturbance envelope shall not be less than the total net developable lot area as determined in §127-184C(1)(c) of this Section.

[5] A general plan note clearly indicating that all earth disturbance is strictly limited to the areas within the earth disturbance envelope(s) of the lot shall be included on all land development plan sheets.

(4) Areas with natural resource restrictions should, to the greatest extent possible, be left undisturbed and not occupied by structures, driveways, on-lot septic systems or other requirements.

B. Requirements for all uses.

(1) One-hundred-year floodplain. A complete set of floodplain regulations is provided in Article XII of this Chapter. No structures, filling, piping, diverting, or stormwater detention basins shall be permitted in the one-hundred-year floodplain, unless the use, activity or development complies with §127-116 and all other applicable codes and ordinances.

(a) In addition, no principal building shall be constructed or placed within a one-hundred-year floodplain that is adjacent to a perennial creek or river. However, this §127-116B(5) shall not apply to a building that is not routinely occupied by persons (such as a livestock structure).

(2) Lakes, ponds, wetlands, and watercourses shall remain as open land that is free of buildings and parking. No development, filling, piping, or diverting shall be allowed of lakes, ponds, wetlands or watercourses unless specifically permitted by the state or federal agency having jurisdiction over said activity.

(3) Sloped lands. See also requirements of Chapter 109, Subdivision and Land Development.

(a) In areas of 15% or greater slopes, the following standards shall apply:

[1] 15% to 25% slope: No more than 50% of such areas shall be developed and/or regraded or stripped of vegetation.

[2] Greater than 25% slope: No more than 5% of such areas shall be developed and/or regraded or stripped of vegetation.

(b) Grading and erosion control. During the preparation for installation of and use of areas coming under this control, the landowner shall meet the requirements specified in Subsection B(8) below and all applicable ordinances for stormwater management and soil erosion and sedimentation control.[3]

[1] No increased erosion will occur as a result of the planned development after the complete development of the lot.

[2] No increased water runoff will occur which will materially and adversely affect any property other than the lot to be developed.

(c) Application for land development plans and building permits in areas of 15% slope or greater shall include a Earth Disturbance Plan indicating the following information:

[1] Site plan of property at a scale of one inch equals 50 feet indicating existing grades with contour lines at two-foot intervals and proposed grades within the area of the proposed construction.

[2] Landscaping plan indicating proposed paved areas, storm drainage facilities, retaining walls, and ground cover, as well as the locations of trees and ornamental shrubs.

[3] Plans showing a cross-section of the building in relation to the slopes.

[4] A statement prepared by a licensed architect, registered landscape architect, or professional engineer stating an explanation of the methods to be used in overcoming foundation and other structural problems created by slope conditions, in preserving the natural watershed, and in preventing soil erosion.

[5] A plan submitted under the seal of a licensed professional engineer, registered surveyor or registered landscape architect showing and certifying the following:

[a] All existing and proposed natural and artificial drainage courses and other features for the control of drainage, erosion and water.

[b] The calculated volume of water runoff from the slopes and from the lot in question, as unimproved.

[c] The calculated volume of water runoff from the slopes and from the lot in question, as improved.

[d] The existence, location, and capacity of all natural and artificial drainage courses and facilities within 500 feet of the lot, which are or will be used to carry or contain the water runoff from the slope and the lot.

[e] The effect of any increased water runoff on all adjacent properties and any other property that will be materially affected by increased water runoff.

(d) Lands qualifying under one or more of the following provisions shall be exempt from the steep slope provisions of this Section.

[1] Areas on a site that involve steep slopes of less than 5,000 square feet land area.

[2] Previously and substantially developed lots.

[3] That portion of land directly affected by the location of a through-road or other community facility as determined necessary by the Board of Supervisors. Only the minimum relief required to accomplish the municipal planning objective is subject to said exemption.

[4] The requirements of this section do not apply on a lot-by-lot basis, provided that the lot or lots in question have been the subject of a prior site plan or subdivision approval, and further provided, that all provisions of said site plan or subdivision approval are met.

(4) Hydric soils. No more than 10% of a lot's hydric soils, as defined by the United States Department of Agriculture, shall be disturbed, altered or removed.

(5) Prime agricultural soils. The amount of stripping, disturbance, alteration, grading or excavation of a lot's prime agricultural soils, as defined by the United States Department of Agriculture, shall not exceed:

(a) Class I – 40%.

(b) Class II – 60%.

(6) Woodland. Woodland shall be subject to the following restrictions when the area of a contiguous woodland within the total lot area is greater than 3 acres in size.

(a) No more than 40% of such woodland area shall be developed and/or regraded or cleared of vegetation. The minimum width of remaining stands of trees shall not be less than three times the height of the canopy. The remaining 60% of the woodland shall remain as undisturbed land and shall be protected during construction from root compaction by equipment and material. The Township may require the use of a conservation easement to protect trees. The Township may allow the replacement of undesirable species of trees or unhealthy or diseased trees with new trees that will serve the same purposes. Dead and diseased wood may be removed.

(b) Exemptions. On existing or proposed wooded lots, exemptions to the woodlands standards may be permitted, provided the following provisions are met and approved by the Board of Supervisors.

[1] As per §127-70M, the Township shall allow for tree removal when said removal will not adversely affect the intent of this Section or the utility and character of the overall foliage of the parcel or lot in question. In no case shall removal of trees exceed the standards for steep slopes or woodland protection within §127-184C(1)(b)(3).

[2] The provisions of this Section shall not apply to a landowner that wishes to remove up to thirty trees in any calendar year.

[3] That portion of land directly affected by the location of a through-road or other community facility as determined necessary by the Board of Supervisors. Only the minimum relief required to accomplish the municipal planning objective is subject to said exemption.

[4] The requirements of this Section do not apply on a lot-by-lot basis, provided that the lot or lots in question have been the subject of a prior site plan or subdivision approval, and, further provided, that all provisions of said site plan or subdivision approval are met.

(c) All land development plans shall show the extent of trees to be removed versus areas to be maintained and preserved. Any time in the future, if a tree is removed that was required by the Township or was shown on an official site plan approved by the Township as being preserved, then such tree shall be replaced by the current landowner with a new tree of a species and in a location that serves the same purposes.

(7) Trees on wooded lots. See Chapter 109, Subdivision and Land Development, as amended.

(a) The Township may require that appropriate measures be used to protect trees during the construction process, such as temporary fencing around the root system of trees to keep out construction equipment and avoid compaction around the roots. No more than 1/3 of the roots may be disturbed by the removal of topsoil or paving, provided that a similar amount of the canopy has been removed by a trained arborist. Any filling within 35 feet of the trunk shall require a tree well and/or aeration channels in accordance with the standards of the American Association of Nurserymen, Inc.

(b) See also regulations for forestry for tree cutting that is not necessary for the construction of an approved use.

(8) Stormwater. All developments shall limit the rate of stormwater runoff so that no greater rate of runoff is permitted than that of the site in its predevelopment conditions. The provisions for runoff calculations outlined in Chapter 104, Stormwater Management and Chapter 109, Subdivision and Land Development shall apply.

(9) Soil erosion and sedimentation. All developments shall protect watercourses and water bodies from sedimentation damage and shall control erosion in accordance with the Pennsylvania statutes. All developments involving earth disturbance shall submit a soil erosion and sedimentation control plan as required by Chapter 109, Subdivision and Land Development.

§ 127-186. Environmental, hazard and nuisance restrictions.

A. Requirements for all uses.

(1) Except for agricultural uses, which are exempt to the extent provided in the Pennsylvania Right To Farm Law,[5] no use shall be permitted which is noxious or offensive in the immediate surrounding area by reason of odor, dust, smoke, gas, vibration, illumination, or noise, or which constitutes a public hazard whether by fire, explosion, or otherwise. In determining whether a proposed use is noxious, hazardous, or offensive, the following standards shall apply. The proposed operation shall not:

(a) Constitute any nuisance whatsoever beyond the boundary of a site on which the use is located by a reason of dissemination of noxious, toxic, or corrosive fumes, smoke, odor, or dust. All fixed equipment shall be operated by electric power, gas, or other smokeless fuel;

(b) Result in noise or vibration exceeding the average intensity vibration occurring from other causes at the boundary line;

(c) Endanger surrounding areas by reason of fire or explosion;

(d) Produce objectionable heat, glare, or radiation beyond the property line;

(e) Result in any electrical or signal disturbance in nearby residences, or adversely affect the operation of equipment other than on the property on which the disturbance is located, when such equipment can be shown to be of good design and in proper functional condition;

(f) Discharge any untreated sewage or industrial waste into any stream, or otherwise contribute to the pollution of surface or groundwater in accordance with the state or federal statutes; and

(g) Create any other objectionable condition in an adjoining area which will endanger public health or safety or be detrimental to the proper use of the surrounding area.

(2) When required by the Township, an Applicant for a proposed use shall demonstrate as a condition of approval that adequate provisions will be made to reduce and minimize any objectionable elements to the degree necessary to ensure that the proposed use will not be "noxious, hazardous, or offensive" as defined above. If required, the applicant shall submit supplemental information, plans, and impartial expert judgments, and the Township may require the expert advice of official agencies or private consultants and such reasonable tests as are deemed necessary, the costs of which shall be borne by the Applicant.

Section 2. Zoning Map.

Amend the Bear Creek Township Zoning Map to add the Natural Resource Protection Overlay as illustrated on attached Exhibit A or, if, in the future, the Township overall Zoning Map Base Districts are other otherwise amended, then said Overlay boundary shall reflect any lands zoned as A-1, R-1, R-2, B-1, B-2 or I-1.

Section 3.

Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair

any of the remaining provisions, sentences, clauses, sections, or parts of this Ordinance and of the Zoning Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance and the Zoning Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein. If any specific operational standard, dimensional standard, or performance standard is held invalid, the remaining provisions shall remain in full force and effect.

Section 4.

Repealer. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed insofar as the same affects this Ordinance.

Section 5.

Codification. Pursuant to the Bear Creek Township Code of Ordinances and the Pennsylvania Municipalities Planning Code (MPC), the Bear Creek Township Zoning Ordinance (Chapter 127 of the Township Code) shall hereby be codified to incorporate the above-referenced amendments. Any change in the Section Numbers of the Zoning Ordinance which are necessary to properly address and include these provisions are hereby authorized and directed.

ENACTED BY THE BEAR CREEK TOWNSHIP BOARD OF SUPERVISORS ON THIS

_____ DAY OF _____, 2026.

_____

MARK PETLOCK

_____

ROBERT SUCHOCKI

_____

JOHN F. ONDICH

_____

RYAN O'HARA

_____

GEORGE WEITZ

ATTEST:

_____

TOWNSHIP SECRETARY