

ORDINANCE No. 161

**AN ORDINANCE OF THE BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP, LEHIGH COUNTY,
PENNSYLVANIA AMENDING THE UPPER MILFORD
TOWNSHIP ZONING ORDINANCE OF 2010, ENACTING
REGULATIONS FOR TIMBER HARVESTING AND TO
ALLOW FOR AND ENCOURAGE PROPER FOREST
MANAGEMENT WITHIN UPPER MILFORD TOWNSHIP.**

WHEREAS, Upper Milford Township, ("Township"), is a Second Class Township located in Lehigh County, Pennsylvania; and

WHEREAS, the Township has previously adopted the Upper Milford Township Zoning Ordinance of 2010 ("Ordinance") which, in part, contains provisions regulating both forestry and timber harvesting within the Township; and

WHEREAS, after careful review, the Township is desirous of amending the Ordinance by enacting regulations for timber harvesting and for allowing and encouraging proper forest management within the Township.

NOW, THEREFORE, BE IT ORDAINED AND ENACTED by the Board of Supervisors of Upper Milford Township, Lehigh County, Pennsylvania, as follows:

1. The aforementioned recitals are incorporated herein as if by reference and shall be considered to be a part of this Ordinance.

2. The definition of Timber Harvesting (includes logging) set forth in Section 202 of the Ordinance is deleted and replaced with the following:

Timber Harvesting (also includes Tree Harvesting/Logging).
The cutting down and removal of trees and logs to be converted to any forest product or for sale to others.

3. The following definitions are added to Section 202 of the Ordinance:

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.

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.

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

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

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

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

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

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.

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

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

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

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.

Stand Regeneration Treatment. A selection, natural, shelterwood, seed tree, or clear-cut that is designated to replace the existing stand with a new stand of young trees.

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

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

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

4. Section 304(g) of the Ordinance is modified so that all references to Forestry (S.311) shall be replaced with Forestry.
5. Section 304(g) of the Ordinance is modified to add Timber Harvesting as a permitted by use right in all zoning districts.
6. Section 311.16.B.16. is deleted in its entirety and replaced with the following:
 - 311.B.16. Timber Harvesting. It is the intent of this Section to regulate timber harvesting practices and to allow for and encourage proper forest management 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.
 - c. That the potential for negative environmental impacts resulting from improper tree harvesting is minimized.

This Section is not intended to prescribe specific cutting practices, to prevent or hinder any landowner from realizing financial return from the sale of trees, to prevent or hinder

tree harvesting or forest industry operators from pursuing their business, or to regulate timber harvesting for home use, non-commercial timber stand improvement work or for the conversion of forest land to other uses where forest management practices relating to timber production and harvesting are no longer practical.

- i The provisions and requirements of this Section shall apply to all tree harvesting operations within the Township, except that notification and submission of plans shall be required only as specified in Sections iii (f) and (g) below.
- ii It shall be the responsibility of each landowner on whose land tree harvesting is to be carried out to have a professional forester or forest technician develop or have developed the logging plan and submit notification as required in this Section. It is the joint responsibility of the landowner and the operator of the timber harvest to comply with the provisions of the logging plan.
- iii Regulations.
 - a. A logging plan shall be prepared for each timber harvesting operation within the Township by a professional forester or forest technician.
 - b. The logging plan shall address all applicable erosion and sedimentation control and stream crossing regulations under Chapter 102, Erosion Control Rules and Regulations issued under the Act of June 22, 1937 (Clean Streams Law) and Chapter 105, Dam and Waterway Management Rules and Regulations issued under the Act of 1978, P.L. 1375, No. 325 (Dam Safety and Encroachments Act), as amended, or subsequent applicable legislation.
 - c. Points that shall be addressed by the logging plan shall include the following at a minimum:
 - i. Design of the road system.
 - ii. Water control structures.
 - iii. Stream crossings.
 - iv. Log landings.
 - v. Haul roads, skid roads, and skid trails.

- vi. Maintenance of items i-v above.
 - vii. Road and log landing requirement.
 - viii. General location of the anticipated operation in relation to municipal and state roadways.
 - ix. Location of property boundaries for the tract in which the logging will take place and the boundaries of the proposed harvest area.
 - x. A cutting practice or stand prescription for each stand located in the proposed harvest area.
 - xi. Copies of all required permits shall be submitted as an appendix to the logging plan.
 - xii. Copies of the timber sale map and erosion and sedimentation plan.
- d. The logging plan required by Section (b) above shall satisfy the requirements of this Section if points (c) (viii-x) are also addressed.
 - e. The logging plan the timber sale map, and the erosion and sedimentation plan shall be available at the timber harvesting site.
 - f. For all timber harvesting operations that are expected to exceed five (5) acres, the Township Enforcement Officer shall be notified in writing both prior to the commencement of the operation and at the end of the operation.
 - g. In addition to any notification required by (f) above, a copy of the written logging plan shall be on site and submitted to the Township Enforcement Officer upon request.
 - h. The erosion and sedimentation control and stream crossing requirement set forth in the logging

plan shall be followed at all times during the operation.

- i. The following requirements shall govern all timber harvesting operations:
 - i. 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, whoever is responsible for maintenance of the thoroughfare.
 - ii. No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare.
 - iii. 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.
 - iv. All tops and slash shall be cut to a minimum of five (5) feet above the surface of the ground unless otherwise prescribed in the logging plan.
 - v. All trees to be cut shall be marked above and below stump height with tree marking paint prior to the start of logging.
 - vi. No tops or slash shall be left on or across a property boundary without the consent of the adjoining landowner.
 - vii. All litter resulting from a logging operation shall be cleaned up and removed from the site before it is vacated by the operator.
 - viii. Logging within seventy-five (75) feet of each side of a trout stream is prohibited unless all of the following conditions have been met:
 - a. The basal area of trees in that area within the seventy-five (75) foot zone

shall not be reduced below fifty (50%) percent of the basal area present before cutting or below sixty-five (65) square feet per acre, whichever is greater.

- b. Care should be taken not to remove only the highest quality of trees in the area.
- c. The name and location of all trout streams which cross the area to be logged shall be clearly indicated on the logging plan map.

(iv) Enforcement.

- a. The Township Enforcement Officer may enter the site of any tree harvesting operation before, during and/or after active timber harvesting to review plans and other required documents to ensure that such plans and documents are in compliance with the provisions of the Zoning Ordinance and to ensure that the actual operation is proceeding in compliance with those plans. It is recommended that the landowner or landowner's representative be invited to be present during any site visit.
- b. Any timber harvesting operation found to be proceeding without the required logging plan shall immediately cease operations and not resume operations until a plan is submitted and approved by the Township Enforcement Officer.
- c. Whenever a timber harvesting operation violates any provision of the Zoning Ordinance, the Township may seek enforcement remedies and penalties as authorized by Section 106 of the Zoning Ordinance.
- d. In addition to the foregoing, whenever the Township Enforcement Officer finds a condition in a timber harvesting operation to be causing an immediate environmental risk, the Township Enforcement Officer shall immediately order operations to cease, and contact the Lehigh County Conservation District and

request enforcement of the rules and regulations referenced in this Section.

7. Section 503.B. is amended to read as follows:

No building shall be constructed or placed and no re-grading shall occur on areas with a slope of 25 percent or greater.

If trees or other vegetation are removed from areas of 25 percent or greater slope, they shall be replaced with new trees and vegetation that serve the same purposes. This Section shall not apply to areas that were re-graded prior to the enactment of this Ordinance and clearly did not have a naturally-occurring steep slope.

8. Section 515.B.1 is amended to read as follows:

"Forestry" and "Timber Harvesting" as defined in the Zoning Ordinance.


9. The provisions of this Ordinance are severable and, if any of its provisions shall be held to be unconstitutional, illegal or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance.

10. All Ordinances or parts of Ordinances which are inconsistent with the terms of this Ordinance are hereby repealed.

11. This Ordinance shall become effective five (5) days after enactment.

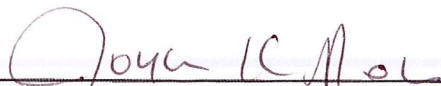
ORDAINED AND ENACTED THIS 18th DAY OF April, 2019.

ATTEST:


Secretary

BOARD OF SUPERVISORS OF
UPPER MILFORD TOWNSHIP

By: 
Robert C. Sentner, CHAIRPERSON


Joyce K. Moore, VICE- CHAIRPERSON


Daniel J. Mohr, SUPERVISOR