

April 25, 2019

[FIRST CLASS MAIL AND EMAIL: [REDACTED]]

Robert A. Willig, Esquire
Office of Attorney General
1251 Waterfront Place
Mezzanine Level
Pittsburgh, PA 15222

Re: ACRE Request - [REDACTED]
Upper Milford Township - Lehigh County

Dear Attorney Willig:

Please be advised that the undersigned acts as Solicitor for Upper Milford Township ("Township"). Your letter dated March 25, 2019 addressed to the Township Board of Supervisors has been forwarded to me for reply. Please consider this letter as the response of the Township to the ACRE Complaint filed by [REDACTED]

By way of background, on June 26, 2018, the [REDACTED] submitted an application to the Township to construct a pole building on their property to be used for washing, grading, processing, packing and storing of agricultural products. Their property is located at [REDACTED] within the Rural Agricultural (R-A) Zoning District of the Township. Crop farming, defined as "the raising of products of the soil and accessory storage of those products" is a permitted use by right within that Zoning District. However, because the [REDACTED] proposed to process and sell tea drinks within the pole building, the Township Zoning Officer interpreted their proposed use as a Farm-Based Business use which is defined as "a low-intensity commercial or industrial activity that functions as a customary accessory use to an on-site principal agricultural use", a Special Exception Accessory Use within the (R-A) Zoning District. Additionally, the Zoning Ordinance required a minimum lot area of 25 acres for a Farm-Based Business and a 100-foot setback. Because [REDACTED] property was only 19.2 acres and the proposed building was located only 28 feet from the side yard property line, two variances were necessary. Ultimately, [REDACTED] sought relief before the Township Zoning Hearing Board. They were granted the special exception and the two variances. They then received a building permit on August 21, 2018. The remaining time referenced in the [REDACTED] letter was related to them constructing and completing the building.

In their letter to you dated February 6, 2019, they attached various provisions of the Township Zoning Ordinance of 2010. Some of those provisions were subsequently modified by amendments adopted by the Township in 2013, a copy of which is enclosed for your review. Additionally, more recently on April 18, 2019, the Township revised the Zoning Ordinance as it related to forestry and timber harvesting, a copy of which is also included for your reference.



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With that as a background, and trying to focus on the specific areas of concern of the [REDACTED], the Township's position is as follows:

1. The Township will amend the minimum lot area for a Farm-Based Business so that it is synonymous with the minimum lot acreage requirements for a "normal agricultural operation" as defined in the Pennsylvania Right to Farm Act.
2. The Township will amend the minimum setback requirement of 100 feet for a Farm-Based Business to be synonymous with the minimum setback requirement for the zoning district in which the Farm-Based Business is located. However, if animals are housed within a new building, then the setback requirement shall be the greater of the underlying zoning district or the requirements as set forth in the Nutrient Management Act.
3. The Township will amend Section (i)(xiv) to remove "processing and storage of agricultural products as a type of activity which is permitted as a Farm-Based Business. In lieu thereof, the Township would amend the Farm-Based Business definition to specifically exempt "normal agricultural operations" as set forth in the Right to Farm Law.
4. The Township will retain a Farm-Based Business as a special exception. The rationale for that is that depending upon the size of the operation, there could be other impacts that could potentially have a direct adverse effect on the public health, safety and welfare including but not limited to water issues, sewer issues, traffic issues, etc. By leaving a Farm-Based Business as a special exception, the Township could then impose reasonable conditions to assure that health, safety and welfare needs are addressed.
5. The Township will add a definition of "agricultural products." The Township agrees with [REDACTED] that such a definition is lacking in the current Zoning Ordinance.
6. Although not directly related to the underlying proceedings of [REDACTED] they voice concern about the 10 foot fence setback from property lines for areas of raising large animals. In the Township's opinion, this is nothing other than a safety buffer between properties.



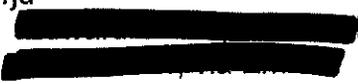
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Notwithstanding any of the foregoing, the Township does not believe that its Zoning Ordinance is in violation of ACRE; however, the Township is not only committed to trying to find an amicable solution to this matter should your Office conclude otherwise, but the Township is equally committed to respecting the rights of those involved in Normal Agricultural Operations.

Should you have any questions, please do not hesitate to contact me.

Sincerely

WORTH MAGEE & FISHER, P.C.


Marc S. Fisher, Esquire
MSF/rjd
Cc: 

AMENDMENTS TO UPPER MILFORD TOWNSHIP ZONING ORDINANCE OF 2010

WHEREAS, Upper Milford Township is a Second Class Township located in Lehigh County, Pennsylvania; and

WHEREAS, On March 18, 2010, the Board of Supervisors of Upper Milford Township adopted Ordinance No. 126 known as "Upper Milford Township Zoning Ordinance" of 2010; and

WHEREAS, upon review and recommendation of the Upper Milford Township Planning Commission, the Board of Supervisors of Upper Milford Township are desirous of amending said Ordinance.

NOW, THEREFORE, the Board of Supervisors of Upper Milford Township do hereby amend the Upper Milford Township Zoning Ordinance of 2010 as follows:

1. Section 106.C. is revised to read as follows:

106. ENFORCEMENT, VIOLATIONS AND PENALTIES.

C. Time Limits. An official enforcement notice shall state the deadline to complete bringing the property into compliance with this Ordinance, and shall state that the applicant has 30 days from

the receipt of the notice to appeal to the Zoning Hearing Board.

2. Section 111D.6. is revised to read as follows:

111. ZONING HEARING BOARD ACTIONS AND VARIANCES.

D.6. The Zoning Hearing Board shall also hear any other matters as set forth in the Pennsylvania Municipalities Planning Code, as amended. (Note: As of the adoption date of this Ordinance, such provisions were primarily within Section 909.1 of such law.) The Zoning Hearing Board also may hear appeals of other matters if authorized under a separate Township ordinance.

3. The following definitions in Section 202 are revised to read as follows:

SECTION: 202. TERMS DEFINED.

Impervious Coverage. The percentage that results from dividing the land area on a lot covered by all "impervious surfaces" by the total land area of the lot. Impervious surfaces shall be defined as areas covered by buildings, paving or concrete, or other man-made surfaces that have a runoff coefficient of 0.85 or greater. Areas of stone regularly used for vehicle parking and movement shall be considered impervious for the purposes of restricting impervious coverage under the zoning ordinance.

A. For a Townhouse development or Open Space development, the maximum impervious coverage may be measured as a maximum for the entire development after completion, after the deletion of street rights-of way

(or cartway where a street right-of-way where not exist), as opposed to regulating each individual townhouse lot.

Junk Vehicle. Includes any vehicle or trailer that meets any of the following conditions:

- A. cannot be moved under its own power, in regards to a vehicle designed to move under its own power, other than a vehicle clearly needing only minor repairs,
- B. cannot be towed, in regards to a trailer designed to be towed,
- C. has been demolished beyond repair,
- D. has been separated from its axles, engine, body or chassis, and/or
- E. includes only the axle, engine, body parts and/or chassis, separated from the remainder of the vehicle.

See the definition of "unlicensed vehicle".

Junkyard.

C. A junkyard specifically shall include but not be limited to a metal scrap yard or auto salvage yard. See any Township Code that regulates unlicensed and inoperable vehicles on lots and the State Vehicle Code for unlicensed vehicles parked on a street.

Unlicensed Vehicle. Any motor vehicle or trailer that does not display a license plate with a current registration sticker or does not have a valid State safety inspection sticker. The requirement for a safety inspection sticker shall not apply to vehicles (such as licensed antique cars and trailers of less than 3,000 pounds aggregate gross vehicle weight) for which State regulations do not require such a sticker. The term shall not include a motor vehicle displaying an inspection sticker that expired less than 30 days previously.

Yard, Front or "Front Setback." A "yard" measured from and running parallel to the front lot line or street right-of-way line (as exists after the completion of any subdivision or land development) the full width of the lot from side

lot line to side lot line.

A. The front yard shall be on a side that faces towards a public street.

B. See Section 403 concerning yards along corner lots.

4. Section 304.C.11 is revised to read as follows:

304. TABLE OF ALLOWED USES IN EACH ZONING DISTRICT.

C. 11. Such other accessory use or structure that the applicant proves to the satisfaction of the Zoning Hearing Board is clearly customary and incidental to a "permitted by right" or "special exception principal use".

5. Section 305.A. is revised to read as follows:

305. DIMENSIONAL REQUIREMENTS IN EACH DISTRICT.

A. The following area, yard and building requirements shall apply for the specified zoning district, unless a more restrictive requirement for a specific use is required by Sections 311, 312 or 313 or another section of this Ordinance. All measurements shall be in feet unless otherwise stated. See definitions of terms (such as lot width) in Section 202.

Zoning District: Type of Use	Min. Lot Area (sq.ft.) (Note E)	Min. Lot Width Measured at Min. Building Setback Line (ft.)	Min. Front Yard Setback (ft.) (Note D)	Min. Rear Yard Setback (ft.) **	Min. Side Yard Setback ** (each) (ft.)	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage
CON Conservation District:	87,120 (2 acres), unless a larger lot area is required by Section 503.	200	50	50	25	10%	15%
AC Agricultural Conservation District:	The provisions of Section 306 shall apply.						
R-A Rural Agricultural District: <i>See the option for Open Space Development in Section 307, which may allow smaller minimum lot sizes, smaller lot widths, greater varieties in housing types and density bonuses.</i>	87,120 (2 acres), unless a larger lot area is required by Section 503.	175	35	50	25	15%	20%

Zoning District: Type of Use	Min. Lot Area (sq.ft.) (Note E)	Min. Lot Width Measured at Min. Building Setback Line (ft.)	Min. Front Yard Setback (ft.) (Note D)	Min. Rear Yard Setback (ft.) **	Min. Side Yard Setback ** (each) (ft.)	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage
R-SR Rural Suburban Residential District:							
Single family detached dwelling without Township approved central water service and without Township approved central sewage service	43,560 (1 acre)	120	30	50	15	20	40%
Single family detached dwelling with Township approved central water but without Township approved central sewage service	39,000	120	30	50	15	20	40%
Single family detached dwelling with Township approved central sewage service but without central water service	27,000	120	30	25	10	30	50%
Single family detached dwelling with both Township approved central water and Township approved central sewage services	12,000	70	30	25	10	30	50%
Twin dwelling, which shall only be allowed if both Township approved central water and Township approved central sewage services are provided.	7,000 per dwelling unit	60 per dwelling unit	30	25	10, except 0 at the shared lot line of lawfully attached dwellings.	30	50%
Townhouse, which shall only be allowed in a Open Space Development if both Township approved central water and Township approved central sewage services are provided.	Minimum average lot area of 7,000 per dwelling unit (Note C)	22 per interior dwelling unit, and 45 for each end unit (Note B)	25	25	10, except 0 at the shared lot line of lawfully attached dwellings.	40%	50%
Other allowed principal use	43,560 (1 acre)	120	30	50	15	20	50%

See the option for Open Space Development in Section 307, which may allow smaller minimum lot sizes, smaller lot widths, greater variances in housing types and density bonuses.

All dwellings shall have a minimum principal building width and length of 20 feet (not including unenclosed structures).

Zoning District: Type of Use	Min. Lot Area (sq.ft.) (Note E)	Min. Lot Width Measured at Min. Building Setback Line (ft.)	Min. Front Yard Setback (ft.) (Note D)	Min. Rear Yard Setback (ft.) **	Min. Side Yard Setback ** (each) (ft.)	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage
S-R Suburban Residential District:							
Single family detached dwelling Without Township approved central water service and without Township approved sewage services.	43,560	150	25	25	15	20%	40%
Single family detached dwelling With Township approved central water but without Township approved central sewage services.	39,000	150	25	25	15	20%	40%
Single family detached dwelling With Township approved central sewage service but without central water service.	27,000	100	25	25	10	30%	50%
Single family detached dwelling With both Township approved central water and Township approved central sewage services.	7,500	75	25	25	10	30%	50%
Twin dwelling: Which shall only be allowed if both Township approved central water and Township approved central sewage services are provided.	6,000	35 per dwelling unit	25	25	10, except 0 at the shared lot line of lawfully attached dwellings.	40%	50%
Townhouses: Which shall only be allowed if both Township approved central water and Township approved central sewage services are provided.	Minimum average lot area of 7,000 per dwelling unit (Note C)	20 per interior dwelling unit, and 40 for each end unit (Note B)	25	25	10, except 0 at the shared lot line of lawfully attached dwellings.	40%	50%
Apartments (including Two Family Detached Dwellings): Which shall only be allowed if both Township approved central water and Township approved central sewage services are provided.	Minimum average lot area of 6,500 per dwelling unit (Note C)	120	25	25	10, except 0 at the shared lot line of lawfully attached dwellings.	40%	50%
Other allowed principal use.	40,000	100	25	25	15	30%	50%
Manufactured home parks shall meet the requirements for such use as stated in Section 402, instead of the requirements of this Section.							

Zoning District: Type of Use	Min. Lot Area (sq.ft.) (Note E)	Min. Lot Width Measured at Min. Building Setback Line (ft.)	Min. Front Yard Setback (ft.) (Note D)	Min. Rear Yard Setback (ft.) **	Min. Side Yard Setback ** (each) (ft.)	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage
VC Village Commercial and VR Village Residential District:							
Single family detached dwelling without Township approved central water service and without Township approved sewage services.	43,560 (1 acre)	120	20	20	5	40%	60%
Single family detached dwelling With Township approved central water but without Township approved central sewage services.	39,000	120	20	20	5	40%	60%
Single family detached dwelling With Township approved central sewage service but without central water service.	27,000	120	20	20	5	40%	60%
Single family detached dwelling With both Township approved central water and Township approved central sewage services.	9,000	60	20	20	5	40%	60%
Twin dwelling, which shall only be allowed if both Township approved central water and Township approved central sewage services are provided.	7,000 per dwelling unit	50 per dwelling unit	20	20	5, except 0 at the shared lot line of lawfully attached dwellings.	40%	60%
Other allowed principal use	43,560 (1 acre)	120	20	20	5	40%	60%

Zoning District: Type of Use	Min. Lot Area (sq.ft.) (Note E)	Min. Lot Width Measured at Min. Building Setback Line (ft.)	Min. Front Yard Setback (ft.) (Note D)	Min. Rear Yard Setback (ft.) **	Min. Side Yard Setback ** (each) (ft.)	Maximum Percent Building Coverage	Maximum Percent Impervious Coverage
C Commercial District: Allowed use	40,000, except 10,000 if a lot is served by both central water and central sewage services	150, except 80 for a lot that will not have its own vehicle access directly onto Route 29 or Route 100 and that will have central water and central sewage services.	50	40 (Note A)	20 (Note A)	25%, except 35% for a lot that is served by both central water and central sewage services	60%, except 75% for a lot that is served by both central water and central sewage services
I Industrial District: Allowed use.	40,000	120	50	50 (Note A)	15 (Note A)	30%	75%

6. Section 306.C. is revised to read as follows:

306. ADDITIONAL REQUIREMENTS WITHIN THE AC AGRICULTURAL CONSERVATION DISTRICT.

C. Maximum impervious coverage - 50 percent.

7. Section 313.C.9. is revised to read as follows:

313. ACCESSORY USES.

C. 9. Keeping Animals or Fowl. (NOTE: This does not pertain to Animal Husbandry as a principal use which is

regulated by Section 311.B.2.)

- a. The maximum number of animals permitted per acre, or for lots less than one acre, per lot, shall be as follows.
- e. No large animals or large fowl shall be housed or permitted to congregate within 10 feet of a property line and within one hundred (100') feet of an adjacent residential dwelling. Manure shall be covered and stored at least 50 feet from the property line; and storage of large amounts and concentrations of manure shall be prohibited.
- f. No small fowl shall be housed or permitted to congregate within the required front yard.
- h. Deleted.

8. Section 401.B.3 is revised to read as follows:

401. FRONTAGE ONTO IMPROVED STREETS; NUMBER OF USES OR BUILDINGS; MINIMUM SIZE OF DWELLINGS.

B.3. An applicant may prove to the Zoning Hearing Board that a use listed as a principal use in this Ordinance is actually functioning as an accessory use.

9. Section 404.C.6 is revised to read as follows:

404. LANDSCAPING.

C. Street Trees. As part of the creation of a new nonresidential lot or the construction of a new principal nonresidential building, or development of parking area for 6 or more parking spaces, deciduous shade street trees shall be planted between such lot lines, building and/or parking area and any adjacent public street(s). This requirement shall not apply along street segments where existing healthy trees will be preserved and protected during construction that will serve the same purpose.

6. This requirement for street trees shall not apply for an agricultural lot.

10. Section 702.E.1 is revised to read as follows:

702. GENERAL REGULATIONS FOR OFF-STREET PARKING.

E. Location of Parking.

1. Required off-street parking spaces shall be on the same lot or abutting lot with the principal use served. A written and signed lease shall be provided, if applicable.

a. Deleted.

11. Section 703.D. is revised to read as follows:

703. DESIGN STANDARDS FOR OFF-STREET PARKING.

D. Accessways and Driveways.

1. Width of Driveway at Entrance onto a Public Street, at the edge of the cartway [†]	One-Way Use [*]	Two-Way Use [*]
Minimum	12 feet	22 feet
Maximum	20 feet	30 feet

* This standard may be revised where a different standard is required by PennDOT for an entrance to a State road, or where the applicant demonstrates to the Zoning Officer that a wider width is needed for truck access.

12. Section 704.B. is revised to read as follows:

704. OFF-STREET LOADING.

B. At the time of review under this Ordinance the applicant shall provide evidence to the Zoning Officer on whether the use will have sufficient numbers and sizes of loading facilities. The Planning Commission may provide advice to the Zoning Officer on this matter as part of any plan review by such boards. For the purposes of this Section, the words "loading" and "unloading" are used interchangeably.

13. Except for these Amendments, the Upper Milford Township Zoning Ordinance of 2010 shall remain in full force and effect. All other Township Ordinances or parts thereof that were adopted prior to these Amendments and that are in conflict to these Amendments are hereby repealed.

14. These Amendments shall become effective five (5) days after adoption by the Board of Supervisors.

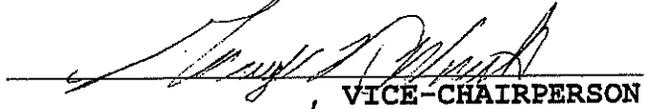
ORDAINED and ADOPTED this 7th day of February, 2013, by the Board of Supervisors of Upper Milford Township.

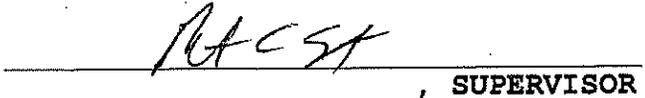
ATTEST:

**BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP**


Secretary


CHAIRPERSON


VICE-CHAIRPERSON


SUPERVISOR

ORDINANCE No. 161

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP, LEHIGH COUNTY,
PENNSYLVANIA AMENDING THE UPPER MILFORD
TOWNSHIP ZONING ORDINANCE OF 2010, ENACTING
REGULATIONS FOR TIMBER HARVESTING AND TO
ALLOW FOR AND ENCOURAGE PROPER FOREST
MANAGEMENT WITHIN UPPER MILFORD TOWNSHIP.**

WHEREAS, Upper Milford Township, ("Township"), is a Second Class Township located in Lehigh County, Pennsylvania; and

WHEREAS, the Township has previously adopted the Upper Milford Township Zoning Ordinance of 2010 ("Ordinance") which, in part, contains provisions regulating both forestry and timber harvesting within the Township; and

WHEREAS, after careful review, the Township is desirous of amending the Ordinance by enacting regulations for timber harvesting and for allowing and encouraging proper forest management within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Upper Milford Township, Lehigh County, Pennsylvania, as follows:

1. The aforementioned recitals are incorporated herein as if by reference and shall be considered to be a part of this Ordinance.

2. The definition of Timber Harvesting (includes logging) set forth in Section 202 of the Ordinance is deleted and replaced with the following:

Timber Harvesting (also includes Tree Harvesting/Logging).
The cutting down and removal of trees and logs to be converted to any forest product or for sale to others.

3. The following definitions are added to Section 202 of the Ordinance:

Basal Area. 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.

Forest Technician. A person who has a two-year degree in forestry from a two-year school of forestry associated with or accredited by the Society of American Foresters.

Intermittent Stream. A stream whose water flow normally occurs in the wetter parts of the year (October through April) or following major streams events.

Landing. A place where logs are assembled for transportation in loads.

Litter. Discarded items not naturally occurring on the site (i.e., tires, oil cans, etc.).

Logging Plan. A written description with a map of a specific logging operation prepared before the operation commences.

Lopping. To cut tops and slash into smaller pieces to allow material to settle close to the ground.

Non-Commercial Timber Stand Improvement. A practice in which the quality of the residual forest stand is improved by removing the less desirable trees, vines, and occasionally large shrubs to obtain the preferred stocking of the best quality trees. It can also include such practices as tree pruning. A non-commercial timber stand improvement is involved with the removal of the above-mentioned trees, etc. but does not yield a net income, usually because the trees cut are too small, poor quality, or not marketable.

Professional Forester. A person who has a B.S. or higher degree in forestry from a four-year school of forestry associated with or accredited by the Society of American Foresters.

Skidding. Dragging trees on the ground, by any means, from the stump to the landing.

Slash. Woody material left after logging, including logs, chunks, bark, branches, stumps, and broken understory trees or brush.

Stand Prescription. The type of forest management treatment, if any, to be applied to a particular stand to achieve the stated management objectives. The stand prescription should include, but not be limited to, detailed instructions on how that treatment is to be carried out on the ground, the desired residual stand, and details on any other treatments to be applied.

Stand Regeneration Treatment. A selection, natural, shelterwood, seed tree, or clear-cut that is designated to replace the existing stand with a new stand of young trees.

Stream. Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.

Tops. The upper portion of a felled tree not merchantable because of small size, taper, or defect.

Trout Stream. Any cold water stream which supports a trout fishery that is managed, stocked, or regulated by the Pennsylvania Fish Commission.

4. Section 304(g) of the Ordinance is modified so that all references to Forestry (S.311) shall be replaced with Forestry.

5. Section 304(g) of the Ordinance is modified to add Timber Harvesting as a permitted by use right in all zoning districts.

6. Section 311.16.B.16. is deleted in its entirety and replaced with the following:

311.B.16. Timber Harvesting. It is the intent of this Section to regulate timber harvesting practices and to allow for and encourage proper forest management to ensure:

- a. That long-term production of forest crops and benefits is encouraged.
- b. That the right to harvest trees is exercised with due regard for the protection of the physical property of adjacent landowners.
- c. That the potential for negative environmental impacts resulting from improper tree harvesting is minimized.

This Section is not intended to prescribe specific cutting practices, to prevent or hinder any landowner from realizing financial return from the sale of trees, to prevent or hinder

tree harvesting or forest industry operators from pursuing their business, or to regulate timber harvesting for home use, non-commercial timber stand improvement work or for the conversion of forest land to other uses where forest management practices relating to timber production and harvesting are no longer practical.

- i The provisions and requirements of this Section shall apply to all tree harvesting operations within the Township, except that notification and submission of plans shall be required only as specified in Sections iii (f) and (g) below.
- ii It shall be the responsibility of each landowner on whose land tree harvesting is to be carried out to have a professional forester or forest technician develop or have developed the logging plan and submit notification as required in this Section. It is the joint responsibility of the landowner and the operator of the timber harvest to comply with the provisions of the logging plan.
- iii Regulations.
 - a. A logging plan shall be prepared for each timber harvesting operation within the Township by a professional forester or forest technician.
 - b. The logging plan shall address all applicable erosion and sedimentation control and stream crossing regulations under Chapter 102, Erosion Control Rules and Regulations issued under the Act of June 22, 1937 (Clean Streams Law) and Chapter 105, Dam and Waterway Management Rules and Regulations issued under the Act of 1978, P.L. 1375, No. 325 (Dam Safety and Encroachments Act), as amended, or subsequent applicable legislation.
 - c. Points that shall be addressed by the logging plan shall include the following at a minimum:
 - i. Design of the road system.
 - ii. Water control structures.
 - iii. Stream crossings.
 - iv. Log landings.
 - v. Haul roads, skid roads, and skid trails.

- vi. Maintenance of items i-v above.
 - vii. Road and log landing requirement.
 - viii. General location of the anticipated operation in relation to municipal and state roadways.
 - ix. Location of property boundaries for the tract in which the logging will take place and the boundaries of the proposed harvest area.
 - x. A cutting practice or stand prescription for each stand located in the proposed harvest area.
 - xi. Copies of all required permits shall be submitted as an appendix to the logging plan.
 - xii. Copies of the timber sale map and erosion and sedimentation plan.
- d. The logging plan required by Section (b) above shall satisfy the requirements of this Section if points (c) (viii-x) are also addressed.
 - e. The logging plan the timber sale map, and the erosion and sedimentation plan shall be available at the timber harvesting site.
 - f. For all timber harvesting operations that are expected to exceed five (5) acres, the Township Enforcement Officer shall be notified in writing both prior to the commencement of the operation and at the end of the operation.
 - g. In addition to any notification required by (f) above, a copy of the written logging plan shall be on site and submitted to the Township Enforcement Officer upon request.
 - h. The erosion and sedimentation control and stream crossing requirement set forth in the logging

plan shall be followed at all times during the operation.

i. The following requirements shall govern all timber harvesting operations:

- i. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whoever is responsible for maintenance of the thoroughfare.
- ii. No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare.
- iii. All tops and slash between a distance of twenty-five (25) and fifty (50) feet from a public thoroughfare shall be lopped to a maximum height of four (4) feet above the surface of the ground.
- iv. All tops and slash shall be cut to a minimum of five (5) above the surface of the ground unless otherwise prescribed in the logging plan.
- v. All trees to be cut shall be marked above and below stump height with tree marking paint prior to the start of logging.
- vi. No tops or slash shall be left on or across a property boundary without the consent of the adjoining landowner.
- vii. All litter resulting from a logging operation shall be cleaned up and removed from the site before it is vacated by the operator.
- viii. Logging within seventy-five (75) feet of each side of a trout stream is prohibited unless all of the following conditions have been met:
 - a. The basal area of trees in that area within the seventy-five (75) foot zone

shall not be reduced below fifty (50%) percent of the basal area present before cutting or below sixty-five (65) square feet per acre, whichever is greater.

- b. Care should be taken not to remove only the highest quality of trees in the area.
- c. The name and location of all trout streams which cross the area to be logged shall be clearly indicated on the logging plan map.

(iv) Enforcement.

- a. The Township Enforcement Officer may enter the site of any tree harvesting operation before, during and/or after active timber harvesting to review plans and other required documents to ensure that such plans and documents are in compliance with the provisions of the Zoning Ordinance and to ensure that the actual operation is proceeding in compliance with those plans. It is recommended that the landowner or landowner's representative be invited to be present during any site visit.
- b. Any timber harvesting operation found to be proceeding without the required logging plan shall immediately cease operations and not resume operations until a plan is submitted and approved by the Township Enforcement Officer.
- c. Whenever a timber harvesting operation violates any provision of the Zoning Ordinance, the Township may seek enforcement remedies and penalties as authorized by Section 106 of the Zoning Ordinance.
- d. In addition to the foregoing, whenever the Township Enforcement Officer finds a condition in a timber harvesting operation to be causing an immediate environmental risk, the Township Enforcement Officer shall immediately order operations to cease, and contact the Lehigh County Conservation District and

request enforcement of the rules and regulations referenced in this Section.

7. Section 503.B. is amended to read as follows:

No building shall be constructed or placed and no re-grading shall occur on areas with a slope of 25 percent or greater. If trees or other vegetation are removed from areas of 25 percent or greater slope, they shall be replaced with new trees and vegetation that serve the same purposes. This Section shall not apply to areas that were re-graded prior to the enactment of this Ordinance and clearly did not have a naturally-occurring steep slope.

8. Section 515.B.1 is amended to read as follows:

"Forestry" and "Timber Harvesting" as defined in the Zoning Ordinance.

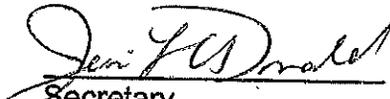
9. The provisions of this Ordinance are severable and, if any of its provisions shall be held to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

10. All Ordinances or parts of Ordinances which are inconsistent with the terms of this Ordinance are hereby repealed.

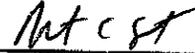
11. This Ordinance shall become effective five (5) days after enactment.

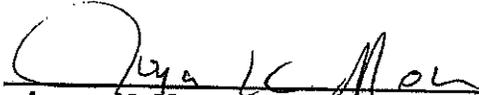
ORDAINED AND ENACTED THIS 18th DAY OF April, 2019.

ATTEST:


Secretary

BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP

By: 
Robert C. Sentner, CHAIRPERSON


Joyce K. Moore, VICE- CHAIRPERSON


Daniel J. Mohr, SUPERVISOR