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Topic: TREE CONSERVATION

Description: AN ORDINANCE ORDAINING AND ENACTING REGULATIONS TO TIMBER HARVESTING PRACTICES AND TO ALLOW FOR AND ENCOURAGE PROPER FOREST MANAGEMENT WITHIN _____ TOWNSHIP.

----- Text -----

TIMBER HARVESTING ORDINANCE

_____ TOWNSHIP
_____ COUNTY, PENNSYLVANIA

AN ORDINANCE ORDAINING AND ENACTING REGULATIONS TO TIMBER HARVESTING PRACTICES AND TO ALLOW FOR AND ENCOURAGE PROPER FOREST MANAGEMENT WITHIN _____ TOWNSHIP. THIS ORDINANCE IS NOT INTENDED TO PRESCRIBED 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, NON-COMMERCIAL TIMBER STAND IMPROVEMENT WORK, OR FOR A LAND USE CHANGE. THIS ORDINANCE PROVIDES FOR REGULATION, ENFORCEMENT AND PENALTIES FOR VIOLATION OF THIS ORDINANCE.

THE BOARD OF SUPERVISORS OF _____ TOWNSHIP DOES HEREBY ENACT AND ORDAIN:

SECTION I - TITLE: This Ordinance shall be known as the Timber Harvesting Ordinance.

SECTION II 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 III PURPOSE:

3.01 To recognize that forest management and tree harvesting is an important legitimate activity in the forestland of _____ Township, _____ County, Pennsylvania.

3.02 To provide for the regulation of such activity 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, and

C. That the potential for negative environmental impacts resulting from improper tree harvesting is minimized.

SECTION IV INTENT: - It is the intent of this ordinance to regulate timber harvesting practices and to allow for and encourage proper forest management within _____ 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, non-commercial timber stand improvement work, or for a land use change.

SECTION V DEFINITIONS: - The following words are defined as they are used in this ordinance:

5.01 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.

5.02 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.

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

5.04 Land Use Change: Conversion of forest land to uses such as residential, commercial, industrial, etc., where forest management practices relative to timber production and harvesting are no longer practical.

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

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

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

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

5.09 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.

5.10 Operator: The individual, partnership, company, firm, association, or corporation engaged in the harvest of timber including his/her agents, or subcontractors, or employees.

5.11 Owner: The individual, partnership, company, firm, association, or corporation engaged in the harvest of timber including his/her agents, or subcontractors, or employees.

5.12 Perennial Stream: A stream whose water flow normally occurs year-round.

5.13 Permit: Written permission, warrant, or license granted by a governmental authority.

5.14 Professional Forester: A person who has a 13.S. or higher degree in forestry from a four-year school of forestry associated with or accredited by the Society of American Foresters.

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

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

5.17 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.

5.18 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.

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

5.20 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.

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

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

SECTION VI APPLICABILITY: - The provisions and requirements of this ordinance shall apply to all tree harvesting operations within the township except that notification and submission of plans shall be required only as outlined in Sections VII-8.06 and VII-8.07.

SECTION VII 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 VII REGULATIONS:

8.01 A logging plan shall be prepared for each harvesting operation within _____ Township by a professional forester or forest technician.

8.02 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 (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), as amended, or subsequent applicable legislation.

8.03 Points that shall be addressed by the logging plan, including the following as a minimum:

- A. Design of the road system.
- B. Water control structures.
- C. Stream crossings.
- D. Log landings.
- E. Haul roads, skid roads, and skid trails.
- F. Maintenance of items 1 through 5.
- G. Road and log landing retirement.
- H. The general location of the anticipated operation in relation to municipal and state highways.
- I. The location of property boundaries for the tract on which the logging will take place and the boundaries of the proposed harvest area.
- J. A cutting practice or stand prescription for each stand located in the proposed harvest area.
- K. Copies of all required permits shall be submitted as an Appendix to the logging plan.

8.04 The plan required by the rules and regulations referred to in Paragraph VII-8.02 above shall satisfy the requirements of this ordinance if points H, I, and J under Paragraph VII-8.03 are also addressed.

8.05 The plan will be available at the timber harvesting site.

8.06 For all tree harvesting operations that are expected to exceed five acres, the township enforcement officer shall be notified before the beginning and end of the operation.

8.07 In addition to the notification required in Section VI-F, a copy of the written logging plan shall be on site and submitted upon request.

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

8.09 General operational requirements: The following requirements shall govern all timber harvesting activity.

A. 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.

B. No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare.

C. 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.

D. No tops or slash shall be left on or across a property boundary without the consent of the adjoining landowner.

E. Litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator.

F. 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 within the 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, whichever 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.

SECTION IX ENFORCEMENT

9.01 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. It is recommended that the landowner or landowners representative be contacted and invited to be present during the inspection.

9.02 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/her approval.

9.03 When any operator is found to be violating any provision of this ordinance, the township enforcement officer shall provide the operator and the landowner or landowners representative with a written statement describing each violation and specifying a date by which corrective action must be taken.

9.04 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 _____ County Conservation District and request enforcement of the rules and regulations referred to under Paragraph VI-B of this ordinance.

SECTION X. PENALTIES: - Any landowner or operator who violates any provision of this ordinance is guilty of a 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 XI 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 _____ Township that this Ordinance would have been adopted had such provision or provisions held invalid not been included therein.

SECTION XII 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 XIV EFFECTIVE DATES: This Ordinance is effective five days after its enactment.

ORDINANCE NO. ____ IS HEREBY ENACTED AND ORDAINED BY THE

BOARD OF SUPERVISORS OF _____ TOWNSHIP, _____
 COUNTY,
 PENNSYLVANIA ON THIS _____ DAY OF _____, 2____.

ATTEST:

_____ TOWNSHIP
 BOARD OF SUPERVISORS

 Secretary

By: _____
 Chairman

The PSATS Ordinance Database includes examples that townships can use when developing their own ordinances, job descriptions, and personnel regulations. Please keep in mind that these examples are merely models and should only be used as a guide in developing your own ordinance, job description, or personnel regulation. PSATS encourages township officials to review and discuss all proposed ordinances, job descriptions, or personnel regulations with their township solicitor. Also, please keep in mind that PSATS cannot guarantee that a model ordinance, job description, or personnel regulation has or will withstand a court challenge.

