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May 26, 2026

Robert A. Willig, Esq.
Senior Deputy Attorney General
1251 Waterfront Place
Pittsburgh, PA 15222

**Re: Response to Complaints Filed Pursuant to the Agricultural,
Communities, and Rural Environment (ACRE) Act, 3 Pa. C.S. §§ 311–318**

Dear Mr. Willig:

The Township of Forward Township (hereinafter "Township") has received and reviewed the complaints challenging certain provisions of its Timbering and Logging Ordinance (hereinafter "Ordinance"). Having carefully considered each complaint, the Township hereby formally responds and denies each complaint in its entirety. As set forth below, each challenged Ordinance provision is lawful, reasonable, and consistent with both the Pennsylvania Municipalities Planning Code ("MPC"), 53 P.S. § 10101 et seq., and the Agricultural, Communities, and Rural Environment Act ("ACRE Act"), 3 Pa. C.S. §§ 311–318.

As you know, the ACRE Act prohibits local ordinances that "unreasonably restrict" normal agricultural operations. 3 Pa. C.S. § 313. However, municipalities retain broad authority to regulate timbering and logging operations in a reasonable manner that protects public health, safety, welfare, and the environment, provided such regulations do not wholly prevent or make economically impracticable a timber harvesting operation. Each challenged provision satisfies this standard.

**I. RESPONSE TO COMPLAINT REGARDING SECTION 3 (MINIMUM STANDARDS)
— TOWNSHIP ENGINEER REVIEW OF LARGE-DIAMETER TREES**

The complaint objects to Section 3(C), which requires that removal of trees with a diameter at breast height (DBH) of more than 20 inches be reviewed by the Township Engineer before inclusion in any timbering operation. The complaint asserts that this provision (1) improperly vests discretion in the Township Engineer and (2) is preempted by the ACRE Act.

The Township denies this complaint for the following reasons:

First, Section 3(C) does not prohibit the removal of large-diameter trees — it requires only that such removal be reviewed by the Township Engineer. The provision is a reasonable protective measure designed to safeguard significant, mature trees that play a disproportionate role in watershed protection, slope stability, and ecological function. The Township Engineer serves in a technical, advisory capacity during this review. This limited oversight does not constitute a prohibition or an unreasonable restriction under the ACRE Act.

Second, the complaint's assertion that township engineers are uniformly unfamiliar with timber management practices is factually unsupported and legally irrelevant. Township engineers are licensed professionals and may consult with forestry specialists as needed. The Township is

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entitled to rely on the professional judgment of its Engineer for technical reviews of this nature. Nothing in the ACRE Act strips municipalities of the ability to designate a qualified professional to conduct ministerial review functions.

Third, the ACRE Act preemption provision, 3 Pa. C.S. § 313, applies to ordinances that "unreasonably restrict" normal agricultural operations. A pre-removal review of trees exceeding 20 inches DBH — a class of trees that may have particular ecological significance — is a narrowly tailored, reasonable protective measure, not an unreasonable restriction. The Ordinance leaves the timber operator free to harvest the full range of commercially valuable trees and imposes only a procedural review step for the largest specimens.

Accordingly, the complaint against Section 3(C) is denied.

II. RESPONSE TO COMPLAINT REGARDING SECTION 8 (MAJOR TIMBERING PERMIT — SPECIAL CONDITIONS) — CROWN AND SLASH MANAGEMENT

The complaint objects to Section 8(A), which requires that crowns of felled trees be reduced to firewood length and stacked or removed from the site as cut, and that branches less than four inches in diameter be processed into wood chips and remain on site. The complaint contends that this requirement: (1) will stifle seedling regeneration through wood chip accumulation; (2) is cost-prohibitive; and (3) constitutes an unreasonable restriction on forestry activities under the ACRE Act.

The Township denies this complaint for the following reasons:

First, the complaint mischaracterizes the Ordinance. Section 8(A) does not require the indiscriminate dumping of wood chips in a manner that would smother seedlings. The provision requires that branch material less than four inches in diameter be chipped and remain on site — a practice consistent with widely accepted silvicultural standards for site nutrient retention and organic matter cycling. The Township's approach is consistent with the very benefits cited by the complainant's own referenced Penn State forestry expert: that tops and slash contribute organic material, micronutrients, and ground-level habitat to the harvest site. By requiring material to be chipped rather than piled in slash heaps, the Ordinance actually promotes more even distribution of organic matter, reduces fire and pest hazard, and avoids the haphazard slash accumulations that can impede regeneration and access.

Second, the cost of compliance does not render a regulation unreasonable under the ACRE Act. The ACRE Act's preemption clause targets ordinances that unreasonably restrict normal agricultural operations as a class — not ordinances that impose some incremental cost on individual operators. Many forestry operations routinely use chipping equipment as a standard practice. The complainant's reference to a specific commercial chipper at \$70,000 does not establish that wood chip processing is economically impracticable for timber operations generally, nor does it establish that cheaper alternatives — including the retention of crowns in firewood lengths as expressly permitted by Section 8(A) — are unavailable.

Third, the cases cited by the complainant (East Brandywine Township, Lower Saucon Township, Hellam Township, Pine Township) addressed ordinances that required complete removal of all tops and slash from the site — a materially different restriction that deprived the site of organic matter entirely and imposed substantial logistical and financial burdens with no environmental benefit. Section 8(A) does not require removal of slash from the site. Instead, it

requires that the material be processed in a manner that keeps it on site in a form beneficial to the forest floor. This is a meaningfully different regulatory approach and those decisions are not controlling.

Accordingly, the complaint against Section 8(A) is denied.

III. RESPONSE TO COMPLAINT REGARDING SECTION 9 (NOTIFICATION OF NEIGHBORING PROPERTY OWNERS)

The complaint objects to Section 9, which requires an applicant for a major timbering permit to provide a list of names and addresses of all property owners within 1,000 feet of the subject property and to notify those owners in writing of the proposed major timbering operation. The complaint contends that (1) the 1,000-foot radius is excessive and (2) the measurement standard is poorly defined.

The Township denies this complaint for the following reasons:

First, the 1,000-foot notification radius is a reasonable exercise of the Township's authority to protect neighboring property owners. Major timbering operations generate substantial noise, dust, debris, and heavy equipment traffic over extended periods. These impacts are readily perceptible well beyond the boundary of the subject parcel. A 1,000-foot notification radius ensures that those most likely to be materially affected by such operations are given advance notice, affording them an opportunity to raise legitimate concerns before operations commence. This is a purely procedural notification requirement that imposes no substantive restriction on the timber harvesting activity itself and therefore does not constitute an unreasonable restriction on normal agricultural operations under the ACRE Act.

Second, the complaint's concern about the measurement standard — whether the 1,000 feet is measured from the center or the boundary of the property — is a matter of administrative implementation, not a legal defect in the Ordinance. The Township interprets and will apply the 1,000-foot radius as measured from the outermost boundary of the subject property, consistent with the most protective and logically defensible interpretation. Applicants seeking clarification may request written guidance from the Township. Any ambiguity in measurement does not render the notification requirement unreasonable or preempted under the ACRE Act.

Third, the ACRE Act does not prohibit reasonable procedural requirements that protect neighboring landowners. Notification requirements are among the most minimally burdensome regulatory tools available to municipalities. They impose no cost on the timber operation itself, impose no restriction on when, where, or how timber may be harvested, and serve a legitimate public interest in community transparency. Such requirements are consistent with the ACRE Act's preservation of reasonable local land use authority.

Accordingly, the complaint against Section 9 is denied.

IV. RESPONSE TO COMPLAINT REGARDING SECTION 10 (ACTION BY BOARD OF SUPERVISORS) — PERMIT REVIEW PROCESS

The complaint objects to Section 10 on the grounds that the Ordinance's requirement that a major timbering permit be approved or disapproved within 90 days by the Township, with review by the Municipal Engineer, Municipal Planning Commission, Code Enforcement Officer, and/or

the Township Supervisors, effectively transforms a permitted use by right into a conditional use, which the complaint asserts is preempted by 53 P.S. § 10603(f) of the MPC and the ACRE Act.

The Township denies this complaint for the following reasons:

First, the issuance of a permit for a regulated activity does not transform that activity into a conditional use. The MPC and ACRE Act distinguish between zoning use classifications — permitted uses by right versus conditional uses — and permitting processes for activities within a use classification. Timber harvesting remains a permitted use by right in all zoning districts under 53 P.S. § 10603(f). The Township's permit review process does not alter that classification. It is a standard regulatory permitting mechanism designed to ensure that timber harvesting operations comply with the Township's lawful minimum performance standards.

Second, ministerial review by Township officials — the Engineer, Planning Commission, Code Enforcement Officer, or Supervisors — as part of a defined permitting process is not equivalent to a conditional use hearing. A conditional use process involves quasi-judicial proceedings, evidentiary hearings, and the imposition of individualized conditions at the discretion of the governing body. Section 10's review process is time-limited (90 days), based on objective compliance with the Ordinance's stated standards, and results in approval or disapproval against defined criteria. Failure to act within 90 days does not constitute deemed approval, but the 90-day window itself ensures timely disposition. This structured, ministerial process is lawful under the MPC and does not conflict with the ACRE Act.

Third, to the extent any individual review requirement within the permitting process could be argued to constitute an unreasonable restriction, the appropriate remedy under the ACRE Act is challenge to that specific requirement — not invalidation of the permit process as a whole. The Township's permitting structure serves the important governmental interest of ensuring that major timbering operations are conducted safely and in compliance with applicable environmental and land use standards.

Accordingly, the complaint against Section 10 is denied.

V. CONCLUSION

For the reasons set forth above, the Township of Forward Township denies each of the above-referenced complaints in their entirety. The challenged provisions of the Timbering and Logging Ordinance are reasonable, narrowly tailored regulatory measures that serve legitimate public interests in environmental protection, public safety, and community notification. None of the challenged provisions constitutes an unreasonable restriction on normal agricultural or forestry operations under the ACRE Act, 3 Pa. C.S. §§ 311–318, or the MPC, 53 P.S. § 10101 et seq.

The Township reserves the right to supplement this response with additional legal authority and to raise any and all additional defenses in any subsequent legal proceeding.

Very truly yours,
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cc: [REDACTED]