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TOWNSHIP OF BRANCH

County of Schuylkill in the
Commonwealth of Pennsylvania

Ordinance No. 2007-~~X~~ 2

AN ORDINANCE OF THE TOWNSHIP OF BRANCH, COUNTY OF SCHUYLKILL IN THE COMMONWEALTH OF PENNSYLVANIA REGULATING TREE HARVESTING, PROVIDING FOR THE SUBMISSION OF LOGGING PLANS; REQUIRING COMPLIANCE WITH APPLICABLE REGULATIONS SETTING GENERAL OPERATIONAL REQUIREMENTS FOR TIMBER HARVESTING ACTIVITY; PROVIDING FOR ENFORCEMENT; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO VIOLATES, OR REFUSES TO COMPLY WITH, THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors for the Township of Branch, and it is hereby enacted and ordained by the authority of same as follows:

This Ordinance shall be known as and may be cited as the "Branch Township Timbering Ordinance."

Section 102 – ADOPTION AND ENACTMENT AUTHORITY:

The Board of Supervisors enacts and ordains the herein Ordinance by the authority granted them as specified by: P.L. 486, Section 1, as amended; P.L. 73, Section 1; Re-Enacted and amended P.L. 288, No. 88, Section 1, imd. Effective; P.L. 94, No. 40, Section 1; as affected P.L. 202, No. 53, Section 2 (a) [1133]; as amended P.L. 105, No. 20, Section 1, P.L. 1329, No. 170, Section 2, et seq.

Section 103 – PURPOSE

(a) To recognize tree harvesting as an important legitimate activity in the forest land of Branch Township, Schuylkill County, Pennsylvania.

(b) To provide for the regulation of such activity to ensure that:

1. long-term production of timber crops is encouraged;
2. the right to harvest trees is exercised with due regard for the protection of the physical property of adjacent landowners; and,
3. the potential for negative environmental impacts resulting from improper tree harvesting is minimized.

Section 104 -INTENT

It is the intent of this ordinance to regulate timber harvesting practices and to allow for and encourage proper forest management within Branch Township. This ordinance is not intended to prescribe specific cutting practices; or to prevent or hinder any landowner from realizing financial return from the sale of trees; or to prevent or hinder tree harvesting or forest industry operators from pursuing their business within this jurisdiction. It is not the intent of this ordinance to regulate timber harvest for home use.

Section 105 -APPLICABILITY

This Ordinance shall apply uniformly to all property within the Township of Branch and all persons, whether natural or legal. The spirit of this Ordinance shall apply even though the primary purpose, or one of the primary purposes, is not logging or tree harvesting.

Section 106 -DEFINITIONS AND WORD USAGE

(a) Unless specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application consistent with the intent herein expressed.

(b) The word "shall" is always mandatory and not merely directory.

(c) Words used in the present tense include the future and past, words in the plural number include the singular, words in the singular number include words in the plural, and words either in the feminine, masculine or neuter shall include words of the other two genders.

(d) The following words are defined as they are used in this ordinance:

1. Felling: The act of cutting a standing tree so that it falls to the ground.
2. Intermittent Stream: A stream whose water flow normally occurs in the wetter parts of the year (October through April) or following major storm events.
3. Landing: A place where logs are assembled for transportation in loads.
4. Logging Plan: A written description with a map of a specific logging operation prepared before the operation commences.
5. Lopping: To cut tops and slash into smaller pieces to allow material to settle close to the ground.
6. Operator: The individual, partnership, company, firm, association, or corporation engaged in the harvest of timber including his agents, or subcontractors, or employees.
7. Owner: The individual, political subdivision, governmental agency, partnership, company, firm, association or corporation which holds title to standing timber and to land on which it is situated, including his agents or subcontractor or employers; and, specifically included is one which hold equitable title and one which acts under any agreement, law, or order of court

for an equitable title holder where the legal title holder has through default, breach or any other reason lost or surrendered control, even if involuntarily.

8. Perennial Stream: A stream whose water flow normally occurs year-round.
9. Skidding: Dragging trees on the ground, by any means, from the stump to the landing.
10. Slash: Debris left after logging, including logs, chunks, barks, branches, stumps and broken under story trees or brush.
11. Stream: Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.
12. Tree Harvesting (also timber harvesting/logging): The cutting down and removal of trees and logs to be converted to any forest product or for sale to others.
13. Tops: The upper portion of a felled tree not merchantable because of small size, taper, or defect.
14. Township: Township of Branch, County of Schuylkill in the Commonwealth of Pennsylvania.
15. 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.
16. 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.
17. Permit: Written permission, warrant, or license granted by a governmental authority.
18. Professional Forester: A person who has 13.S or higher degree in forestry from a four year school of forestry associated with or accredited by the Society of American Foresters.
19. 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 instruction 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.
20. Stand Regeneration Treatment: A selection, shelterwood, seed tree, or clear-cut that is designated to replace the existing stand with a new stand of young trees.
21. Trout Stream: Any cold water stream which supports a trout fishery that is managed, stocked, or regulated by the Pennsylvania Fish Commission.

Section 107 -RESPONSIBILITY

It shall be the responsibility of each landowner on whose land tree harvesting is to be carried out to develop or have developed the logging plan, and submit notification as required in this ordinance. It shall be the joint responsibility of the landowner and the operator to see that they carry out the provisions of the logging plan.

Section 108 -REGULATIONS

(a) A logging plan shall be prepared by a professional Forester or Forest Technician for each tree harvesting operation greater than 1 acre within the Township.

(b) Such plan will address all applicable erosion and sedimentation control and stream crossing regulations under Chapter 102, Erosion Control Rules and Regulations issued under Act of June 22, 1937, P.L. 1987 (Clean Streams Law), and Chapter 105, Dam and Waterway Management Rules and Regulations issued under Act of 1978, P.L. 1375, No.325 (Dam Safety and Encroachments Act) and all amendments thereto. Copies of all other permit applications such as form 3930 FM-WM0155 " PA DEP Form for Erosion and Sediment Control Plan for a Timber Harvesting Operation."

(c) Points that shall be addressed by the logging plan including the following as a minimum:

1. Design of the road system.
2. Water control structures.
3. Stream crossings. All stream crossings require separate PA DEP permit.
4. Wetlands must be located and identified.. All crossings of wetlands require applicable permit.
5. Log landings.
6. Haul roads, skid roads, and skid trails.
7. Maintenance of items 1 through 5.
8. Road use
9. Road and log landing retirement.
10. The general location of the anticipated operation in relation to municipal and state highways.
11. The location of property boundaries for the tract on which the logging will take place and the boundaries of the proposed harvest area
12. When a primary purpose of the operation is not logging, or when the result of logging is to provide clearing of land for a related or unrelated purpose, the plan for cleared land use and the reason for the planned land clearing.

13. Approximate starting and completion date for the operation.
14. A cutting practice or stand prescription for each stand located in the proposed harvest area.
15. Topography of the logging area and adjacent area surrounding the logging area.

(d) For all tree harvesting operations that are expected to exceed five (5) acres, the township secretary, or alternatively the township police chief, shall be notified at least five (5) working days before the beginning of the operation and within five (5) days before or after the date of completion.

(e) In addition to the notification required in section 108(d), a copy of the logging plan shall be submitted with the notification of beginning operation if the tree harvesting area involved is expected to exceed twenty-five (25) acres.

(f) The plan will be available at the timber harvesting site.

(g) The erosion and sediment control and stream crossing requirements addressed in the logging plan shall be followed at all times during the operation.

(h) The following general operational requirements shall govern all timber harvesting activity:

1. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the municipality or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of said thoroughfare.
 - a. Use of municipal or state roads for timbering must comply with Road Bonding Regulations, Hauling in excess of posted weight limit on highways (67 PA Code, Chapter 189). This procedure must be followed even if the road is not currently posted. The applicant must request the current postings from the Township. This procedure allows for excessive maintenance agreements, permits, inspections, bonding and monitoring. The applicant is responsible for these fees.
2. No tops or slash shall be left within twenty- five (25) feet of any public thoroughfare.
3. 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.

4. A minimum of 10 square feet of basal area per acre of desirable commercial species shall be retained in situ on the harvest site. The following table shall be used to compute the basal area of the retained trees:

<u>D.B.H.</u> Inches	<u>Basal Area</u> <u>Per Tree</u> Sq. Ft.	<u>D.B.H.</u> Inches	<u>Basal Area</u> <u>Per Tree</u> Sq. Ft.
1	.005	16	1.396
2	.022	17	1.576
3	.049	18	1.767
4	.087	19	1.969
5	.136	20	2.182
6	.196	22	2.640
7	.267	24	3.142
8	.349	26	3.684
9	.442	28	4.273
10	.545	30	4.905
11	.660	32	5.581
12	.785	34	6.300
13	.922	36	7.063
14	1.069	38	7.870
15	1.227	40	8.720

The tress to remain shall be identified on the logging plan. The intent should be to keep adequate quality tress of different species that are not genetically inferior or in poor condition.

5. A ten (10) foot buffer zone of untouched timber shall be maintained between the cutting site and adjacent property boundaries unless specifically waived in writing by the adjacent property owner.
6. Tree Harvesting and related activity covered by an approved logging plan shall be conducted only between the hours of seven o'clock a.m. and six o'clock p.m. unless these time limits are extended, excused or otherwise modified in writing by the Board of Supervisors or its designee. Operation during other hours is prohibited.
7. No tops or slash shall be left on or across a property boundary without the consent of the adjoining landowner.
8. Litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator.
9. The erosion and sediment control and stream crossing requirements addressed in the logging plan shall be followed at all times during the operation.
10. Because trout streams are an important natural resource which need special protection, logging within seventy-five (75) feet each side of trout streams is prohibited unless all of the following conditions are met: (i. The basal area of trees in that area are within seventy-five (75) foot zone shall not be reduced below 50 percent of the basal area present before cutting or below 65 square feet per acre, which ever is higher; (ii. Trees to be cut within the seventy-five (75) foot

zone described shall be marked above and below stump height with tree marking paint prior to the start of logging. (iii. The name and location of all trout streams which cross the area to be logged must be clearly indicated on the logging plan map.

11. When the activities pertain to cultivation and harvesting of "ornamental trees, other nursery endeavors, or both, a general, long range plan may be submitted prior to the first harvesting consistent with Section 107 (e); then, a separate plan for each harvesting shall not be required. However, amendment to said plans are required as the plan is altered or modified.

12. Clear cutting is prohibited. The Township will consider clear cutting and other forestry best management practices that differ from this ordinance on a case by case basis due to unique or unusual circumstances.

Section 109 – ENFORCEMENT

(a) The enforcement officer designated by the township may go upon the site of any tree harvesting operation before, during and after the active logging to review plans and other required documents to ensure that such plans and documents are in compliance with the provisions of this ordinance and to ensure that the actual operation is proceeding in compliance with these plans.

(b) Any logging operation found to be proceeding without a logging plan as described in this ordinance shall immediately cease operations and shall not resume until a plan is prepared and submitted to the township enforcement officer for his approval.

(c) When any operator is found to be violating any provision of this ordinance, the township enforcement officer shall provide the operator with a written statement describing each violation, and specifying a date by which corrective action must be taken. Normally, such corrective work shall be completed within seven (7) calendar days of such written notification.

(d) When the township enforcement officer finds a condition in a logging operation to be causing an immediate environmental risk, he shall immediately order operations to cease, and contact the Schuylkill County Conservation District and request enforcement of the rules and regulations referred to under Section 107 (b) of this ordinance.

Section 110 – PENALTIES.

Any landowner or operator who violates any provision of this ordinance is guilty of summary offense, and upon conviction, such landowner or operator shall be subject to a fine of Five Hundred Dollars (\$500.00). Each day that a violation continues shall constitute a separate violation of this ordinance.

Section 111 – SEVERABILITY

The articles, sections, subsections, sentences, clauses, phrases and provisions of this Ordinance are severable and if any of the articles, sections, subsections, sentences, clauses, phrases and

provisions hereof are for any reason held by a court of competent jurisdiction to be invalid, such decision so holding that provision or provisions invalid shall not affect and shall not be construed to affect or impair the remaining provisions of this Ordinance which were not to be invalid. It is the declared intent of the Board of Supervisors of Branch Township that this Ordinance would have been adopted had such provision or provisions held invalid not been included therein.

Section 112 -INCONSISTENT ORDINANCES; REPEALER

All other Ordinances or parts of Ordinances inconsistent with the provisions of this Ordinance shall be and the same hereby repealed to the extent that they are inconsistent with the herein Ordinance.

Section 113 - PERMIT AND PERMIT FESS

- a. A permit is required prior to the start of any timbering operation.
- b. The charge for said permit shall, for each separate undertaking, shall in accordance with figure 1.
- c. A completed timbering permit application (see Figure 2) and corresponding fee must accompany the application.
- d. A permit shall be valid for one year from the date of issuance.
- e. A timber plan must accompany the permit application as required by this ordinance.

Section 114 -EFFECTIVE DATES

This Ordinance is effective five days after its enactment.

ORDINANCE NO. _____ IS HEREBY ENACTED AND ORDAINED BY THE BOARD OF SUPERVISORS OF Branch TOWNSHIP, COUNTY, PENNSYLVANIA ON THIS 27th DAY OF August, 2007.

ATTEST:

Joanne M. Schultz
SECRETARY

Branch TOWNSHIP
BOARD OF SUPERVISORS

BY: [Signature]
CHAIRMAN

BRANCH TOWNSHIP

FIGURE 1: TIMBER ORDINANCE FEE SCHEDULE

PERMIT ISSUANCE.....\$50.00

PLAN REVIEW FEE – BASED ON AREA OF TIMBER OPERATION

- LESS THAN 10 ACRES..... \$200.00
- GREATER THAN 10 ACRES.... \$300.00
- GREATER THAN 100 ACRES..... ACTUAL TIME
ACCORDING TO CURRENT ENGINEER'S REATINER
AGREEEMENT.