

**TOWNSHIP OF BRANCH**

**County of Schuylkill in the  
Commonwealth of Pennsylvania**

**ORDINANCE NO. 2009- 1**

**AN ORDINANCE OF THE TOWNSHIP OF BRANCH, COUNTY OF SCHUYLKILL IN THE COMMONWEALTH OF PENNSYLVANIA REGULATING TREE HARVESTING, PROVIDING FOR THE SUBMISSION OF LOGGING PLANS; REQUIRING COMPLIANCE WITH APPLICABLE REGULATIONS SETTING GENERAL OPERATIONAL REQUIREMENTS FOR TIMBER HARVESTING ACTIVITY; PROVIDING FOR ENFORCEMENT; AND ESTABLISHING PENALTIES FOR ANY PERSON WHO VIOLATES OR REFUSES TO COMPLY WITH THE REQUIREMENTS OR PROVISIONS OF THIS ORDINANCE.**

BE IT ENACTED AND ORDAINED by the Board of Supervisors for the Township of Branch, and it is hereby enacted and ordained by the authority of same as follows:

This Ordinance shall be known as and may be cited as the "Branch Township Timbering Ordinance."

**Section 102 – 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 103 – PURPOSE:**

- (a) To recognize tree harvesting in Branch Township, Schuylkill County, Pennsylvania.
- (b) To provide for the regulation of such activity to ensure that:
  - 1. long-term production of timber crops is encouraged;
  - 2. the right to harvest trees is exercised with due regard for the protection of the physical property of adjacent landowners; and,
  - 3. the potential for negative environmental impacts resulting from improper tree harvesting is minimized.

#### Section 104 – INTENT:

It is the intent of this Ordinance to regulate timber harvesting practices and to allow for and encourage proper forest management within Branch 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. It is not the intent of this Ordinance to regulate timber harvest for home use.

#### Section 105 – APPLICABILITY:

This Ordinance shall apply uniformly to all property within the Township of Branch and all persons, whether natural or legal.

#### Section 106 – DEFINITIONS AND WORD USAGE:

- (a) Unless specifically defined below, words or phrases used herein shall be interpreted so as to give them the same meaning as they have in common usage and so as to give this Ordinance its most reasonable application consistent with the intent herein expressed.
- (b) The word "shall" is always mandatory and not merely directory.
- (c) Words used in the present tense include the future and past, words in the plural number include the singular, words in the singular number include words in the plural, and words in the feminine, masculine or neuter shall include words of the other two genders.
- (d) The following words are defined as they are used in this Ordinance:
  - 1. Felling: The act of cutting a standing tree so that it falls to the ground.
  - 2. Intermittent Stream: A stream whose water flow normally occurs in the wetter parts of the year October through April or following major storm events.
  - 3. Landing: A place where logs are assembled for transportation in loads.
  - 4. Logging Plan: A written description with a map of a specific logging operation prepared before the operation commences.
  - 5. Lopping: To cut tops and slash into smaller pieces to allow material to settle close to the ground.
  - 6. Operator: The individual, partnership, company, firm, association, or corporation engaged in the harvest of timber including his agents, or subcontractors, or employees.

7. Owner: The individual, political subdivision, governmental agency, partnership, company, firm, association or corporation which holds title to standing timber and to land on which it is situated, including his agents or subcontractor or employers; and, specifically included is one which hold equitable title and one which acts under any agreement, law, or order of court for an equitable title holder where the legal title holder has through default, breach or any other reason lost or surrendered control, even if involuntarily.
8. Perennial Stream: A stream whose water flow normally occurs year-round.
9. Skidding: Dragging trees on the ground, by any means, from the stump to the landing.
10. Slash: Debris left after logging, including logs, chunks, barks, branches, stumps and broken under story trees or brush.
11. Stream: Any channel of conveyance of surface water having a defined bed and banks, whether natural or artificial, with perennial or intermittent flow.
12. 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.
13. Tops: The upper portion of a felled tree not merchantable because of small size, taper, or defect.
14. Township: Township of Branch, County of Schuylkill in the Commonwealth of Pennsylvania.
15. 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.
16. 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.
17. Permit: Written permission, warrant, or license granted by a governmental authority.
18. Professional Forester: A person who has B.S. or higher degree in forestry from a four year school of forestry associated with or accredited by the Society of American Foresters.

19. 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 instruction 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.

20. 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.

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

#### Section 107 – 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 and several responsibility of the landowner and the operator to comply with the terms and provisions of the logging plan.

#### Section 108 – REGULATIONS:

(a) A logging plan shall be prepared by a Professional Forester or Forest Technician for each tree harvesting operation greater than 1 acre within the Township.

(b) 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, P.L. 1987 (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) and all amendments thereto. Copies of all other permit applications such as form 3930 FM-Wm0155 "PA DEP Form for Erosion and Sediment Control Plan for a Timber harvesting Operation."

(c) Points that shall be addressed by the logging plan including the following as a minimum:

1. Design of the road system.
2. Water control structures.
3. Stream crossing. All stream crossings require separate PA DEP permit.
4. Wetlands must be located and identified. All crossings of wetlands require applicable permit.
5. Logging landings.

6. Haul roads, skid roads, and skid trails.
7. Maintenance of items 1 through 6.
8. Road use.
9. Road and log landing retirement.
10. The general location of the anticipated operation in relation to municipal and state highways.
11. The location of property boundaries for the tract on which the logging will take place and the boundaries of the proposed harvest area.
12. When a primary purpose of the operation is not logging, or when the result of logging is to provide clearing of land for a related or unrelated purpose, the plan for cleared land use and the reason for the planned land clearing.
13. Approximate starting and completion date for the operation.
14. A cutting practice or stand prescription for each stand located in the proposed harvest area.
15. Topography of the logging area and adjacent area surrounding the logging area.

(d) Notification of commencement or completion. For all timber harvesting, the landowner shall notify Branch Township and the Schuylkill County Conservation District at least seven (7) business days before the operation commences and within seven (7) before the operation is complete. No timber harvesting shall occur until the notice has been provided. 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.

(e) In addition to the notification required in Section 108(d), a copy of the logging plan shall be submitted to the Schuylkill County Conservation District with the notification of beginning operation if the tree harvesting area involved is expected to exceed twenty-five (25) acres.

(f) The plan shall be available at the timber harvesting site at all times during the operation.

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

(h) The following general operational requirements shall govern all timber harvesting activity:

(1) 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.

a. Use of municipal or state roads for timbering must comply with Road Bonding Regulations, Hauling in excess of posted weight limit on highways (67 PA Code, Chapter 189). This procedure must be followed even if the road is not currently posted. The applicant must request the current postings from the Township. This procedure allows for excessive maintenance agreements, permits, inspections, bonding and monitoring. The applicant is responsible for these fees.

(2) No tops or slash shall be left within fifty (50) feet of any public thoroughfare.

(3) All tops and slash between a distance of fifty (50) and one-hundred (100) feet from a public thoroughfare shall be lopped to a maximum height of four (4) feet above the surface of the ground.

(4) (a) A minimum of 20 square feet of basal area per acre of desirable commercial species shall be retained in situ on the harvest site. The basal area of trees required to remain in the buffer zone set forth in paragraph 5 hereinafter **shall not** be included in the required minimum basal area per acre calculation.

(b) A minimum of thirty (30) square feet of basal area per acre of desirable commercial species shall be retained on all slopes greater than ten (10) percent on the harvest site.

<u>D.B.H.</u> Inches	<u>Basal Area Per Tree</u> Square Feet	<u>D.B.H.</u> Inches	<u>Basal Area Per Tree</u> Square Feet
1	.005	16	1.396
2	.022	17	1.576
3	.049	18	1.767
4	.087	19	1.969
5	.136	20	2.182
6	.196	22	2.640
7	.267	24	3.142
8	.349	26	3.684
9	.442	28	4.273
10	.545	30	4.905
11	.660	32	5.581
12	.785	34	6.300
13	.922	36	7.063
14	1.069	38	7.870
15	1.227	40	8.720

- (5) All trees required to be retained shall be identified on the logging plan or shall clearly be marked by paint or ribbon on the harvesting site at least seven (7) days prior to any harvesting.
- (6) Except immediately adjacent to State or Township roads, a one-hundred (100) foot buffer zone of untouched timber shall be maintained between the cutting site and adjacent property boundaries unless specifically waived in writing by the adjacent property owner.
- (7) Tree Harvesting and related activity covered by an approved logging plan shall be conducted only between Monday through Friday between the hours of seven (7) o'clock a.m. and five (5) o'clock p.m., unless these times are extended, excused or otherwise modified in writing by the Board of Supervisors or its designee. Operation during other hours is prohibited.
- (8) No tops or slash shall be left on or across a property boundary without the consent of the adjoining landowner.
- (9) Litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the operator.
- (10) The erosion and sediment control and stream crossing requirements addressed in the logging plan shall be followed at all times during the operation.
- (11) 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 are within 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, which ever 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.
- (12) When the activities pertain to cultivation and harvesting of ornamental trees, other nursery endeavors, or both, a general, long range plan may be submitted prior to the first harvesting consistent with Section 107 (e); then, a separate plan for each harvesting shall not be required. However, amendment to said plans are required as the plan is altered or modified.



- (13) Clear cutting is prohibited. The Township will consider clear cutting and other forestry best management practices that differ from this Ordinance on a case by case basis due to unique or unusual circumstances.

**Section 109 – RESPONSIBILITY FOR ROAD MAINTENANCE AND REPAIR, REPAIR BONDING:**

The landowner and the operator shall be jointly and severally 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, and as such may be required to furnish a bond to guarantee the repair of such damages.

**Section 110 – REPLANTING:**

If the intention of the Logging Plan is to remove poor quality trees or to restock the property the timbered area shall be replanted by planting, one for one, in the same area where each tree was harvested, a tree of the same type as that of the tree harvested.

The Board of Supervisors may in their discretion, modify the provisions of this section upon clear showing by applicant that its proposed use of the property is inconsistent with long term production of timber crops.

**Section 111 – ENFORCEMENT:**

- (a) The enforcement officers designated by the Township including but not limited to its Zoning or Code Enforcement Officer, its engineer or its solicitor 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.
- (b) 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 approval.
- (c) When any operator is found to be violating any provision of this Ordinance, the Township enforcement officer shall provide the operator with a written statement describing each violation, and specifying a date by which corrective action must be taken. Such corrective work shall be completed immediately upon receipt of written notification or upon written request by landowner within a specified period of time agreed upon by the Board of Supervisors.



- (d) 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 Schuylkill County Conservation District and request enforcement of the rules and regulations referred to under Section 107 (b) of this Ordinance.

#### Section 112 – PENALTIES:

Any landowner or operator who violates any provision of this Ordinance is guilty of 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 113 – 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 Branch Township that this Ordinance would have been adopted had such provision or provisions held invalid not been included therein.

#### Section 114 – 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 115 – PERMIT AND PERMIT FEES:

- a. A permit is required prior to the start of any timbering operation.
- b. The charge for said permit shall, for each separate undertaking, shall be in accordance with Figure 1.
- c. A completed timbering permit application (see Figure 2) and corresponding fee must accompany the application.
- d. A permit shall be valid for one year from the date of issuance.
- e. A timber plan must accompany the permit application as required by this Ordinance.

#### Section 116 – EFFECTIVE DATES:

This Ordinance is effective five (5) days after its enactment.

ORDINANCE NO. 2009-1 IS HEREBY ENACTED AND ORDAINED BY THE  
BOARD OF SUPERVISORS OF BRANCH TOWNSHIP, SCHUYLKILL COUNTY,  
PENNSYLVANIA ON THIS 30 DAY OF March, 2009.

ATTEST:

BRANCH TOWNSHIP  
BOARD OF SUPERVISORS

Joyce Beach  
JOYCE BEACH, Secretary

BY: Robert Keifer  
ROBERT KEIFER, Chairperson

BY: Joseph Wank  
JOSEPH WANK, Supervisor

BY: John Purcell  
JOHN PURCELL, Supervisor

(TOWNSHIP SEAL)

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### CERTIFICATE

I, the undersigned, Secretary of the Township of Branch, Schuylkill County, Pennsylvania (the "Township"), certify: that the foregoing is a true and correct copy of the Timbering Ordinance by the Board of Supervisors of the Township of Branch (the "Board of Supervisors"), which duly was enacted by affirmative vote of a majority of all members of the Board of Supervisors at a meeting of the Board of Supervisors duly convened and held according to law on March 30, 2009, at which meeting a quorum was present; and that said Ordinance duly has been recorded in the Ordinance book of the Township.

IN WITNESS WHEREOF, I set my hand and affix the official seal of the Township, this 30 day of March, 2009.

Joyce Beach

Joyce Beach, Secretary  
Branch Township  
Post Office Box 222  
Llewellyn, Pennsylvania 17944  
Telephone Number: (570) 544-4283

(TOWNSHIP SEAL)