

ORDINANCE NO. 2003-²_____

**TOWNSHIP OF CUMBERLAND
GREENE COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE TOWNSHIP OF CUMBERLAND,
GREENE COUNTY, PENNSYLVANIA, REGULATING THE
HARVESTING OF TIMBER WITHIN THE TOWNSHIP AND
PRESCRIBING PENALTIES FOR THE VIOLATION
THEREOF.**

WHEREAS, it is now deemed necessary for the protection of the health, cleanliness, welfare, comfort and safety of the citizens of the Township of Cumberland to enact this Ordinance.

NOW THEREFORE, pursuant to the authority conferred upon it by the Pennsylvania Second Class Township Code as amended, and other laws of the Commonwealth of Pennsylvania, the Board of Supervisors of the Township of Cumberland, Greene County, Pennsylvania, do hereby ENACT AND ORDAIN the following:

SECTION 1. SHORT TITLE

This Ordinance shall be known and cited as the Township of Cumberland "TIMBER HARVESTING ORDINANCE".

SECTION 2. PURPOSE

This Ordinance recognizes the need within the Township of Cumberland to preserve forests and the environmental and economic benefits they provide, and it is the policy of the Township to encourage the owners of forest land 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 this Ordinance are intended to further this policy by promoting good forest stewardship, protecting the rights of adjoining property owners, minimizing the potential for adverse environmental impacts, and avoiding unreasonable and unnecessary restrictions on the right to practice forestry. Because proper cutting practices vary depending on the site and on landowner objectives, it is not the intent of this Ordinance to prescribe specific practices.

SECTION 3. SCOPE; APPLICABILITY

This Ordinance applies to all timber harvesting within the Township where the value of the trees, logs or other timber products removed exceeds an amount as set by resolution of the Board of Supervisors. These provisions do not apply to the cutting of trees for the personal use of the landowner or for pre-commercial timber stand improvement.

SECTION 4. DEFINITIONS

For the purposes of this Ordinance, the following terms are defined as follows and shall have the meanings ascribed to them in this section unless the context clearly indicates a different meaning:

FELLING - the act of cutting a standing tree so that it falls to the ground.

FORESTRY - managing and using for human benefit forest lands and natural resources that occur on and in association with forest lands, including trees, other plants, animals, soil and water. It includes, but is not limited to, the planting, cultivating, harvesting, transporting and selling of trees for commercial purposes.

LANDING - a place where logs, pulpwood or firewood are assembled for transportation to processing facilities.

LANDOWNER - an individual, partnership, company, firm, association or corporation that is in actual control of forest land, whether such control is based on legal or equitable title, or on 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 - discarded items not naturally occurring on the site such as tires, oil cans, equipment parts and other rubbish.

LOP - to cup tops and slash into smaller pieces to allow the material to settle close to the ground.

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

PRE-COMMERCIAL TIMBER STAND IMPROVEMENT - a forest practice, such as thinning or pruning, which results in better growth, structure, species composition or health for the residual stand but which 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 - dragging trees on the ground from the stump to the landing by any means.

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

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

STREAM - any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and banks.

TIMBER HARVESTING, TREE HARVESTING or LOGGING - the process of cutting down trees and removing logs from the forest for the primary purpose of sale or commercial processing into wood products.

TOP - the upper portion of a felled tree that is unmerchantable because of small size, taper or defect.

WETLAND - 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.

SECTION 5. 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 Code Enforcement Officer at least twenty (20) business days before the operation commences and within ten (10) business days before the operation is complete. No timber harvesting shall occur until the Board of Supervisors has approved a plan for the timber harvesting operations. Notification shall be in writing and shall 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 operator who harvests timber shall prepare a written logging plan in the form specified by this Ordinance. No timber harvesting shall occur until the operator has appeared before the Board of Supervisors to present his/her plan. The Board of Supervisors will then act upon this plan at a public Township meeting. The provisions of the plan shall be followed throughout the operation. The plan shall be available at the harvest site at all times during the operation. A copy of the plan shall be given to the Township.

C. **RESPONSIBILITY FOR COMPLIANCE** - The operator shall be responsible for complying with the terms of the logging plan.

SECTION 6. CONTENTS OF THE LOGGING PLAN

A. **MINIMUM REQUIREMENTS** - As 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; and

(5) An erosion and sediment control plan that is in compliance with current State laws and regulations.

(6) Each plan shall be accompanied by a fee as set by resolution of Council.

B. MAP - Each logging plan shall include a site map 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 laws and regulations including, but not limited to, the following:

(1) Erosion and sedimentation control regulations contained in 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 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. §§ 693.1 et seq.); and

(3) Stormwater management plans and regulations issued pursuant to the Stormwater Management Act (32 P.S. §§ 680.1 et seq.).

D. RELATIONSHIP OF STATE LAWS, REGULATIONS AND PERMITS TO THE LOGGING PLAN - 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 25 Pennsylvania Code, Chapter 102, shall also satisfy the minimum 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.

SECTION 7. 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 roadway 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 surface of 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.
- F. The operator and/or landowner shall not be permitted to run their trucks during that period of day when the local school buses are transporting children between school and their homes.

SECTION 8. RESPONSIBILITY FOR ROAD MAINTENANCE AND REPAIR; ROAD BONDING

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. Pursuant to 67 Pennsylvania Code, Chapter 189, the Township shall require the landowner or operator to furnish a bond to guarantee the repair of such damages.

SECTION 9. ENFORCEMENT

A. TOWNSHIP CODE ENFORCEMENT OFFICER - The Township Code Enforcement Officer shall be responsible for enforcing this Ordinance.

B. INSPECTIONS - The Township Code Enforcement Officer may go upon the site of any timber harvesting operation before, during, or after active logging to review the logging plan or any other required documents for compliance with this Ordinance and/or to inspect the operation for compliance with the logging plan and other on-site requirements of these regulations.

C. VIOLATION NOTICES; SUSPENSIONS - Upon finding that a timber harvesting operation is in violation of any provision of this Ordinance, the Township Code Enforcement Officer shall issue the operator and the landowner a written notice of violation describing each violation and specifying a date by which corrective action must be taken. The Township 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 an immediate environmental risk.

Suspension orders shall be in writing, shall be issued to the operator and the landowner and shall remain in effect until, as determined by the Township Code Enforcement Officer, the

operation is brought into compliance with this Ordinance or other applicable statutes or regulations. The landowner or the operator may appeal an order or decision of the Code Enforcement Officer within thirty (30) days of issuance to the Township Council.

SECTION 10. PENALTIES

Any landowner or operator who violates any provision of this Ordinance or refuses to allow the Township Code Enforcement Officer access to a harvest site pursuant to Section 9(B) or who fails to comply with a notice of violation or suspension order issued under Section 9(C) is guilty of a summary offense and upon conviction shall be subject to a fine of not less than one-hundred (\$100.00) dollars nor more than three-hundred (\$300.00) dollars, plus costs, for each separate offense. Each day of continued violation of any provision of this Ordinance shall constitute a separate offense.

SECTION 11. REPEALER

Any Ordinance containing any provision inconsistent herewith to the extent that such provision is inconsistent, that provision is also hereby repealed.

SECTION 12. SEVERABILITY

If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Township Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 13. EFFECTIVE DATE

This Ordinance shall become effective immediately upon final enactment.

ORDAINED AND ENACTED INTO LAW by the Council of the Township of
Cumberland, Greene County, Pennsylvania in lawful session assembled this 21st day of
May, 2003.

ATTEST:

**TOWNSHIP OF CUMBERLAND
BOARD OF SUPERVISORS**

Debra Rush
Debra Rush, Secretary/Treasurer

By: Homer Nicholson
Homer Nicholson, Chairman

By: James M. Sokol
James M. Sokol, Vice-Chairman

By: Leroy Baker
Leroy Baker, 3rd Member