

Willig, Robert A.

From: [REDACTED] >
Sent: Tuesday, May 28, 2019 9:43 PM
To: ACRE Shared Mailbox
Subject: Violation of ACRE law
Attachments: ACRE law violation.docx; 3rdStreetBondLetter.pdf; Fairview TWP Zoning App.pdf; Fairview ordinance.pdf

To whom it may concern,

In my opinion, both Fairview and Rice Townships located in Luzerne County are in violation of the ACRE law. Attached is a letter explaining why they are in violation. Also attached are the Fairview Township zoning permit application, ordinance and bonding letter requirements referenced in my letter.

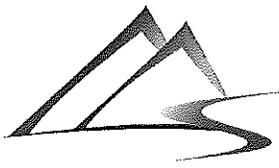
Below is the link for the Rice Township ordinance.

<http://psatstwp.org/luzerne/rice/wp-content/uploads/2014/09/ZONINGORD.pdf>

Any questions please let me know.

Thank you,
[REDACTED]
[REDACTED]
[REDACTED]

Click [here](#) to report this email as spam.



[REDACTED]

[REDACTED]

May 28, 2019

To whom it may concern,

In my opinion, Fairview Township and Rice Township located in Luzerne County both possess timber harvesting ordinances that are non-compliant with the PA ACRE Law. The following requirements and codes are non-compliant.

Fairview Township

The timber harvesting application for Fairview Township requires:

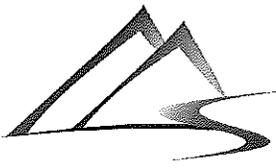
1. An Erosion & Sediment Control Plan to be submitted and approved by county conservation district.
2. Written timber harvesting plan prepared by a professional. (Fairview code page 246-93 section 44 (c – 1))
3. Written service agreement between owner and timber operator.
4. Signed road maintenance agreement, bond or other security.
5. Proof of General Liability Insurance of forester listing Fairview Twp as certificate holder.
6. Proof of workers comp or signed and notarized affidavit that the forester has no employees.

All of the above items have been proven in other cases to be in violation of ACRE law.

Per the Fairview code page 246-93 section 44, "Timber Harvesting":

(B) Applicability. This subsection applies to all timber harvesting when the total harvesting area is ½ acre or greater in a calendar year, which shall require a permit. These provisions shall not regulate the cutting of up to 10% of trees with a trunk diameter of six inches or greater (measured 3.5 feet above the ground level) on a lot in any calendar year tract, provided such cutting does not involve clear-cutting but instead involves routine thinning of woods. These provisions also shall not regulate cutting of trees with a trunk diameter of less than six inches (measured 3.5 feet above the ground level). These provisions shall not regulate tree cutting that the applicant proves is necessary to accommodate a Township-approved subdivision, land development, street, driveway, building or use.

Per the ACRE law, ordinance includes provisions allowing, requiring, or disallowing certain forestry practices (e.g. clearcutting, cutting large diameter trees) throughout a municipality. Reference – Monroeville Township, Allegheny County, December 7, 2015; East Nantmeal Township, Chester County, April 13, 2016.



[REDACTED]

[REDACTED]

(E-6): Clear cutting shall not be allowed on areas greater than ½ acre. Clear-cutting shall be prohibited on slopes greater than 25%.

Per the ACRE law, ordinance includes provisions allowing, requiring, or disallowing certain forestry practices (e.g. clearcutting, cutting large diameter tress) throughout a municipality. Reference – Monroeville Township, Allegheny County, December 7, 2015; East Nantmeal Township, Chester County, April 13, 2016.

(E-8): If timber harvesting involves more than two acres, a minimum of 30% of the forest cover (canopy) shall be kept and the residual trees shall be well distributed to promote reforestation.

Per the ACRE law, ordinance includes provisions allowing, requiring, or disallowing certain forestry practices (e.g. clearcutting, cutting large diameter tress) throughout a municipality. Reference – Monroeville Township, Allegheny County, December 7, 2015; East Nantmeal Township, Chester County, April 13, 2016.

(F): The landowner and operator shall be responsible for repairing any damage to the Township roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic.

The township is requiring a current bond in the amount of \$4,886.00 on 516ft of road known as "3^d street." This street has no posted weight limit.

Rice Township

The Rice Township ordinance code requires:

Prior to the start of operations, a Forestry Management Plan shall be prepared and filed with the submission of the Zoning Permit Application. Said plan shall be prepared by a qualified forester or forest technician, with a four year degree from and accredited college.

Per the ACRE law, PA does not have a license or registration requirement for foresters.

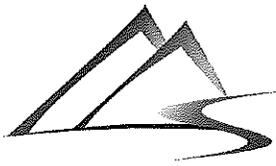
Reference – East Nantmeal Township, Chester County, April 13, 2016; North Coventry Township, Chester County, June 08, 2018.

The Forestry Management Plan shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Forestry Association.

Clear cutting shall be prohibited except on tracts of less than five (5) acres.

When harvesting or otherwise removing on tracts larger than five (5) acres, at least 30% of the forest cover (canopy) shall be kept and the residual trees shall be well distributed. At least 30% of these residual trees shall be composed of highest value species as determined and documented by the Forestry Management Plan; 9-6 7.

Clear cutting is prohibited on acres with slopes greater than 15% or within the 100 year floodway.



[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Per the ACRE law, ordinance includes provisions allowing, requiring, or disallowing certain forestry practices (e.g. clearcutting, cutting large diameter trees) throughout a municipality. Reference – Monroeville Township, Allegheny County, December 7, 2015; East Nantmeal Township, Chester County, April 13, 2016.

Thank you,

[REDACTED]

[REDACTED]

OFFICE OF CODE AND ZONING ENFORCEMENT
FAIRVIEW TOWNSHIP
65 Shady Tree Drive, Mountaintop, PA 18707

TIMBER HARVESTING APPLICATION

1. PROPERTY INFORMATION:

Property Address: _____

PROPERTY IDENTIFICATION NUMBER (PIN#): _____

DEED BOOK AND PAGE NUMBER: _____

ZONING DISTRICT(S): _____

SIZE OF PROPERTY: ACRES: _____ SQUARE FEET: _____

CURRENT USE OF PROPERTY: _____

PERCENTAGE OF PROPERTY COVERED BY FOREST: _____%

2. OWNER AND TIMBER OPERATOR INFORMATION:

Property Owner's Name, Address and Telephone Number:

() _____

Timber Operator's Name, Address and Telephone Number:

() _____

3. TIMBER HARVESTING INFORMATION:

REASON FOR TIMBER HARVESTING: _____

TYPE OF CUT: _____ CLEAR CUT _____ SELECT CUT

PERCENTAGE OF TREES TO BE CUT ON THE PROPERTY WITH A TRUNK DIAMETER OF SIX INCHES OR MORE: _____ %

SIZE OF TOTAL HARVESTING AREA: ACRES: _____ SQUARE FEET: _____

ACCESS LOCATION POINTS OF TIMBER HARVESTING: _____

TOWNSHIP ROADS TO BE TRAVELED:

TYPE AND AMOUNT OF BOND OR OTHER SECURITY TO GUARANTEE REPAIR TO TOWNSHIP ROADS DAMAGED BY TIMBERING OPERATION:

TYPE: _____ AMOUNT: _____

LENGTH OF CONTRACT WITH PROPERTY OWNER: _____

STARTING DATE: _____ ENDING DATE: _____

4. REQUIRED SUPPORTING DOCUMENTATION:

PLEASE CHECK IF THE FOLLOWING REQUIRED DOCUMENTATION IS ATTACHED TO THIS APPLICATION:

- _____ WRITTEN TIMBER HARVESTING PLAN PREPARED BY A PROFESSIONAL WHICH INCLUDES THE INFORMATION UNDER SECTION 246-34(44)(d)(2) AND (3) OF THE FAIRVIEW TOWNSHIP ZONING ORDINANCE
- _____ APPLICATION FEE OF \$150.00
- _____ EROSION AND SEDIMENTATION PLAN APPROVED BY LUZERNE CONSERVATION DISTRICT
- _____ WRITTEN SERVICE AGREEMENT BETWEEN OWNER AND TIMBER OPERATOR
- _____ SIGNED ROAD MAINTENANCE AGREEMENT
- _____ BOND OR OTHER SECURITY
- _____ PROOF OF GENERAL LIABILITY INSURANCE OF FORESTER LISTING FAIRVIEW TOWNSHIP AS A CERTIFICATE HOLDER
- _____ PROOF OF WORKER'S COMPENSATION OR A SIGNED AND NOTARIZED AFFIDAVIT THAT THE FORESTER HAS NO EMPLOYEES
- _____ PERMITS OR APPROVALS FROM ANY OTHER REGULATORY AGENCY SUCH AS PENNDOT
- _____ EASEMENT AGREEMENTS (IF ANY)

NOTE: A COPY OF THE TIMBER HARVESTING PLAN SHALL BE AVAILABLE FOR INSPECTION ON THE PROPERTY AT ALL TIME DURING THE TIMBER HARVESTING OPERATION. THE ZONING PERMIT ONCE ISSUED IS VALID FOR A PERIOD OF TWO YEARS FROM THE DATE OF ISSUANCE.

BY SIGNING BELOW, I VERIFY THAT THE INFORMATION CONTAINED IN THIS APPLICATION AND ATTACHED ARE TRUE AND CORRECT TO THE BEST OF KNOWLEDGE, INFORMATION AND BELIEF. I UNDERSTAND THAT FALSE STATEMENTS ARE MADE SUBJECT TO THE PENALTIES OF 18 PA.C.S.A SECTION 4904 RELATING TO UNSWORN FALSIFICATION TO AUTHORITIES. I FURTHER AGREE TO OBEY AND CONFIRM TO ALL ORDINANCES OF FAIRVIEW TOWNSHIP DURING THE PERFORMANCE OF THE DEMOLITION UNDER THIS PERMIT AND THE ATTACHED PERMIT GUIDELINES; AND AGREE TO IMMEDIATELY NOTIFY THE TOWNSHIP CODE ENFORCEMENT OFFICER OF ANY CHANGES IN THE INFORMATION PROVIDED IN THIS APPLICATION.

SIGNATURE OF APPLICANT

DATE

SIGNATURE OF OWNER

DATE

TOWNSHIP USE ONLY

DATE APPLICATION WAS RECEIVED: _____

FEE PAID: \$150.00 MANNER OF PAYMENT: _____ DATE PAID: _____

APPROVED _____ OR DENIED _____ THIS _____ DAY
OF _____ 201__.

APPROVAL IS SUBJECT TO THE FOLLOWING CONDITIONS:

ZONING OFFICER

- (h) An outdoor target range shall not be used during nighttime hours. Maximum hours and days of operation may be established as a condition of the zoning approval.
- (i) Minimum lot area for an outdoor firearms target range shall be 10 acres, unless a more restrictive provision is established by another provision of this chapter.
- (j) See § 246-65. Wherever woods exist adjacent to an exterior lot line of an outdoor firearms target range, such woods shall be preserved within at least 100 feet of each such lot line, except for approved driveway, utility and trail crossings.
- (44) Timber harvesting.
- (a) It is the intent of this subsection to promote management of forests for long-term benefits; promote good forest stewardship; protect adjoining property owners; minimize the potential for adverse environmental impacts; and avoid unreasonable restrictions on timber harvesting.
- (b) Applicability. This subsection applies to all timber harvesting when the total harvesting area is 1/2 acre or greater in a calendar year, which shall require a permit. These provisions shall not regulate the cutting of up to 10% of trees with a trunk diameter of six inches or greater (measured 3.5 feet above the ground level) on a lot in any calendar year tract, provided such cutting does not involve clear-cutting but instead involves routine thinning of woods. These provisions also shall not regulate cutting of trees with a trunk diameter of less than six inches (measured 3.5 feet above the ground level). These provisions shall not regulate tree cutting that the applicant proves is necessary to accommodate a Township-approved subdivision, land development, street, driveway, building or use.
- (c) Application requirements. An application for timber harvesting shall be made a minimum of 60 days prior to the start of work. No timber harvesting shall occur until a permit has been issued by the Zoning Officer.
- [1] The application shall include a written timber harvesting plan, which shall be prepared by a qualified professional. The provisions of the plan shall be followed throughout the operation. The plan shall be available for inspection at the harvest site at all times during the operation.
- [2] The landowner, the applicant and the timber operator shall be jointly and separately responsible for complying with the terms of the timber harvesting plan and permit.
- (d) Timber harvesting plan.
- [1] The applicant shall specify, in writing, the land on which harvesting will occur, the expected size of the harvest area, and the anticipated starting and completion date of the operation. The zoning permit shall be valid for up to two years from the date of issuance.

- [2] The timber harvesting plan shall include, at a minimum, the following information:
- [a] A narrative of proposed cutting practices and/or stand prescription(s) for each stand in the proposed harvest area and the construction, maintenance and retirement of the access system, including haul roads, skid roads, skid trails and landings.
 - [b] An erosion and sedimentation control plan approved by the County Conservation District.
 - [c] All timber harvesting activities shall use best management practices, which shall be shown on the plan.
 - [d] A narrative of all stream and road crossings, including required permits from the appropriate agency.
 - [e] All Township and/or PennDOT highway occupancy permits, if applicable.
- [3] An application shall be submitted to the Township, with a map showing waterways, drainageways, approximate wetlands, lakes, roads, lot lines, and proposed harvest areas. The application shall also include the name and address of the property owner and the person who will be responsible to oversee the timber harvesting. The application shall also show proposed erosion and sedimentation control measures, proposed crossings of waterways and proposed vehicle entrance and exit points onto streets.
- (e) Timber harvesting practices.
- [1] Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Township or PennDOT, whichever is responsible for maintenance of the thoroughfare.
 - [2] No tops or slash shall be left within 25 feet of any public thoroughfare, property line or private roadway providing access to adjoining residential property.
 - [3] All tops and slash between 25 and 50 feet from a public street right-of-way or private road providing access to adjoining residential property or within 50 feet of adjoining residential property shall be lopped so that they do not extend more than four feet above the surface of the ground.
 - [4] Streams are an important natural resource that provide for water quality, flood control, bank stabilization and other ecological benefits. To insure their adequate protection, timber harvesting is prohibited within 100 feet of the top of the bank on each side of all perennial waterways, except this distance may be reduced to 50 feet if all of the following conditions are met:

- (a) The basal area of trees in that area within the one-hundred-foot setback shall not be reduced below 50% of the basal area present before cutting.
 - (b) Trees to be cut within the one-hundred-foot zone described shall be marked above and below stump height with tree marking paint prior to the start of timber harvesting.
 - (c) All earthmoving within this area shall be minimized or fully avoided.
 - (5) No tops or slash shall be left within a stream channel or floodway. Unless fully delineated, a floodway shall be assumed to be all that area within 50 feet from the center of a waterway.
 - (6) The use of clear-cutting must be fully justified by a timber harvesting plan prepared by a qualified professional. Detailed information concerning increased stormwater runoff, erosion control and a plan to assure regeneration shall be provided. Clear-cutting shall not be allowed on areas greater than 1/2 acre. Clear-cutting shall be prohibited on slopes greater than 25%.
 - (7) A twenty-five-foot minimum setback shall be maintained for timber harvesting from a public street right-of-way and from any lot line of property unless the adjoining property owner provides a written, notarized and signed waiver of the setback to the Zoning Officer.
 - (8) If timber harvesting involves more than two acres, a minimum of 30% of the forest cover (canopy) shall be kept and the residual trees shall be well distributed to promote reforestation.
- (f) Public road responsibility. The landowner and the operator shall be responsible for repairing any damage to Township roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic. The Township may require the landowner or operator to furnish a bond to guarantee the repair of such damages. Such bond shall remain in full force until the Zoning Officer issues a written notification that all provisions of this chapter and the permit have been complied with. In lieu of such bond, the operator or landowner may post a cash deposit or certified check with the Township.
- (g) Tree removal as part of an approved subdivision. If a stormwater management plan for a subdivision or land development assumes that a certain percentage of the tract will remain wooded, then the Board of Supervisors may require conservation easements to be put into effect by the subdivider to permanently limit tree removal on each lot so that such percentage of woods will remain in place. The enforcement mechanism for such easement shall be approved by the Board of Supervisors. The Board of Supervisors may require that the easement be enforceable by the Township and/or by any adjoining property owner.

- (45) Townhouses (rowhouses) and apartments.
- (a) The maximum number of townhouses that shall be attached in any manner shall be eight. The maximum number of apartments that shall be within a building shall be 12.
 - (b) Paved area setback. All off-street parking spaces, except spaces on driveways immediately in front of a carport or garage entrance, shall be set back a minimum of 10 feet from any dwelling.
 - (c) Garages. It is strongly recommended that all townhouses be designed so that garages and/or carports are not an overly prominent part of the view from public streets. For this reason, parking courts, common garage or carport structures or garages at the rear of dwellings are encouraged instead of individual garages opening onto the front of the building, especially for narrow townhouse units.
 - (d) Mailboxes. Any mailboxes provided within the street right-of-way should be clustered together in an orderly and attractive arrangement or structure. Individual freestanding mailboxes of noncoordinated types at the curbside are specifically discouraged.
 - (e) Access. Vehicular access points onto all arterial and collector streets shall be minimized to the lowest reasonable number. No townhouse dwelling within a tract of five or more dwelling units shall have its own driveway entering onto an arterial or collector street.
 - (f) Common open space. A minimum of 30% of the total lot area of the development involving townhouses and apartments and their accessory uses shall be set aside as common open space for the residents. The applicant shall prove that these areas will be suitable for active or passive recreation. If a development will not be restricted to persons over age 55, then the common open space shall at a minimum include a rectangular grass field 100 feet by 200 feet that is suitable for free play by young persons. If a development will be restricted to persons over age 55, then the common open space shall at a minimum include landscaped paved trails. A recreation building or pool available to all residents of the development may count toward this requirement. Areas with a width of less than 50 feet shall not count toward this requirement. This requirement shall be in place of any requirement for recreation land or fees under Chapter 225, Subdivision and Land Development.
 - (g) Buffer. Within a minimum of 50 feet from the existing right-of-way of an arterial or collector street and from any lot line of an existing single-family detached dwelling, a forested buffer shall be maintained or planted. This provision shall not prohibit routine thinning of woods, provided that a substantial forested buffer remains in place. Trees may also be removed where necessary for utility crossings, entrance roads or safe vehicle sight distance. This buffer requirement shall not apply along a lot line of an

[REDACTED]

February 20, 2019

Rice Township
3000 Church Road
Mountain Top, PA 18707

Attn: [REDACTED]

RE: Security/Bond Amount for 3rd Street

Dear [REDACTED]

Our office has received your request and we are providing the calculated Security/ Bond amount for 3rd Street from the intersection of Nuangola Road to the end of 3rd Street. The Security/Bond amount was calculated based on the length of 3rd Street. The approximate length is 516 feet.

The calculated amount was determined using Title 67, Chapter 189 of the Pennsylvania Code. The calculated security/bond amount is \$4,886.00, which was calculated using (516 feet / 5280 feet) x \$50,000 per mile. If you have any questions, please contact me.

Sincerely,

[REDACTED]

Principal

C.c. [REDACTED] Township Secretary (via email)
file

RECEIVED FEB 25 2019