

Chapter 14

Logging

Part 1 Logging

- §14-101. Purpose
- §14-102. Definitions
- §14-103. Logging Permit Required
- §14-104. General Requirements
- §14-105. Use of Township Roads
- §14-106. Financial Security Required
- §14-107. Application for Logging Permit
- §14-108. Fee Schedule
- §14-109. Insurance
- §14-110. Action on Application
- §14-111. Inspection; Stop-Work Orders
- §14-112. Appeal of Permitting Decisions and Stop-Work Orders
- §14-113. Liability
- §14-114. Violations and Penalties
- §14-115. Applicability; Interpretation

Part 1**Logging****§14-101. Purpose.**

It is the intent of this Part to promote the welfare of the people of the Township by providing for the regulation of the removal of trees in such a way as to protect and preserve the environment, roads and quality of the community in general. Trees are a natural resource and an integral part of the natural landscape of the Township, providing soil erosion control, surface water flow barriers and scenic beauty, and fostering myriad plant and wildlife species. The removal or harvest of trees is therefore of prime concern to the residents of the Township and shall not be permitted, except as hereinafter provided.

(Ord. 2288, 4/12/2010)

§14-102. Definitions.

As used in this Part, the following terms shall have the meanings indicated:

Clear-cutting - removing all or a majority of trees from the area logged.

Cutting block - an area of property to be logged, approximately 10 to 15 acres in size, depicting the phase number, defined by natural boundaries and determined by a professional forester.

Diameter limit cutting - the practice of cutting all and only all trees above a certain diameter within the area logged.

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

Logging - the act of cutting/harvesting live or dead trees for cordwood, for timber, for pulp or for any commercial purpose, excepting therefrom a landowner and/or any agent of a landowner cutting on the property of the landowner for the use solely of the landowner, any properly approved clearing for development of building sites or clearing for farming operations. A landowner who cuts/harvests trees or permits such cutting/harvesting of trees upon the landowners property for other than the landowner's own use is a person engaging in logging and in a logging operation. A logging operation shall include the acts of tree harvesting, site clean up and site restoration.

Professional forester - a person who has earned a 4-year college degree in forest management, is registered with the Pennsylvania Bureau of Forestry and can demonstrate expertise in environmentally sound forest management/timber harvesting practices.

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

Slash - all debris resulting from logging operations, including stems, limbs and parts thereof. "Tops" shall be the word used to refer to the upper portion of a felled tree not normally merchantable. Typically, a "top" becomes part of the "slash" produced by a logging operation.

Township - the Township of Ross, Allegheny County, Pennsylvania.

Township Code Enforcement Officer - the Code Enforcement Officer of the Township, the designee of the Township Manager, and/or the designee of the Township Board of Commissioners.

Township Engineer - a professional engineer licensed as such in the Commonwealth of Pennsylvania, duly appointed by the Board of Commissioners to serve as the engineer for the Township.

Township Forester - a professional forester retained by the Township Board of Commissioners.

(Ord. 2288, 4/12/2010)

§14-103. Logging Permit Required.

Logging operations within the Township of Ross on any parcel of property over ½ acre in size, where three or more trees are harvested, shall require a logging permit. The logging permit shall be issued by the Township for the entire site, but subject to review for each cutting block. The logging operation must be completed to the satisfaction of the Township in one cutting block prior to commencement of logging operation in the next cutting block. A logging operation which moves from one cutting block to another without first receiving the approval of the Township is subject to the penalties in §14-114 and other appropriate legal processes. The cutting block phase numbers shall be shown on the timber harvest plan as prepared by a professional forester (see §14-107, “Application for Logging Permit”). A logging permit shall be valid for a period of 3 years. A one-time, 6-month extension shall be granted when requested in a statement from the professional forester hired by the property owner. If logging is conducted without or in violation of a Township logging permit, the landowner and the logging operator shall each be in violation of this Part and each shall be fully subject to all applicable fines and penalties.

(Ord. 2288, 4/12/2010)

§14-104. General Requirements.

1. The Allegheny County Conservation District (A.C.C.D.) must approve the erosion and sedimentation control plan of the property owner and/or logger who seeks to operate, or cause to operate, a logging operation. Proper erosion and sedimentation control measures, as outlined in the A.C.C.D. approved plan, shall be implemented prior to any commencement of logging activities on the property and throughout the duration of such logging activities to prevent accelerated water runoff. The first logging activities shall be construction of the roadways, trails, landings and such. The erosion and sedimentation control measures shall be maintained throughout the logging operation and until seeding has germinated.

2. Hauling or skidding or placing fills or other obstructions in perennial or intermittent streams is prohibited except as approved by a professional forester. Nothing in this Part, including the exception stated in the immediately preceding sentence, is intended to supersede Federal and/or State law relating to clean water, flowing water, fish hatcheries or the pollution of water resources.

3. Diameter-limit cutting shall not be permitted.

4. Clear-cutting shall not be permitted unless approved by the Township Engineer or his designee, based upon a determination that: clear-cutting will assist in

forest regeneration; clear-cutting will not cause excessive erosion and sedimentation; and, clear-cutting will not be done within 50 feet of any public road right-of-way or any abutting property.

5. No on-site retail sale of harvested wood or logs shall be permitted from the property unless the property is located in a commercial zoning district, which permits such use. (See Chapter 27 of the Township of Ross Code of Ordinances, "Zoning.")

6. No portable sawmills are permitted.

7. No tops or slash of the felled trees shall be left on any right-of-way or drainage ditch leading from a culvert, water bar, intercepting dip or break in the berm of road or in, on or within 25 feet of a boundary line, stream, spring seep, dam, lake or public road right-of way unless otherwise authorized in writing by a professional forester who shall not, in any use, have the power to authorize violations of Federal or State law, including regulations passed to implement the law. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the Township, County of Allegheny or the Pennsylvania Department of Transportation, whichever is responsible for the maintenance of the thoroughfare. No tops or slash shall be left on or across the boundary of any property adjoining the operation without the consent of the owner. All tops and slash between 25 and 50 from a public roadway or private roadway providing access to adjoining residential property or within 50 feet of adjoining residential property shall be lopped to a maximum height of 4 feet above the surface of the ground. Tops of trees may be left in retired skid trails to discourage unauthorized entry if desired by the owner.

8. Logging operations shall be conducted at a time of the year when the Township Forester determines that the least amount of environmental damage will occur and are subject to being shut down if they occur at other times. A logging operation and its principles shall be subject to the penalties for violation of this requirement.

9. Littering resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

10. When a logging operation has been completed, all disturbed areas such as the landings, roads and critical areas must be seeded with annual grasses as determined by the Township Forester upon completion of the logging operations.

11. Access roads shall be permanently blocked. The Township shall choose the appropriate post-harvest security. When the logging operation on a parcel has been completed, the access road shall be permanently blocked and kept as such.

(Ord. 2288, 4/12/2010)

§14-105. Use of Township Roads.

1. For all logging operations, prior to hauling on any Township road, financial security shall be posted in accordance with §14-106 hereof. The Township Engineer and/or his designee shall prepare a report prior to hauling to establish the existing road condition and for the purpose of establishing reasonable times and conditions for hauling logs so that damage to the road will be minimized. Such conditions may include, without limitation, limiting hauling to dry periods. The Township shall be notified during normal working hours as to when hauling will begin from a cutting block so that the first truck can be followed to determine if the roadway is being

damaged.

2. A logging operation shall keep any roadway over which it hauls logs or other logging residue clean and free of mud and debris to the extent that such roadway mud, debris or similar material is the result of vehicles traveling to and from the logging operation. At the point of access, the logger shall construct an aggregate entrance area to support the roadway edge. No parking of logging vehicles or storage of logs shall be permitted in the road right-of-way. Water from the logging area shall not be discharged onto the roadway surface.

3. No cutting or loading shall take place between the hours of 5 p.m. and 7 a.m. Monday through Saturday and all day Sunday and Federally designated legal holidays. (Ord. 2288, 4/12/2010)

§14-106. Financial Security Required.

All financial security required by this Part shall comply with the requirements of the Township of Ross Code of Ordinances.

A. *Performance Security.* Prior to the commencement of a logging operation, the applicant shall post financial security guaranteeing restoration of the property logged or of any other property damaged by the logging operations. This financial security shall be in an amount acceptable to the Township Board of Commissioners or its designee, and said amount all be based upon the actual area of soil disturbance as delineated in the timber harvest plan. The Township shall be given 3 business days advance notice, in writing, by the contractor, owner or any other party conducting a logging operation, for the purpose of permitting the Township to inspect the site and approve/disapprove logging work proposed to begin on a cutting block which has not previously, been the subject of logging under the approved timber harvest plan. Such initial notice may not be given on a weekend or official Township holiday and must be hand delivered to the Township's offices. The contractor, owner or any other party conducting the logging operation shall contact the Township within 3 business days after final operations have been completed. The Township Engineer or his designee shall complete a post-harvest inspection of the subject property. The performance financial security will not be released by the Township until a post-harvest report indicates that land restoration has been completed to the satisfaction of the Township.

B. *Road Financial Security.* Prior to hauling on any Township road, the applicant for the logging permit shall post separate financial security to guarantee restoration of roads damaged by the hauling.

(Ord. 2288, 4/12/2010)

§14-107. Application for Logging Permit.

1. Application for a logging permit shall be made in writing to the Township Zoning Officer on forms supplied by the Township. Such application shall be accompanied by: a logging plan; a timber harvest plan; an erosion and sedimentation control plan signed, dated and approved by the A.C.C.D.; a copy of the A.C.C.D.'s approval and comments; performance security as required by §14-106; road financial security as required by §14-106.B; insurance certificates complying with §14-109 hereof; and, if applicable, proof of a written timber sales contract between the property owner

and logging company. All documents should be submitted to the Township prior to requesting a review of the timber harvest plan and the accompanying documents. The timber harvest plan shall be available at the harvest site at all times during the operation and shall be provided to the Township Engineer, Building Inspectors or Zoning Officer upon request.

2. Each logging plan shall include a sketch map or drawing containing the following information:

- A. Location map.
- B. North arrow.
- C. Contours as shown on a U.S.G.S. topographical map.
- D. Location of any preexisting roads/right-of-way, easements, streams and property lines. It shall also include the location of proposed, roads or access/egress cartways.
- E. Site location and boundaries, including both the boundaries of the property on which the timber harvest will take place, the boundaries of the proposed harvest area within that property and the cutting block subdivisions of the site.
- F. Total acreage.
- G. Areas of trees to be harvested must be depicted.
- H. Cutting block subdivision of the site.
- I. Significant topographic features related to potential environmental problems.
- J. Location of all earth disturbance activities such as roads, landings and water control measures and structures.
- K. Location of all crossings of waters of the Commonwealth
- L. The general location of the proposed operation to municipal and State highways, including any accesses to those highways.
- M. Location of any areas identified as unstable soils.

3. The timber harvest plan, prepared by a professional forester hired by the property owner and/or applicant shall show the following:

- A. The point of access onto public roadway(s) where the aggregate entrance is to be placed; log landing areas, stream crossings and logging trails.
- B. Areas of trees to be harvested must be designated by the cutting block phase numbers. The phase number shall depict the order of harvesting.
- C. Design, construction, maintenance and retirement of the access system including haul roads, skid roads, skid trails and landings.
- D. Design, construction and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips and water bars.
- E. Design, construction and maintenance of stream and wetland crossings.
- F. The type and rate of seeding/mulching to be used and where it will be placed to stabilize the soil after logging operations.
- G. A wetland determination statement and a Pennsylvania Natural Diversity Inventory search form shall be submitted with the plan.

(Ord. 2288, 4/12/2010)

§14-108. Fee Schedule.

All applications for logging permits under this Part shall be accompanied by permit fees in an amount as set from time to time by resolution of the Township Board of Commissioners. No application shall be accepted by the Township or acted upon unless the appropriate fees have been paid to the Township. The applicant shall be responsible to pay all professional fees incurred by the Township to review and oversee the logging operation. The Township may require the applicant to escrow the funds needed to secure the services of the Township Forester for his review of the application and oversight of the logging operation.

(Ord. 2288, 4/12/2010)

§14-109. Insurance.

Prior to commencing logging operations, the applicant shall procure and maintain adequate insurance in an amount of least \$1,000,000 to protect it from claims for damages because of bodily injury, including death, and from claims of damages to property which may arise both out of and during logging operations, whether such operations be by itself or by any contractor, agent subcontractor, or anyone directly or indirectly employed by it or them. A certificate of insurance in this amount shall be filed with the Township prior to commencement of logging operations, which certificate shall state that the Township shall be given written notice at least 60 days prior to cancellation of such insurance. The Township shall be named as an additional insured on all policies of insurance described in this Section. Prior to commencing logging operations, the applicant shall procure and maintain workers' compensation insurance as required by State law.

(Ord. 2288, 4/12/2010)

§14-110. Action on Application.

1. The Township shall examine said application and related required information to determine compliance with all applicable Township regulations and ordinances within 45 days after all necessary filing and required information has been submitted. The Township Engineer shall either approve or reject said application within that time frame. If application is rejected, the Township representatives shall inform the applicant, in writing, stating the reasons for such rejection.

2. *Review of Application by Others.* A copy of all plans and applications for proposed logging to be considered for approval may be submitted by the Township Engineer or Zoning Officer to any other appropriate persons or agencies, i.e., the Township Forester, Commonwealth of Pennsylvania, Department of Conservation and Natural Resources, Bureau of Forestry, Fish and Boat Commission, Bureau of Dams and Waterways Management, etc. The application will also be available to the public for inspection at the Township office during regular business hours.

(Ord. 2288, 4/12/2010)

§14-111. Inspection; Stop-Work Orders.

From time to time as he may deem advisable, the Township Engineer or Building

Inspector shall inspect the work done under the approved plans, specifications, timing schedule and logging permit. Whenever the Township Engineer or Building Inspector finds that work under any logging permit fails to conform to the approved plans, specifications and timing schedule, he may as he deems reasonably necessary in reliance upon the criteria set forth in this Part, by written order, direct suspension of other work until conformance has been achieved or direct such other measures that he deems reasonably necessary in the circumstances for control of erosion and sedimentation on the site and for compliance with this Part.

(Ord. 2288, 4/12/2010)

§14-112. Appeal of Permitting Decisions and Stop-Work Orders.

Any person aggrieved by a logging permit decision or stop-work order may file a written appeal within 10 days of the date of the decision or order appealed from. The appeal shall be filed, along with the applicable fee, in the Township Manager's office. The Board of Commissioners shall hold a local agency law hearing on such appeal and may affirm, reverse or modify the decision or order appealed from the Board of Commissioners may impose, as part of its decision any conditions and safeguards necessary in order to protect the public health, safety and welfare or to protect private or public property and to promote the objectives of this Part. The Board of Commissioners, as part of its decision, may adjudicate constitutional law issues and may grant relief from any substantive requirement herein where full compliance with the requirement, due to unique physical conditions of the land to be logged, is not reasonably possible and where waiving the requirement will not result in significant adverse environmental consequences or in any violation of applicable laws or regulations.

(Ord. 2288, 4/12/2010)

§14-113. Liability.

Neither the issuance of logging permits under the provisions of this Part nor the compliance with the provisions hereto or with any conditions imposed by the Board of Commissioners hereunder shall relieve any person from the responsibility for the damage to any persons or property otherwise imposed by law, nor impose any liability upon the Township for damages to persons or property. Nothing in this Part is to be interpreted as eliminating or reducing the immunities (statutory or common law/traditional) enjoyed by the Township of its elected or appointed officials.

(Ord. 2288, 4/12/2010)

§14-114. Violations and Penalties.

Any person who violates any provision of this Part, or fails to comply therewith, or with any of the requirements thereof, upon conviction thereof, shall be sentenced to pay a fine of not more than \$1,000 plus costs and, in default of payment of said fine and costs, including reasonable attorney's fees, to a term of imprisonment not to exceed 30 days. Each day that a violation of this Part continues shall constitute a separate offense. In addition to any other remedy available under law, the Township may enforce this Part by an action in equity. All fines and penalties collected for violation of this code shall be paid to the Township. The initial determination of ordinance violation and

the service of notice of violation are hereby delegated to the Township Manager, the Police Chief, the Building Code Official, the Building Inspector, the Code Enforcement Officer, the Zoning Officer and their designees and to any other officer or agent that the Township Manager or the Board of Commissioners deems appropriate.

(Ord. 2288, 4/12/2010)

§14-115. Applicability; Interpretation.

When provisions of this Part conflict with other applicable regulations, codes or laws, the more stringent regulation or legislation shall apply. As in the case with all legislation, this Part is to be interpreted utilizing a rule of reason that will best allow for the attainment of the balance between the public and private this Part seeks to archive. Furthermore, this Part is to be interpreted and applied, to the extent possible, so that it meets all Federal and State constitutional requirements and statutory requirements. If any aspect of this Part is finally determined to violate constitutional and/or statutory requirements, through the process of appellate litigation, that aspect of this Part shall be deemed excised or reformed to the extent necessary to cause the remainder of this Part to remain legally enforceable.

(Ord. 2288, 4/12/2010)