

POCONO TOWNSHIP, MONROE COUNTY, PENNSYLVANIA

ORDINANCE NO. 2022 –

AN ORDINANCE OF THE TOWNSHIP OF POCONO, COUNTY OF MONROE, COMMONWEALTH OF PENNSYLVANIA, AMENDING THE CODE OF ORDINANCES OF POCONO TOWNSHIP, PART II GENERAL LEGISLATION TO ADD A NEW CHAPTER 400, TIMBER HARVESTING AND REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES INCONSISTENT HEREWITH.

WHEREAS, Board of Commissioners, Pocono Township, Monroe County, Pennsylvania, desires to amend the Code of Ordinances of Pocono Township, to add a new Chapter 400 regulating timber harvesting within the Township.

NOW THEREFORE, BE IT ENACTED AND ORDAINED, by the Board of Commissioners, Pocono Township, Monroe County, Pennsylvania, and it is hereby **ENACTED AND ORDAINED** by virtue of the activity of the General Assembly of the Commonwealth of Pennsylvania known as the “First Class Township Code, as amended”, as follows:

SECTION I. Part II of the Code of Ordinances of Pocono Township is hereby amended to add Chapter 400, Timber Harvesting, to read as follows:

“Chapter 400. Timber Harvesting

§400-1. Policy; purpose.

In order to conserve forested open spaces and the environmental and economic benefits they provide, it is the policy of the Township of Pocono (the “Township”) to encourage the owners of forestland to continue to use their land for forestry purposes, including the long-term production of timber, recreation, wildlife, and amenity values. The timber harvesting regulations contained in sections 400-1 through 400-8 are intended to further this policy by (1) promoting good forest stewardship, (2) protecting the rights of adjoining property owners, (3) minimizing the potential for adverse environmental impacts, and (4) avoiding unreasonable and unnecessary restrictions on the right to practice forestry and improving human health and welfare of the community.

§400-2. Scope; applicability.

To encourage maintenance and management of forested or wooded open spaces and promote the conduct of forestry as a sound and economically viable use of forested land throughout the Township, forestry activities—including timber harvesting—shall be a permitted use by right in all zoning districts. Sections 400-1 through 400-8 apply to all timber harvesting within the Township where the value of the trees, logs, or other timber products removed exceeds Two Thousand and 00/100 (\$2,000.00) Dollars. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre-commercial timber stand improvement.

§400-3. Definitions.

As used in sections 400-1 through 400-8, the following terms shall have the meanings given in this section:

"Felling" means the act of cutting a standing tree so that it falls to the ground.

"Forestry" means the management of forests and timberlands when practiced in accordance with accepted silvicultural principles, through developing, cultivating, harvesting, transporting, and selling trees for commercial purposes, which does not involve any land development. (The definition of forestry is taken from 53 P.S. § 10107 of the Pennsylvania Municipalities Planning Code. Only forests and timberlands subject to residential or commercial development shall be regulated under the Township's land development and subdivision ordinance.)

"Landing" means a place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.

"Landowner" means an individual, partnership, company, firm, association, or corporation that is in actual control of forested land, whether such control is based on legal or equitable title or any other interest entitling the holder to sell or otherwise dispose of any or all of the timber on such land in any manner, and any agents thereof acting on their behalf, such as forestry consultants, who set up and administer timber harvesting.

"Litter" means discarded items not naturally occurring on the site, such as tires, oil cans, equipment parts, and other rubbish.

"Lop" means to cut tops and slash into smaller pieces to allow material to settle close to the ground.

"Operator" means an individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.

"Pre-commercial timber stand improvement" means a forest practice, such as thinning or pruning, that results in better growth, structure, species composition, or health for the residual stand but does not yield a net income to the landowner, usually because any trees cut are of poor quality, too small, or otherwise of limited marketability or value.

"Skidding" means dragging trees on the ground from the stump to the landing by any means.

"Slash" means woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.

"Stand" means any area of forest vegetation whose site conditions, past history, and current species composition are sufficiently uniform to be managed as a unit.

"Stream" means any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and bank.

"Timber harvesting," "tree harvesting," or "logging" means that part of forestry involving cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

"Top" means the upper portion of a felled tree that is not merchantable because of small size, taper, or defect.

"Wetland" means "areas that are inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances, do support a prevalence of vegetation typically adapted for life in saturated soil conditions including swamps, marshes, bogs, and similar areas.

§400-4 . Notification; preparation of a logging plan.

A. Notification of commencement or completion. For all timber harvesting operations that are expected to exceed one (1) acre, the landowner shall notify the Township enforcement officer at least five (5) business days before the operation commences and within ten (10) business days before the operation is complete. No timber harvesting shall occur until the notice has been provided. Notification shall be in writing and specify the land on which harvesting will occur, the expected size of the harvest area, and, as applicable, the anticipated starting or completion date of the operation.

B. Logging plan. Every landowner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified by this ordinance. No timber harvesting shall occur until the plan has been prepared and provided to the Township. The provisions of the plan shall be followed throughout the operation. The plan shall be always available at the harvest site during the operation and shall be provided to the code enforcement officer upon request.

C. Responsibility for compliance. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

§400-5. Contents of the logging plan.

A. Minimum requirements. At a minimum, the logging plan shall include the following:

(1) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings

(2) Design, construction, and maintenance of water control measures and structures, such as culverts, broad-based dips, filter strips, and water bars

(3) Design, construction, and maintenance of stream and wetland crossings

- (4) The general location of the proposed operation in relation to municipal and state highways, including any accesses to those highways
- B. Map. Each logging plan shall include a sketch map or drawing containing the following information:
 - (1) Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place and the boundaries of the proposed harvest area within that property;
 - (2) Significant topographic features related to potential environmental problems;
 - (3) Location of all earth disturbance activities, such as roads, landings, and water control measures and structures;
 - (4) Location of all crossings of waters of the Commonwealth; and
 - (5) The general location of the proposed operation to municipal and state highways, including any accesses to those highways.
- C. Compliance with state law. The logging plan shall address and comply with the requirements of all applicable state regulations including, but not limited to, the following:
 - (1) Erosion and sedimentation control regulations contained in Title 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law (35 P.S. § 691.1 et seq.);
 - (2) Stream crossing and wetlands protection regulations contained in Title 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. § 693.1 et seq.).
- D. Relationships of state laws, regulations, and permits to the logging plan.
 - 1. Any permits required by state laws and regulations shall be attached to and become part of the logging plan. An erosion and sedimentation pollution control plan that satisfies the requirements of Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for the logging plan and associated map specified in paragraphs A and B of this section, provided that all information required by these paragraphs is included or attached.

§400-6. Forest practices.

The following requirements shall apply to all timber harvesting operations in the Township:

- A. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Township or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.

- B. No tops or slash shall be left within Twenty-Five (25') feet of any public thoroughfare or private roadway providing access to adjoining residential property.
- C. All tops and slash between Twenty-Five (25') and Fifty (50') feet from a public or private roadway providing access to adjoining residential property or within fifty (50') feet of adjoining residential property shall be lopped to a maximum height of Four (4') feet above the ground.
- D. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner thereof.
- E. Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

§400-7. Responsibility for road maintenance and repair; road bonding.

Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49, and Title 67 Pennsylvania Code, Chapter 189, 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 operator may be required to furnish a bond to guarantee the repair of such damages.

§400-8. Enforcement.

- A. Code enforcement officer.

The code enforcement officer shall administer and enforce for sections 400-1 through 400-8 of this ordinance.

- B. Inspections.

The code enforcement officer may go upon the site of any timber harvesting operation before, during, or after active logging to

- (1) review the logging plan or any other required documents for compliance with sections 400-1 through 400-8; and
- (2) inspect the operation for compliance with the logging plan and other on-site requirements of these regulations. Note that active logging sites are inherently dangerous, even when tree felling is not occurring. No one should ever enter onto an active logging site without the proper personal protective equipment and/or without giving prior notification to the logging supervisor.

- C. Violation notices; suspensions.

Upon finding that a timber harvesting operation is in violation of any provision of this ordinance, the code enforcement officer shall issue the operator and the landowner a written notice of violation describing each violation and specifying a date of not less than 30 days by which corrective action must be taken. The code enforcement officer may order the immediate suspension of any operation upon finding that

- (1) corrective action has not been taken by the date specified in a notice of violation;
- (2) the operation is proceeding without a logging plan; or
- (3) the operation is causing immediate harm to the environment as confirmed by local conservation district and DEP. Suspension orders shall be in writing, issued to both the operator and the landowner, and remain in effect until, as determined by the code enforcement officer, the operation is brought into compliance with this ordinance or other applicable statutes or regulations of the logging plan. The landowner or the operator shall appeal an order or decision of a code enforcement officer within 30 days of issuance to the governing body of the Township.

D. Penalties.

Any landowner or operator who

- (1) violates any provision of this ordinance;
- (2) refuses to allow the code enforcement officer access to a harvest site pursuant to paragraph (b) of this section; or
- (3) fails to comply with a notice of violation or suspension order issued under paragraph c of this section is guilty of a summary offense and upon conviction shall be subject to a fine of not less than One Hundred and 00/100 (\$100.00) plus costs. Each day the violation continues shall constitute a separate offense. The enforcement of this ordinance by the Township shall be by action brought before a district magistrate in the same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.”

SECTION II. SEVERABILITY; CONFLICT WITH OTHER PROVISIONS.

If any section, subsection or sentences, clause or phrase of this chapter is for any reason held invalid, such decision or decisions shall not affect the validity of the remaining portions of this chapter. All ordinances of the Township shall remain in full force and effect insofar as they do not conflict with the provisions of this chapter in which case the provisions of this chapter shall govern.

SECTION III. REPEALER.

Any Ordinance or part of any Ordinance conflicting with the terms of this Ordinance is hereby specifically repealed.

SECTION IV. EFFECTIVE DATE.

This Ordinance shall be effective within five (5) days and shall remain in force until modified, amended or rescinded by Pocono Township, Monroe County, Pennsylvania.

ENACTED AND ORDAINED this _____ of _____, 2022.

ATTEST:

**TOWNSHIP OF POCONO
MONROE COUNTY**

TAYLOR MUÑOZ
Township Manager

RICHARD WIELEBINSKI
President, Board of Commissioners