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## ACRE review request of the City of Lower Burrell timber harvesting ordinance

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From [Dave O'Barto <obarto@comcast.net>](mailto:obarto@comcast.net)

Date Wed 12/10/2025 8:04 AM

To Willig, Robert A. <[rwillig@attorneygeneral.gov](mailto:rwillig@attorneygeneral.gov)>

Cc Eric forester for Y&B <[pennselect756@gmail.com](mailto:pennselect756@gmail.com)>

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Dear Mr. Willig--

I am writing to request the Commonwealth review the City of Lower Burrell's timber harvesting ordinance as being unlawful as it relates to the ACRE law.

I believe section 270-5 & 270-6 below is unlawful per my comments in blue:

### § 270-5 General operational requirements.

Both the landowner and logging operator shall be responsible for compliance with the following operational requirements:

- A. No property shall be clear cut. **Clear cutting is a silviculture practice.**
- B. All applications to harvest timber on a slope exceeding 25% shall conform to the following conditions: **Timber Harvesting is a use of right not contingent**
  - (1) Applications must be accompanied by an approved erosion and sedimentation plan approved by the Westmoreland County Conservation District and/or the DEP.<sup>[1]</sup>
    - [1] *Editor's Note: Amended at time of adoption of Code (see Ch. 1, General Provisions, Art. I).*
  - (2) All logging roads/skid trails shall be cut only horizontally across slopes; and no roads/skid trails may be cut vertically.
- C. No timber harvesting shall take place in areas determined by the City Engineer, with reference to published or commonly accepted guidelines, to be landslide-prone or flood-prone.
- D. No tree with a diameter of 36 inches or more may be harvested without written approval from the Administrator based upon a finding that the harvest of such trees will not result in undue soil erosion, loss or movement. Trees with a diameter of 12 inches or less may be harvested only if such trees are cull trees or dead trees, and such harvesting will not result in clear cutting. The diameter of

the tree shall be measured at 4 1/2 feet above ground level. **Timber Harvesting is a use of right not contingent and I also view this as a taking.**

- E. No log in excess of 24 feet in length shall be removed from the property. **Timber Harvesting is a use of right not contingent; not township business.**
- F. Upon completing a timber harvesting operation, no replanting will be required within one year. After one year, the property owner shall inspect the property for evidence of new seedlings and provide the inspection results to the Administrator. If such inspection shows evidence of seedling regeneration, the property owner shall replant the property with seedlings of similar nature measuring a minimum of one foot in height, and in numbers determined by the Administrator to be reasonably adequate to protect the harvested property from undue soil erosion, loss or movement. **Township has no jurisdiction to dictate this on private property.**
- G. Treetops and other logging debris should not exceed seven feet in height above the ground surface. **Township has no jurisdiction to dictate this on private property. Are they going to measure every tree top?**
- H. All roadways/skid trails must be repaired to prevent soil erosion and sedimentation and to prevent pooling of stormwater.
- I. Proper erosion and sedimentation control measures shall be taken on disturbed property to prevent accelerated water runoff.
- J. No commercial sale of wood or logs shall be permitted on the property located in residential zones.
- K. No tree may be cut which is the largest of its species in the state. **This is a taking.**
- L. All soil or debris washed or otherwise deposited onto public streets during logging shall be cleaned up each day. Where adjacent properties, public or private, have suffered erosion or accumulation of soil and debris as a result of logging, such conditions shall be promptly remedied.
- M. No timber harvesting operation may take place within 40 feet, measured horizontally, from an adjacent property line, unless the owner thereof has provided a written waiver consenting to the operation encroaching closer than 40 feet. A waiver shall be knowingly made and separate from a lease or deed unless the lease or deed contains an explicit waiver from the owner. **This is a taking and one does not need the consent of a neighbor to use one's own property**
- N. And damage to public streets of the City will be repaired in accordance with Chapter 256, Streets and Sidewalks, Article III, Excavations.

## § 270-6 Security.

Prior to the commencement of a logging operation, the person who secures the logging permit shall post a bond written by a surety company authorized to do business in the Commonwealth of Pennsylvania with the City as obligee in the amount of \$500 per acre to guarantee restoration of the property logged or of other property, including City streets, damaged by the logging operation. In lieu of the bond, other securities acceptable to the City, such as cash, escrow arrangement or irrevocable letter of credit issued by a bank or savings and loan institution, may be posted. Upon completion of timber harvesting in any twenty-five-acre parcel, and upon issuance of a permit extension by the Administrator to proceed to the next twenty-five-acre area, the bond or other security posted shall be acceptable security for the continuing timber harvesting operation. **\$500.00 per acre is excessive and not reasonable.**

Please advise me of the next steps. Thank you, **Dave O'Barto**

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Dave O'Barto  
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