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Office of Attorney General
1251 Waterfront Place
Mezzanine Level
Pittsburgh, PA 15222

RE: Penn Township, Westmoreland County, Pennsylvania, Permit Fees and Restoration Bond

Dear Senior Deputy Attorney Robert Willig,

Penn Township, Westmoreland County, Pennsylvania currently has a timber harvest permit fee, applicable to for profit enterprises, in the amount of \$300 for a timber harvest 5 acres or less and \$300 plus \$25/acre for timber harvests greater than 5 acres. The permit also requires a "restoration bond" in the amount of \$2000 for timber harvests 5 acres or less and \$2000 plus \$500 per acre for timber harvests greater than 5 acres. There is no mention of this bond amount being placed in escrow, third party oversight of the bond or requirements for its return to the operator. I am writing you this letter to challenge these fees and request a review this permit fee and restoration bond based on the Municipalities Planning Code, 53 P.S. 10101-11202, limiting municipal authority to regulate timber harvests:

zoning ordinances may not restrict forestry activities. To encourage maintenance and management of forested or wooded open space and promote the conduct of forestry as a sound and economically viable use of forested land throughout this Commonwealth. Forestry activities, including but not limited to, timber harvesting, **shall be a permitted use of right in all zoning districts in every municipality.**

The intent of the General Assembly is to promote and encourage timber harvests in the Commonwealth as a right and benefit to land owners residing in Pennsylvania. The permit fees and restoration bond associated with Penn Township's timber harvest permit conflict with this intent of the General Assembly. The MPC also states that a Township "may prescribe **reasonable fees** with respect to the administration of a zoning ordinance" 53 P.S. 10617.3 (A municipality has authority under MPC to impose a reasonable fee with respect to applications.) "This fee must be commensurate with the expense incurred by the [municipality] in connection with the issuance and supervision of the license and privilege." *Matrangelo v. Buckley* 259 A.2d 447, 464 (Pa. 1969). A permit fee:

...is distinguishable from a tax which is a revenue producing measure characterized by the production of a high proportion of income relative to the costs of collection and supervision. Thus, if a license fee collects more than an amount commensurate with the expense of administering the license, it would become a tax and cease to be a valid license fee.

[REDACTED] has purchased timber in Penn Township covering 33 acres. Based on the calculations expressed in the fee schedule the permit fee would amount to \$1125, which may be reasonable in this instance but on larger tracts of 100 acres or more I believe this fee is becoming a tax. The restoration bond is what I have a larger issue with. With 33 acres being considered, the restoration bond would be \$18,500.00. That seems to be an exorbitant amount of money to give to a Township and **discourages timber harvesting**. The restoration of the property is clearly outlined in the Erosion and Sediment control plan which will remain on site until the earth disturbance has stabilized. I understand the intent of the restoration fee but at what point are the intentions of making sure the property is properly reclaimed become discouraging timber harvest operations in the township?

You addressed a similar issue in Industry Borough finding Industry Borough's per acre fee running contrary to the black letter of the law. I believe this opinion would apply to Penn Township's permit fees as well.

I have no issue complying with Penn Township's timber harvest ordinance. I do have an issue with their permit fee schedule and bond requirements.

The permit fee schedule as well as the ordinance is included in this correspondence. Thank you for your attention to this matter. Feel free to contact me with any questions you may have.

Regards,

[REDACTED]
Forester
[REDACTED]
[REDACTED]

PENN TOWNSHIP, WESTMORELAND COUNTY

Fee Schedule Resolution 117 - 2024

Chapter 190-638	Logging	Fees
Permit Fees:	less than one acre logging	\$300 flat fee, no fee if not for profit
	more than one acre, but less than 5 acres	\$300 flat fee
	5 or more acres	\$300 plus \$25 per acre
Bonding Fees:		\$2,000 restoration bond for up to 5 acres, for more than 5 acres add \$500 per acre or fraction thereof additional bond
	For all logging, including permits issued to non-profits:	
	Swimming Pools	
190-617	Permits for swimming pools	\$75 above ground, \$100 below ground (this does not include any other structure associated with the pool)
Chapter 190-701	Signs	
	Wall signs per table 700A	\$150 for either a multi-family residential or for a non-residential use in a residential zone
	Business and Industrial per table 700B	0 - 1,000 feet 5% category: \$150
		101 - 300 feet 10% category: \$175
		greater than 300 feet 20% category: \$200
		single family, multi-family, and non-residential in a residential zone, all are \$75 per sign
	Free standing signs per table 700C	commercial and industrial signs up to 75 square feet are \$150 per sign; those greater than 75 feet are \$150 per sign, plus \$0.50 per square foot over 75
	All temporary signs	\$30 per sign
	Canopy and marquee signs	\$150 per sign
	Projecting sign	\$175 per sign
	Under canopy sign	\$50 per sign
	Roof sign	\$200 per sign
	Window sign	\$50 per sign
	Menu board sign	\$150 per sign
		up to 75 square feet: \$150 per sign
		greater than 75 square feet: \$150 per sign, plus \$0.50 per square foot over 75
	Development complexes	
	Outdoor advertising (billboards)	\$500 per structure
	Zoning Fees	
190-503B	Conditional use for coal extraction	\$1,000 per application fee
190-627	Temporary construction trailers, model homes, etc.	\$200 per year
190-816	Non-conforming use certificates	
	Residential	\$50
	Commercial	\$100
190-503	Conditional use / special exception	\$1,500 application fee, \$500 review fee
190-810	Variances - zoning fees are for a request for 1 ordinance section variance; each additional variance provision is an additional \$100	\$650 - Residential \$1,000 Commercial
190-813 & 190-819	Zoning Hearing Board appeals and /or change of a non-conforming use	\$650 - Residential \$1,000 Commercial
190-815	ZHB validity challenge / substantive challenge	\$1,000
190-907	Zoning certification (or permit)	\$25 with a building permit; \$30 without a permit
190-908	Occupancy permit	
	Residential	\$50
	Commercial	\$100
190-909	Temporary use permit	\$25