

ORDINANCE NO. 2020-02

AN ORDINANCE OF THE TOWNSHIP OF HEREFORD, BERKS COUNTY, PENNSYLVANIA, AMENDING THE HEREFORD TOWNSHIP ZONING ORDINANCE, ORDINANCE # 2009 - 04 AS AMENDED TO AMEND DEFINITIONS, MAKE PROVISION FOR USES BY GOVERNMENTAL ENTITIES, AMENDMENTS TO TIMBER HARVESTING PROVISIONS AND OTHER CHANGES AND AMENDMENTS

WHEREAS on May 27, 2009, the Board of Supervisors of Hereford Township (hereinafter the Township) adopted Ordinance Number 2009-04 entitled Hereford Township Zoning Ordinance; and,

WHEREAS on November 1, 2011, the Township adopted Ordinance Number 2011-05 amending the Hereford Township Zoning Ordinance; and

WHEREAS on May 1, 2012 the Township adopted Ordinance Number 2012-02 making further amendments to the Hereford Township Zoning Ordinance; and,

WHEREAS on June 5, 2012 the Township adopted Ordinance 2012-04 making further amendments; and,

WHEREAS on September 18, 2018 the Township adopted Ordinance 2018-01 making further amendments to the Hereford Township Zoning Ordinance; and,

WHEREAS the Township believes further amendments are needed,

NOW THEREFORE BE IT ORDAINED AND ENACTED by the Board of Supervisors of Hereford Township, Berks County, Pennsylvania and it is hereby ordained and enacted by the authority of the same as follows:

SECTION 1: Amendments to Article II - Definitions

- A. Article II “Definition of Terms” Section 202 “Definition of Terms” is hereby amended by adding, changing, deleting, and/or amending as follows:
 - 1. Add a new definition in alphabetical order to read as follows: “EMERGENCY SERVICE PROVIDER – Any police station, volunteer fire company, non-profit ambulance service, or municipally owned and operated law enforcement, fire, rescue, or ambulance service”.
 - 2. Add a new definition in alphabetical order to read as follows:
“GOVERNMENTAL USE - Any Federal, State, or Municipal use or activity carrying out a specific governmental Function including but not limited to offices for Federal, State, County, or Township agencies, such as the United States Postal Service, as well as Municipal or public Authorities wholly owned by any such

Federal, State, County or Municipal agency. The term includes “Municipal Use” as defined in this Ordinance.

3. Amend the Definition of “Municipal Use” to read as follows: “MUNICIPAL USE- Any building, structure, facility, complex, area or use owned by leased, constructed or used by the municipal Government of Hereford Township, Berks County Pennsylvania, or any Municipal Authority owned by it.”
4. Amend the Definition of “Timber Harvesting Operation” by deleting the existing language and replacing it with the following: “TIMBER HARVESTING OPERATION- That part of forestry involving the cutting down of trees and removing logs from the forest for the primary purpose of sale or commercial purposes for the processing of the same into wood products. See Section 1808(C).”
5. Amend the Definitions Section by deleting the definition of “TIMBER HARVESTING PLAN”.
6. Amend the definition of “CLEARCUTTING” by deleting the words “during a single timber harvesting operation or” from the existing language.

SECTION 2: Amendments to Article VII - TDR

Article VII – TDR Section 702.D is hereby amended by adding a new sentence at the end of the existing sentence to read as follows: “Also, and notwithstanding anything to the contrary, TDR’s shall not be required for Government Use, Municipal Use or Emergency Service Provider and any provision otherwise requiring TDR’s for multiple uses on a single lot shall not apply to these three uses”.

SECTION 3: Amendments to Article VIII – VP- Village Preservation District

- A. Article VIII VP-Village Preservation District Section 802 “Use Regulations”, subsection A, “Uses permitted by right” is hereby amended by deleting the existing language in subparagraph 9 and replacing it with the following language: “9. Emergency Service Provider”.
- B. Article VIII VP-Village Preservation District Section 802 “Use Regulations”, subsection A, “Uses permitted by right” is hereby amended by deleting the existing language in subparagraph 10 and replacing it with the following language: “10. Municipal Use.”
- C. Article VIII VP-Village Preservation District Section 802 “Use Regulations”, subsection A, “Uses permitted by right” is hereby amended by deleting the existing language in subparagraph 11 and replacing it with the following language: “Government Use excluding solid waste management facilities and correctional institutions.

SECTION 4: Amendments to Article IX – MU-Mixed Use District

- A. Article IX MU-Mixed Use District Section 902 “Use Regulations”, subsection A, “Uses permitted by right” is hereby amended by deleting the existing language in subparagraph 7 and replacing it with the following language: “7. Emergency Service Provider”.
- B. Article IX MU-Mixed Use District Section 902 “Use Regulations”, subsection A, “Uses permitted by right” is hereby amended by adding new Paragraph 18 to read as follows: “18. Government Use.”

SECTION: 5 Amendments to Article X Industrial Use

- A. Article X, Industrial Uses Section 1002.A Uses permitted by right is hereby amended by deleting existing language in subparagraph 2 and replacing it with the following: “2. Emergency Service Provider including for profit ambulance or paid fire company or substantially similar use”.
- B. Article X, Industrial Uses Section 1002.A Uses permitted by right is hereby amended by deleting existing language in subparagraph 3 and replacing it with the following: “3. Government Use excluding solid Waste Management and facilities and correctional institutions”.

SECTION: 6 Amendments to Article XV Administration and Enforcement

- A. Article XV Administration and Enforcement Section 1506 Remedies is hereby amended by adding the following language at the end thereof: “Except as otherwise provided in this ordinance or as otherwise permitted by law, violations of this ordinance shall be enforced pursuant to the civil enforcement procedures specified in Section 616.1 of the Pennsylvania Municipalities Planning Code, as amended from time to time. Notwithstanding anything to the contrary, nothing in this ordinance shall be interpreted to limit or prevent the township from pursuing any action at law or in equity to prevent, restrain, correct or abate any such violation as allowed by law”.
- B. Article XV Administration and Enforcement Section 1507 Penalties is hereby amended by deleting the existence language in subparagraphs A through G and replacing it with the following: “Any person, or entity of any kind including but not limited to corporations, Limited Liability Companies, partnerships, or trusts that violate or permit the violation of any of the provisions of this zoning ordinance shall, unless otherwise provided by law or specific provision of this ordinance, be liable for a civil penalty in the amount of \$500.00 dollars per violation as provided in Section 617.2 of the Pennsylvania Municipalities Planning Code as amended and in addition shall be liable for all court costs and reasonable attorney’s fees. Each day a violation continues shall be considered a separate violation. Nothing in this section limits or

prevents the rights of the Township to pursue other actions at law or in equity as provided by law.”

SECTION 7: **Amendments to Article XVII Common Regulations**

- A. Article XVII Common Regulations Section 1703.L “Multiple Principal Uses” is hereby amended by adding the Phrase “ Except where multiple uses are permitted to operate together in one building...” at the very beginning of the section with the existing language of the section to follow.
- B. Article XVII, Common Regulations Section 1705.B is hereby amended by deleting the existing language and replacing it with the following: “B. In all districts, no fence, wall, or hedge may be erected or planted with the right-of-way lines of any street, nor may they encroach upon any street right-of-way at any time.”
- C. Article XVII, Common Regulations Section 1705.C is hereby amended by deleting the existing language and replacing it with the following: “C. Fences shall be permitted within any required yard, provided however, that no fence located within required side or rear yards shall exceed eight (8) feet in height. Fences in required front yards shall be limited to a height of five (5) feet, except that fences, containing an open area of not less than seventy-five (75) percent, used on lots over 5 acres for agricultural purposes to contain livestock and/or protect crops shall be permitted to be a maximum height of eight (8) feet.”
- D. Article XVII, Common Regulations Section 1705.D is hereby amended by deleting the existing language and replacing it with the following: “.D. In all districts, fences and walls used for agricultural purposes on lots over 5 acres to contain livestock and/or protect crops shall be exempt from the requirement to obtain a permit for installation, but shall be installed and maintained in accordance with this Ordinance.”
- E. Article XVII, Common Regulations Section 1705.F is hereby amended by relettering the section as new Subparagraph “G” and new subparagraph “F” shall be added to read as follows: “F. In all districts, no fence, wall, or hedge may be erected or planted within any utility easement without the express written permission of the grantee of the utility easement. Fences exempt from permitting procedures under Section 1705.D do not need to meet the requirements of Section 1705.F.”

SECTION 8: **Amendments to Article XVIII**

- A. Article XVIII Natural Resource Conservation Section 1803.A(3)(a) is hereby amended by deleting the existing language and replacing it with the following: “ Timber Harvesting Operation when conducted in compliance with Section 1808.C. Clearcutting or grubbing of trees is prohibited unless part of an approved Timber Harvesting Operation that protects against soil erosion”.

- B. Article XVIII Natural Resource Conservation Section 1806.B(2) is hereby amended by deleting the existing language and replacing it with the following: “ Timber Harvesting Operation when conducted in compliance with Section 1808.C. Clearcutting or grubbing of trees is prohibited unless part of an approved Timber Harvesting Operation that protects against soil erosion”.
- C. Article XVIII Natural Resource Conservation Section 1808.A (2) is hereby amended by adding the following language to the end of the first sentence: “or as part of an approved Timber Harvesting Operation”.
- D. Article XVIII Natural Resource Conservation Section 1808.C is hereby amended by deleting the entire section and replacing it with the following:

“1808.C Timber Harvesting Operations

- 1. Purpose. The timber harvesting regulations contained in this Section are intended to further this policy by (1) promoting 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 forestry, and improving human health and welfare of the community.
- 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 municipality, forestry activities—including timber harvesting—shall be a permitted use by right in all zoning districts. The provisions of this Section 1808.C 8 apply to all Timber Harvesting within Hereford Township where the value of the trees, logs, or other timber products removed exceeds \$2,000. These provisions do not apply to the cutting of trees for the personal use of the landowner, for pre-commercial timber stand improvement, or for the removal of trees for Land Development purposes.
- 3. Definitions. As used in this Section 1808.C the following terms shall have the following meanings:
 - a. “Felling” means the act of cutting a standing tree so that it falls to the ground.
 - b. “Forestry” means the management of forests and timberlands 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.
 - c. “Landing” means a place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.

- d. "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.
- e. "Litter" means discarded items not naturally occurring on the site, such as tires, oil cans, equipment parts, and other rubbish.
- f. "Lop" means to cut tops and slash into smaller pieces to allow material to settle close to the ground.
- g. "Operator" means an individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.
- h. "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.
- i. "Skidding" means dragging trees on the ground from the stump to the landing by any means.
- j. "Slash" means woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.
- k. "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.
- l. "Stream" means any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and bank.
- m. "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.
- n. "Top" means the upper portion of a felled tree that is not merchantable because of small size, taper, or defect.
- o. "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.” Source: Pennsylvania Code, Chapter 105 Regulations)

4. Notification; preparation of a logging plan.

- a. Notification of commencement or completion. For all Timber Harvesting Operations the landowner shall notify the municipality enforcement officer at least ten (10) business days before the operation commences and within three (3) business 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.
- b. Logging plan. Every landowner on whose land timber harvesting is to occur shall prepare a written logging plan in the form specified by this ordinance. No timber harvesting shall occur until the plan has been prepared and provided to the municipality. 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 code enforcement officer upon request.
- c. Responsibility for compliance. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.

5. Contents of the logging plan.

- a. Minimum requirements. At 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.
- b. Map. Each logging plan shall include a sketch map or drawing 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.
 - (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 regulations including, but not limited to, the following:
- (1) 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.)
 - (2) 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.)
- d. 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 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.
6. Forest practices. The following requirements shall apply to all timber harvesting operations in the municipality:
- a. 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 the thoroughfare.
 - b. No tops or slash shall be left within 25 feet of any public thoroughfare or private roadway providing access to adjoining residential property.

- c. All tops and slash between 25 and 50 feet from a public 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 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.
7. Responsibly for road maintenance and repair; road bonding. Pursuant to Title 75 of the Pennsylvania Consolidated Statutes, Chapter 49, and Title 67 Pennsylvania Code, Chapter 189, the landowner and the operator shall be responsible for repairing any damage to municipality roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic. The operator may be required to furnish a bond to guarantee the repair of such damages.
8. Enforcement. The provisions of this Section are intended to supplement and be in addition to any and all other enforcement rights and remedies available to the Township at law or in equity.
- a. Code Enforcement Officer. The Code Enforcement Officer shall administer and enforce the provisions of Section 1808.C of this ordinance.
 - b. Inspections. The Code Enforcement Officer may go upon the site of any timber harvesting operation before, during, or after any logging or timber harvesting has commenced to: (1) confirm the existence of a Timber Harvesting permit, (2) review the timber harvesting plan or any other required documents for compliance with the provisions of this ordinance, and (3) inspect the operation for compliance with the approved plan and other on-site requirements of these regulations.
 - c. Violation notices; suspensions. In addition to all other rights, and remedies provided by law and or this ordinance, upon finding that a timber harvesting operation is in violation of any provision of this ordinance, the Code Enforcement Officer shall issue the operator and the landowner a written notice of violation describing each violation. The 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 or timber harvesting plan, or (3) the operation is causing immediate harm to the environment as confirmed by local conservation district or Pennsylvania Department of Environmental Protection (DEP). Suspension orders shall be in writing, issued to both the operator and the landowner, and remain in effect

until, as determined by the Code Enforcement Officer, the operation is brought into compliance with this ordinance or other applicable statutes or regulations applicable to the logging or Timber Harvesting Operation.

- d. Penalties. Violations that involve an immediate threat of harm to persons or property, or an imminent risk to public safety or damage to the environment may be enforced as summary offenses pursuant to the Pennsylvania Rules of Criminal Procedure as provided in Section 1601(c.1)(2) of the Second Class Township Code, and upon conviction thereof shall be liable for a fine of \$ 1,000.00 plus all costs and reasonable attorney's fees. Each day that a violation continues shall be deemed a separate violation. Nothing in this section limits or prohibits any other right or remedy of the Township including equitable and injunctive relief. All other violations shall be enforced pursuant to the Civil Enforcement provisions of Article XV of this ordinance.

SECTION 9: **Repealer**

Any and all ordinances or parts of ordinances are repealed to the extent but only to the extent that the same are inconsistent with the provisions of This Ordinance. Except as modified herein, the Hereford Township Zoning Ordinance Number 2009-04, include all other amending ordinances are hereby ratified, confirmed and readopted and shall remain in full force and effect.

SECTION 10: **Severability**

The provisions of this Ordinance are severable, and if any section, sentence, clause or provision hereof shall be held illegal, invalid or unconstitutional by any court of competent jurisdiction, such decision of the court shall not affect or impair the remaining sections, sentences, clauses or provisions of this Ordinance. It is hereby declared to be the intent of the Board that this Ordinance would not have been adopted if such illegal, invalid or unconstitutional section, sentence, clause or provision had not been included herein.

SECTION 11: **Effective Date**

This Ordinance shall become effective five (5) days after its adoption.


ORDAINED AND ENACTED by the Board of Supervisors of the Township of

Hereford, Berks County, Pennsylvania in lawful session duly assembled this _____ day of _____, 2020.

Attest:

Norann Warmkessel, Secretary

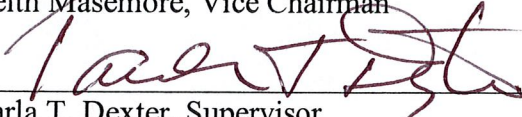
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