

**TOWNSHIP OF RACCOON  
BEAVER COUNTY, PENNSYLVANIA**

**Ordinance No. 2024 - /**

AN ORDINANCE OF THE TOWNSHIP OF RACCOON, BEAVER COUNTY, PENNSYLVANIA, RESCINDING IN ITS ENTIRETY THE CURRENT CHAPTER 168 OF THE RACCOON TOWNSHIP CODE, TITLED “TIMBER HARVESTING,” AND REPLACING IT WITH THE ENACTION OF A NEW CHAPTER 168, TITLED “TIMBER HARVESTING,” FOR THE PURPOSE OF COMPLYING WITH FORESTRY AND TIMBERING LAW WITHIN THE TOWNSHIP.

WHEREAS, the Township of Raccoon (hereinafter “Township”), is a township located in the County of Beaver, Commonwealth of Pennsylvania, incorporated as a body corporate and politic pursuant to the Second-Class Township Code, 53 P.S. §65101, et. seq. (hereinafter “Township Code”), having its office located at 1234 State Route 18, Aliquippa, Pennsylvania, 15001; and

WHEREAS, pursuant to the Township Code, 53 P.S. §66601, township supervisors may adopt ordinances in accordance with Township Code and the laws of the Commonwealth of Pennsylvania in which the general or specific powers of the Township may be exercised; and

WHEREAS, pursuant to the Township Code, 53 P.S. §66601, by enactment of subsequent ordinances, the Township Board of Supervisors may amend, repeal or revise existing ordinances; and

WHEREAS, on June 26, 2023, the Office of Attorney General (hereinafter “OAG”), pursuant to Act 38 of 2005, titled the Agriculture, Communities and Rural Environment Act (hereinafter “ACRE”), received a challenge to the legality of some provisions of Chapter 168, titled “Timbering Harvest”, of the Raccoon Township Code; and

WHEREAS, on July 11, 2023, OAG directed inquiry to the Township regarding said challenge and requested a response thereto; and

WHEREAS, pursuant to discussion between the Township and OAG, the Township has agreed to rescind the current Chapter 168 of its Code and adopt a new Chapter 168 in order to comply with ACRE and OAG requests; and

WHEREAS, the Township desires to rescind its current Timber Harvesting Ordinance, found in Chapter 168 of the Raccoon Township Code, and adopt a new Chapter 168 regarding timber harvesting for the benefit of the Township and its residents.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of the Township of Raccoon, Beaver County, Pennsylvania and it is hereby ordained and enacted by the authority of the same that:

- (1) Chapter 168 of the current Raccoon Township Code, titled “Timber Harvesting,” is rescinded, repealed, and revoked in its entirety.
- (2) Chapter 168 of the Raccoon Township Code shall still be titled “Timber Harvesting.”
- (3) Chapter 168 of the Raccoon Township Code shall now read as follows:

**SECTION 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 Raccoon 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 herein are intended to further this policy by:

- (1) Prompting 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 of forestry and improving human health and welfare of the community.

**SECTION 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. This Chapter shall apply to all timber harvesting within the Township where the value of the trees, logs or other timber products removed exceeds Two Thousand Dollars (\$2,000.00). This Chapter does not apply to the cutting of trees for the personal use of the landowner or for precommercial timber stand improvement.

**SECTION 3. DEFINITIONS.** As used this Chapter, the following terms shall have the following meanings:

- (1) **Felling:** Means the act of cutting a standing tree so that it falls to the ground.
- (2) **Forestry:** Means the management of forests and timberland 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.*)
- (3) **Landing:** Means a place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.
- (4) **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.

- (5) **Litter**: Means discarded items not naturally occurring on the site, such as tires, oil cans, equipment parts and other rubbish.
- (6) **Lop**: Means to cut tops and slash into smaller pieces to allow material to settle close to the ground.
- (7) **Operator**: Means an individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.
- (8) **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.
- (9) **Skidding**: Means dragging trees on the ground from the stump to the Landing by any means.
- (10) **Slash**: Means woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.
- (11) **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.
- (12) **Stream**: Means any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and bank.
- (13) **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.
- (14) **Top**: Means the upper portion of a felled tree that is not merchantable because of small size, taper or defect.
- (15) **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 (*See Pennsylvania Code, Chapter 105 Regulations*).

#### **SECTION 4. NOTIFICATION; PREPARATION OF A LOGGING PLAN:**

- (1) **Notification of Commencement or Completion**: For all timber harvesting operations that are expected to exceed one (1) acre, the Landowner shall notify the Township Secretary at least Fifteen (15) calendar days before the operation commences and within Ten (10) calendar 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.

- (2) **Application and Logging Plan Generally:** Every Landowner on whose land timber harvesting is to occur, shall prepare a written logging plan in the form specified by this Chapter. 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 available at the harvest site at all times during the operation and shall be provided to the Township Code Enforcement Officer upon request. The following shall be required for each Application:
- (a) Landowner proof of ownership of proposed timber harvesting property;
  - (b) Pennsylvania Department of Transportation or Township driveway permit(s) for all access roads, if applicable;
  - (c) All adjacent property owners shall be notified of the intent to log, evidenced by submission of a list of the landowners contacted, including proof of mailing;
  - (d) The identity of the timber harvesting operator shall be provided to the Township upon the award of the bid for the timber harvest covered by the approved timber harvesting permit and proof of any insurance required under State law or proof of exemption therefrom for the timber harvester shall also be provided at the same time; and
  - (e) A non-refundable application fee in the amount of Two Hundred Fifty (\$250.00) Dollars, which may be changed from time to time by resolution of the Township Board of Supervisors.
- (3) **Responsibility for Compliance:** The Landowner and the Operator shall be jointly and severally responsible for complying with the terms of the logging plan.

#### **SECTION 5. CONTENTS OF THE LOGGING PLAN:**

- (1) **Minimum Requirements:** At a minimum, the logging plan shall include the following:
- (a) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and Landings;
  - (b) Design, construction, and maintenance of water control measures and structures, such as culverts, broad-based dips, filter strips, and water bars;

- (c) Design, construction, and maintenance of stream and wetland crossings; and
  - (d) The general location of the proposed operation in relation to municipal and state highways, including any access to those highways.
- (2) **Map:** Each logging plan shall include a sketch map or drawing containing the following information:
- (a) 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;
  - (b) Significant topographic features related to potential environmental problems;
  - (c) Location of all earth disturbance activities, such as roads, landings, and water control measures and structures;
  - (d) Location of all crossings of waters of the Commonwealth; and
  - (e) The general location of the proposed operation to municipal and state highways, including any accesses to those highways.
- (3) **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:
- (a) 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.); and
  - (b) 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.).
- (4) **Relationships 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 Title 25 Pennsylvania Code, Chapter 102, shall also satisfy the requirements for logging plan and associated map specified in Paragraphs (1) and (2) of this Section 5, provided that all information required by these paragraphs is included or attached.

**SECTION 6. FOREST PRACTICES:** The following requirements shall apply to all timber harvesting operations in the Township:

- (1) 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 public thoroughfare;
- (2) 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;
- (3) 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 be Lopped to a maximum height of four (4) feet above the ground;
- (4) 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; and
- (5) Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the Operator.

**SECTION 7. RESPONSIBILTY FOR ROAD MAINTENANCE AND REPAIR;**

**ROAD BOND:** Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49, and Title 67 of the 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. If the proposed timber harvesting operation will be utilizing Township roads, and the tonnage on those Township roads will be exceeded, an excess weight permit will be required. Said excess weight permit fee shall be One Hundred (\$100.00) Dollars. Further, the Operator may be required to furnish a bond to guarantee the repair of such damages to Township roads, with said bond amount to be determined by the Township Engineer.

**SECTION 8. ENFORCEMENT:**

- (1) **Code Enforcement Officer:** The Township Code Enforcement Officer shall administer and enforce the Township's Timber Harvesting Ordinance.
- (2) **Inspections:** The Code Enforcement Officer may go upon the site of any timber harvesting operation before, during, or after active logging to:

- (a) Review the logging plan or any other required documents for compliance with this Chapter; and
  - (b) Inspect the operation for compliance with the logging plan and other onsite 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.
- (3) **Violation Notices; Suspensions:** Upon finding that a timber harvesting operation is in violation of any provision of this Chapter, the Township 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 thirty (30) days by which corrective action must be taken. The Township Code Enforcement Officer may order the immediate suspension of any operation upon finding that:
- (a) Corrective action has not been taken by the date specified in a notice of violation; or
  - (b) The operation is proceeding without a logging plan; or
  - (c) The operation is causing immediate harm to the environment as confirmed by the Beaver County Conservation District and/or Department of Environmental Protection. Suspension orders shall be in writing, issued to both the Operator and the Landowner, and 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 of the logging plan. The Landowner or the Operator shall appeal an order or decision of the Township Code Enforcement Officer within thirty (30) days of issuance to the Township Supervisors.
- (4) **Penalties:** Any Landowner or Operator who:
- (a) Violates any provision of this Chapter; or
  - (b) Refuses to allow the Township Code Enforcement Officer access to a harvest site pursuant to this Paragraph (2) this Section 8; or
  - (c) Fails to comply with a notice of violation or suspension order issued under Paragraph (3) of this Section 8, is guilty of a summary offense and upon conviction shall be subject to a fine of not less than One Hundred (\$100.00) Dollars, plus costs. Each day the violation continues may constitute a separate offense. The enforcement of this Chapter by the Township shall be by action brought before a District Magistrate in the

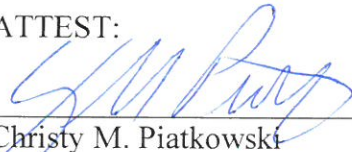
same manner provided for the enforcement of summary offenses under the Pennsylvania Rules of Criminal Procedure.

**SECTION 9. SEVERABILITY:** The provisions of this Chapter 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 be construed to affect or impair the remaining provisions of this Chapter which were not to be invalid. It is the declared intent of the Township Board of Supervisors that this Chapter would have been adopted had such provision or provisions held invalid not been included therein.

**SECTION 10. EFFECTIVE DATE:** This Ordinance shall become effective immediately.

ORDAINED AND ENACTED this 12<sup>th</sup> day of March, 2024.

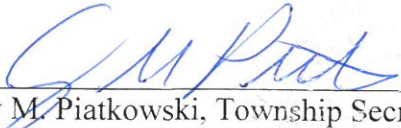
ATTEST:

  
\_\_\_\_\_  
Christy M. Piatkowski  
Township Secretary

TOWNSHIP OF RACCOON  
  
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Edward Malloy, Chairman  
Board of Supervisors

**CERTIFICATION OF THE TOWNSHIP**

I hereby certify that the foregoing Ordinance was advertised in the Beaver County Times on Sunday, February 18, 2024, a newspaper of general circulation in the Township, and was duly enacted and approved as set forth a regular meeting of the Township of Raccoon on Tuesday, March 12, 2024.

  
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Christy M. Piatkowski, Township Secretary

(SEAL)