

ORDINANCE NO. 158

AN ORDINANCE OF KENNETT TOWNSHIP, CHESTER COUNTY, PA AMENDING THE ZONING ORDINANCE, ORDINANCE NO. 50 AND THE SUBDIVISION AND LAND DEVELOPMENT ORDINANCE, ORDINANCE NO. 46, BY REVISING THE TIMBER HARVESTING REGULATIONS.

The Board of Supervisors of Kennett Township HEREBY ENACTS AND ORDAINS that the Zoning Ordinance, Ordinance No. 50, and the Subdivision and Land Development Ordinance, Ordinance No. 46, as amended, be amended further as follows:

SECTION 1. The Zoning Map of Kennett Township is hereby amended to incorporate as addenda thereto the “Kennett Township Woodland Classification Map” and “the Kennett Township Woodland & Riparian Corridors Plan,”

SECTION 2. Amend Article II, Section 201 of the Zoning Ordinance, Definition of Terms, and Article II, Section 204 of the Subdivision and Land Development Ordinance, Specific Terms, by adding the following definitions, or revising existing definitions where applicable, to read as follows:

Clearcutting. The removal of all trees greater than twelve (12) inches dbh on a site, or any portion thereof greater than one-half (0.5) acre in contiguous area, during a single timber harvesting operation or within a three (3) year period.

Riparian Buffer. An area of trees and other vegetation adjacent to a watercourse that forms a transition area between the aquatic and terrestrial environment. The riparian buffer is designed to separate more intensive human land uses from sensitive water resources and especially to intercept runoff from upland sources for the purpose of mitigating the effects of nutrients, sediment, organic matter, pesticides or other pollutants prior to entry into surface waters. The riparian buffer shall be divided into two Zones:

- A. **Zone One: Inner Riparian Buffer** - This zone shall begin at each edge of any identified watercourse and shall occupy a margin of land on each side, each with a minimum width of thirty-five (35) feet. The width of such margin shall be measured horizontally on a line perpendicular to the nearest edge of the water at bankful flow, as reviewed and approved by the Township Engineer. Where very steep slopes (+25%) are located within and extend beyond such margin, Zone One shall extend to include the entirety of the very steep slopes up to a maximum dimension of one hundred (100) feet on either side of the subject watercourse.
- B. **Zone Two: Outer Riparian Buffer** – This zone begins at the outer edge and on each side of any area delineated within Zone One and occupies any additional area, if any, within one hundred (100) feet of the nearest edge of any watercourse, measured as for Zone One.

Forest Interior Habitat. Forest Interior Habitat is that portion of a forest or woodland, which lies beyond most of the influences which degrade a forest from the outside - influences such as light, wind, noise, and non-native species. Forest Interior Habitat provides the best habitat for certain rare and sensitive species

and can be referred to as the ‘deep’ woods or the ‘heart of the forest.’ For the purposes of this Ordinance, Forest Interior Habitat is defined as any area meeting the definition of Woodland which is located more than 300 feet from the outermost

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drip line of all trees along the edge of the subject woodland area. Generalized mapping of Forest Interior Habitat is indicated on the Kennett Township “Woodland Classification Map,” adopted by the Board of Supervisors as an addendum to the Zoning Map of Kennett Township.

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.

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.

Timber Harvesting Operation. The disturbance for commercial purposes, and in compliance with an approved timber harvesting plan, of more than one half (0.5) acre of woodland on any lot, whether during a single timber harvesting operation or cumulatively in successive operations within a three (3) year period. The removal of dead or diseased trees or non-native invasive species, the cutting of trees for personal firewood use or as a part of a Christmas tree farming operation, or the clearing of an area in accordance with an approved subdivision or land development plan or building permit shall not be considered a timber harvesting operation. Forestry, as defined by the Pennsylvania Municipalities Planning Code, as amended, shall be considered a timber harvesting operation and shall require the submittal and approval of a timber harvesting plan.

Timber Harvesting Plan. A description, by means of text and maps, of proposed actions involving the removal of trees from a tract of land. Such plan shall have been prepared by a forester with demonstrable expertise in forest management in accordance with Section 1414, Subsection B (8).

Woodland – A tree mass or plant community covering an area of one-quarter acre or more, in which tree species are dominant or co-dominant and the branches of the trees form a complete, or nearly complete aerial canopy. The extent of any woodland plant community or any part thereof shall be measured from the outermost drip line of all the trees in such plant community. Woodland shall include any area where timber has been harvested within the previous three years and/or woodland disturbance has occurred within the previous three years which would have met the definition of woodland prior to timbering or disturbance. Woodlands do not include orchards or old fields.

Woodland disturbance.

- A. Any activity which alters the existing structure of a woodland or hedgerow. Alterations include the cutting or removal of canopy trees, sub canopy trees, under story shrubs and vines, woody and

herbaceous woodland floor species as well as the removal of humus or duff from the ground;

- B. Any activity which constitutes a land disturbance (exposes soils, alters topography) within a woodland or hedgerow;
- C. Woodland disturbance does not include the following:
1. Removal of vegetation which constitutes hazardous condition(s); nor
 2. Selective cutting or removal of invasive alien trees, shrubs, vines or herbaceous species including; Rosa multiflora (Multiflora Rose), Eleagnus umbellata (Autumn Olive), Lonicera japonica (Japanese Honeysuckle), Celastrus orbiculatus (Oriental Bittersweet), Acer platanoides (Norway Maple), Pueriria lobata (Kudzu) and Polygonum perfoliatum (Mile-a-Minute Weed).

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- D. Where woodland disturbance is regulated as a Timber Harvesting Operation, such operation shall not be separately regulated as woodland disturbance.

SECTION 3. Section 1414 of the Zoning Ordinance, Natural Resource Protection Standards, is hereby amended by changing subparagraph B.6.a(1)(b) thereof to read in its entirety as follows:

- (b) Provision for trail and trail access;

SECTION 4. Section 1414 of the Zoning Ordinance, Natural Resource Protection Standards, is hereby amended by changing subparagraph B.6.a(2)(b) thereof to read in its entirety as follows:

- (b) Timber harvesting operation, when conducted in compliance with a Timber Harvesting Plan approved by the Township.

SECTION 5. Amend Article XIV, Section 1414 of the Zoning Ordinance, Natural Resource Protection Standards, by adding the following new subparagraph 8 to paragraph B thereof:

8. Timber Harvesting Operations

a. Resource Protection Standards

1. Any timber harvesting operation shall be undertaken in accordance with a Timber Harvesting Plan approved by the Township. All Timber Harvesting Plans shall be submitted to the Township for review for compliance with the standards set forth herein not less than twenty-one (21) days prior to commencement of the timber harvesting operation. Within fourteen (14) days of submission of a Timber Harvesting Plan to the Township, and based on review for compliance with the standards set forth herein, the

Codes Enforcement Officer shall indicate to the Applicant approval or denial of the submitted plan or approval subject to reasonable conditions.

2. Any Timber Harvesting Plan submitted to the Township for review and approval shall be consistent with the Timber Harvesting Guidelines of the Pennsylvania Forestry Association, as applicable, and shall include a plan or plans indicating the following information:
 - (a) Site location and boundaries of both the entirety of the property upon which the timber harvesting operation shall occur and the specific area proposed for timber harvesting;
 - (b) Significant natural features on the property including steep slopes, wetlands, and riparian buffer zones.
 - (c) Identification of the classification of the woodland or woodland(s) where the timber harvesting operation is proposed to occur, as indicated on the Kennett Township *Woodland Classification Map*;
 - (d) Identification of areas of forest interior habitat where timber harvesting is proposed to occur;
 - (e) Identification of woodland or riparian corridors where timber harvesting is proposed to occur, as indicated on the Kennett Township *Woodland & Riparian Corridors Plan*.

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- (f) The general location of the proposed operation in relation to municipal and state highways and any proposed accesses to those highways;
 - (g) Design, construction, maintenance, and retirement of the access system, including haul roads, skid roads, skid trails, and landings;
 - (h) Design, construction, and maintenance of water control measures and structures such as culverts, broad-based dips, filter strips, and water bars; and,
 - (i) Design, construction, and maintenance of proposed stream and wetland crossings.
3. Any permits required by any other agency under any applicable regulation shall be the responsibility of the landowner or timber harvesting operator as applicable. Copy of all required permits shall be submitted to Kennett Township prior to commencement of the timber harvesting operation.
4. The following management practices shall apply to all timber harvesting operations:
 - (a) Felling or skidding across any public thoroughfare is prohibited without the express written consent of the Township or Penn DOT, whichever is responsible for the maintenance of said thoroughfare.
 - (b) No tops or slash shall be left within twenty-five (25) feet of any public thoroughfare or private roadway.
 - (c) Litter resulting from a timber harvesting operation shall be removed from the site before it is vacated by the operator.

- (d) The operation shall not cause harm to the environment or any other property.
5. No timber harvesting operation shall be permitted within any Zone One Riparian Buffer. No clear-cutting of timber shall be permitted within any Zone Two Riparian Buffer.
 6. In Class III woodlands, at least thirty (30) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation. Remaining canopy trees shall be well distributed throughout the area subject to the timber harvesting operation. At least thirty (30) percent of such remaining canopy trees shall be comprised of higher value species as determined by the Township forester. Where any portion of a Class III woodland occurs within a Zone Two Riparian Buffer, in such portion of the Class III woodland, at least forty (40) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation, with such remaining trees well distributed and at least forty (40) percent thereof comprised of higher value species as determined by the Township forester.
 7. In Class II woodlands, at least forty (40) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation. Remaining canopy trees shall be well distributed throughout the area subject to the timber harvesting operation. At least forty (40) percent of such remaining canopy trees shall be comprised of higher value species as determined by the Township forester. Where any portion of a Class II woodland occurs within a Zone Two Riparian Buffer, in such portion of the Class II woodland, at least fifty (50) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation, with such remaining

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trees well distributed and at least fifty (50) percent thereof comprised of higher value species as determined by the Township forester.

8. In Class I woodlands, at least fifty (50) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation. Remaining canopy trees shall be well distributed throughout the area subject to the timber harvesting operation. At least fifty (50) percent of such remaining canopy trees shall be comprised of higher value species as determined by the Township forester. Where any portion of a Class II woodland occurs within a Zone Two Riparian Buffer, in such portion of the Class II woodland, at least sixty (60) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation, with such remaining trees well distributed and at least sixty (60) percent thereof comprised of higher value species as determined by the Township forester.
9. In forest interior woodlands, at least sixty (60) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation. Remaining canopy trees shall be well distributed throughout the area subject to the timber harvesting operation. At least sixty (60) percent of such remaining canopy

trees shall be comprised of higher value species as determined by the Township forester. Where any portion of any forest interior woodland occurs within a Zone Two Riparian Buffer, in such portion of the forest interior woodlands, at least seventy (70) percent of the forest canopy shall remain in good condition after the completion of any timber harvesting operation, with such remaining trees well distributed and at least seventy (70) percent thereof comprised of higher value species as determined by the Township forester.

10. The Township Engineer, Codes Enforcement Officer, and/ or Township forester shall be permitted access to the site of any timber harvesting operation before, during, or after active timber harvesting to review, inspect and ascertain compliance with the provisions set forth herein.
11. Upon determination that a timber harvesting operation is in violation of these regulations, each day where any violation occurs shall constitute a separate violation subject to the provisions of this Ordinance.

ENACTED AND ORDAINED this 16th day of May, 2005.

**KENNETT TOWNSHIP
BOARD OF SUPERVISORS**

ATTEST:

Lisa M. Moore, Secretary-Treasurer

Thomas W. Nale, III, Chairman

Michael E. Elling, Vice-Chair

Robert A. Hammaker