

ORDINANCE NO. 195

**AN AMENDMENT TO
ZONING ORDINANCE NO. 144, SECTION 415
CUTTING OR REMOVAL OF TREES**

BE IT ENACTED AND ORDAINED, by the Borough Council of the Borough of Indian Lake, Somerset County, Pennsylvania, and by authority of the same, that Ordinance No. 144, Section 415, shall be replaced in its entirety as follows:

Section 1. Definitions. The following terms shall have the following meanings given to them in this Section.

- A. **“Clearcutting”** refers to the harvesting and regeneration technique that removes substantially all trees, regardless of size, on an area in one operation.
- B. **“Felling”** means the act of cutting a standing tree so that it falls to the ground.
- C. **“Forest Canopy”** – The aerial cover formed by the crowns of trees greater than fifty (50) feet in height. The percentage of Forest Canopy to be retained following any timber harvesting operation shall be measured as the percentage of individual trees greater than fifty (50) feet in height to be retained.
- D. **“Higher Value Species”** –Tree species of commercial grade equal to or greater than twelve inches (12”) diameter at breast height (dbh) including white oak, red oak, chestnut oak, pin oak, and black oak species.
- E. **“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.

- F. **“Landing”** means a place where logs, pulpwood, or firewood are assembled for transportation to processing facilities.
- G. **“Litter”** means discarded items not naturally occurring on the site such as tires, oil cans, equipment parts, and other rubbish.
- H. **“Lop”** means to cut tops and slash into smaller pieces to allow the material to settle close to the ground.
- I. **“Operator”** means an individual, partnership, company, firm, association, or corporation engaged in timber harvesting, including the agents, subcontractors, and employees thereof.
- J. **“Pre-commercial timber stand improvement”** means a forest practice, such as thinning or pruning, which results in better growth, structure, species composition, or health for the residual stand but which 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.
- K. **“Skidding”** means dragging trees on the ground from the stump to the landing by any means.
- L. **“Slash”** means woody debris left in the woods after logging, including logs, chunks, bark, branches, uprooted stumps, and broken or uprooted trees or shrubs.
- M. **“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.
- N. **“Stream”** means any natural or artificial channel of conveyance for surface water with an annual or intermittent flow within a defined bed and banks.
- O. **“Timber harvesting” or “logging”** means cutting down or otherwise removing trees and/or logs for the primary purpose of sale, profit, or commercial processing into wood products.
- P. **“Top”** means the upper portion of a felled tree that is unmerchantable because of small size, taper, or defect.

- Q. **“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.
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Section 2. General Tree Cutting/Removal

- A. In any District in Indian Lake Borough, a tree cutting/removal permit shall be required for the cutting or removal of any trees over three (3) inches in diameter, as measured at a point two (2) feet above the level of the ground. A tree cutting/removal permit hereunder shall not be required for the removal of dead trees, trees impacted by storm damage, or trees that are considered an imminent hazard. The Zoning Officer shall be notified prior to the removal of any dead trees.
- B. If thirty (30) or more trees will be or have been cut or removed from a lot or multiple contiguous lots used for a common purpose within a three (3)-year period or if any landowner intends to engage in timber harvesting or logging, the additional requirements set forth in Section 3 hereunder shall be applicable.
- C. Clearcutting is prohibited on areas with slopes greater than 25 percent or within the 100-year floodplain except if the presence of invasive species requires clear cutting as determined by a qualified forester. Any such determination shall be included in an application for a tree cutting/removal permit.
- D. All applications for tree cutting/removal permits shall be submitted to the Borough Zoning Officer. All applications must include proposed measures needed to prevent soil erosion such as mulching, installation of silt fence, or the immediate planting of appropriate ground cover. The applicant shall otherwise be solely responsible for complying with all other applicable

laws, including, without limitation, securing any and all other necessary permits.

- E. With respect to park lots, a tree cutting/removal permit shall only be issued upon a showing that a majority of the park lot owners in the applicable park have consented to the same.
- F. A tree cutting permit shall be in force for no more than six (6) months from the date of issue.

Section 3. Timber Harvesting/Logging.

- A. Policy; Purpose. Pennsylvania law authorizes the reasonable regulation of forestry activities, including timber harvesting and logging, through zoning. With proper planning and careful management, timber harvesting, and logging can be employed to maintain a vigorous, healthy, and productive forest. It is essential when planning a timber harvest to consider potential consequences such as the species mix, and the quality of the trees left and avoid negative impacts such as invasive species or erosion. Harvesting timber is correctly done when it focuses on what is *left* after the harvest, in addition to the timber which is removed. To conserve forested open space and the environmental and economic benefits they provide, it is the policy of the Borough of Indian Lake to allow the owners of forest land the use of their land for forestry purposes. The timber harvesting/logging 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.
- B. Logging Plan; General. In addition to the permitting requirements set forth in Section 2 hereunder, every landowner intending to engage in timber harvesting or logging shall submit a written logging plan to the Borough Zoning Officer. No timber harvesting shall occur until the plan has been prepared. If approved, the provisions of the plan shall be followed throughout the operation. The landowner and the operator shall be jointly and severally responsible for complying with the terms of the logging plan.
- C. Contents of 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 accesses to those highways.

2. Map. Each logging plan shall include a lot survey and submitted on a United States Geological Survey (USGS) Topographical map – no hand drawn sketches, 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 Applicable Law. The logging plan shall address and comply with the requirements of all applicable laws and regulations including, but not limited to, the following:

(a) Erosion and sedimentation control regulations contained in 25 Pennsylvania Code, Chapter 102, promulgated pursuant to the Clean Streams Law (35 P.S. 691.1 et seq.);

(b) Stream crossing and wetlands protection regulations contained in 25 Pennsylvania Code, Chapter 105, promulgated pursuant to the Dam Safety and Encroachments Act (32 P.S. 693.1 et seq.); and

Any and all permits required by applicable law are the sole responsibility of the applicant.

D. Best Practices. The following best practices shall be implemented for all operations subject to Section 3 of this Ordinance:

1. Felling or skidding on or across any public thoroughfare is prohibited without the express written consent of the borough or the Pennsylvania Department of Transportation, whichever is responsible for maintenance of the thoroughfare.
2. No tops or slash shall be left within twenty-five feet of any public thoroughfare or private roadway providing access to adjoining residential property.
3. All tops and slash between twenty-five and fifty feet from a public roadway or private roadway providing access to adjoining residential property or within fifty feet of adjoining residential property shall be lopped to a maximum height of four feet above the surface of 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.
5. Littering resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

- E. Notification of Commencement and Completion. For all operations subject to Section 3 of this Ordinance, after all necessary approvals have been secured, the landowner shall notify the Borough Zoning Officer in writing at least thirty (30) days before the operation commences and within two (2) business days prior to its anticipated completion.

Section 4. Responsibility for Road Maintenance and Repair; Road Bonding.

Pursuant to Title 75 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 borough roads caused by traffic associated with the timber harvesting operation to the extent the damage is in excess of that caused by normal traffic may be required to furnish a bond to guarantee the repair of such damages.

Section 5. Enforcement. The Borough Zoning Officer shall be responsible for enforcing the provisions of this Ordinance.

- A. Inspections. The Zoning Officer may enter upon the site of any proposed, active, or recently completed tree cutting or removal for purposes of inspecting the same.
- B. Violation Notices; Suspensions. Upon a finding of any violation of this Ordinance by the Borough Zoning Officer, the Zoning Officer may issue an appropriate notice of violation and/or may order the immediate suspension of any operation.
- C. Cumulative Rights. All enforcement powers, rights, and remedies hereunder shall be cumulative and, as such, shall be in addition to, not exclusive of, any other powers, rights, or remedies available to the Borough under applicable law, including, without limitation, other provisions of Ordinance No. 144.

Section 6. Repealer. This Ordinance repeals Ordinance No. 144, Section 415, in its entirety. All prior ordinances, parts of ordinances, resolutions, or other official actions in conflict with the provisions of this Ordinance are hereby repealed.

Section 7. Severability. If any section, clause, phrase, portion, or provision of this Ordinance is, for any reason, determined by a Court of competent jurisdiction to be invalid, such holding shall not affect the validity of the remaining portions of this Ordinance.

Section 8. Effective Date. The provisions of this Ordinance shall become effective immediately as permitted by law.

ORDAINED AND ENACTED this 9th day of February, 2022.

Attest:

BOROUGH OF INDIAN LAKE

Kirsten Siem
Secretary

By: [Signature]
President of Council

EXAMINED AND APPROVED by me this 9th day of February, 2022.

[Signature]
Mayor

