

[REDACTED]
Attorneys at Law [REDACTED]

December 12, 2025

Via U.S. First Class Mail

Robert A. Willig, Senior Deputy Attorney General
Office of the Attorney General
1251 Waterfront Place – Mezzanine Level
Pittsburgh, PA 15222

Re: ACRE Case Penn Township – [REDACTED]

Dear Mr. Willig,

Our firm serves as the Solicitor for Penn Township, Westmoreland County (“Township”). This letter is in response to your undated letter, regarding a request for review of the Township’s application of its Fee Schedule and Ordinance Section 190-638 (collectively “Township’s Regulations”) pursuant to the Pennsylvania Agricultural, Communities and Rural environmental Act (“ACRE”). True and correct copies of the Township’s current Fee Schedule and Ordinance Section 190-638 are attached as **Exhibit “A.”** [REDACTED] on behalf of [REDACTED] company that is not identified by the Pennsylvania Department of State with a location of [REDACTED] submitted a request for review of the Township’s Regulations on September 29, 2025 (the “Request”).

The Request alleges the Township’s enforcement of the Township’s Regulations which provide for a permit fee and a restoration bond require what “seems to be an exorbitant amount of money... and discourages timber harvesting.” The Request also specifically states the following: “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.” Notably, the Request does not identify the Township’s Regulations as an “unauthorized local ordinance” pursuant to ACRE.

To the extent the OAG believes a review under ACRE is permitted and warranted under the circumstances, the Township’s position is that the Township’s Regulations and its enforcement thereof are not an “unauthorized local ordinance” as defined by ACRE. In accordance with ACRE, a local government unit shall not adopt nor enforce an unauthorized local ordinance.¹ An “unauthorized local ordinance” is an ordinance which does any of the following: (i) prohibits or limits a normal agricultural operation unless the local government unit has authority under state

¹ 3 Pa.C.S. § 313.

[REDACTED]

law to adopt the ordinance and it is not prohibited or preempted under state law, or (ii) restricts or limits the ownership structure of a normal agricultural operation.²

The Township's Regulations are not an unauthorized local ordinance because the Township has statutory authority to enact and enforce a permit fee. As provided for in Section 617.3 of the Pennsylvania Municipalities Planning Code, 53 §§ P.S. 10101 *et seq.* (the "MPC"), the Township may prescribe reasonable fees with respect to the administration of a zoning ordinance.³ The cost of the fee is meant to cover the Township's costs in administering the permitting process, in order to protect the taxpayers from financial burden for [REDACTED] private financial gain. Applications for permits are reviewed by the Township staff and require a significant amount of staff time – relevant reviews include: review of the erosion and sediment control plan, a pre-approval site visit, pre-construction video of roadways, post-construction video of roadways, site visits throughout the work including after any significant weather event or upon resident complaints, review of comparison of roadway videos, and review and reimbursement of bond funds upon completion of work under the permit. These permits take a large amount of Township Staff time to properly review and the larger the acreage, the more time that is spent walking the site on the various site visits. It's no surprise that costs continue to rise and unfortunately that burden must fall on the applicant and not the taxpayers. Thus, even assuming the Township's Regulations and its enforcement prohibit or limit a normal agricultural operation, the Township is explicitly authorized to do so by Pennsylvania statute.

The Township's site-restoration bonding requirement is the result of previous foresters' abandonment of sites in which the Township taxpayers had to expend significant expense to bring the site to safe conditions in which the erosion was not causing pollution. While the site-restoration bond is an inconvenient cost at inception of the permit work, so long as the permittee completes the appropriate restoration as provided for in the approved erosion and sediment control plan, 100% of the bond funds are released back to the permittee. This practice does not in any way prohibit or limit the timbering of a site, nor restrict or limit the ownership structure of a normal agricultural operation, therefore the enforcement of the site-restoration bonding requirements, which are necessary to protect the taxpayers and residents of the Township, does not constitute an unauthorized local ordinance under ACRE.

While not germane to the OAG's evaluation of the Request, the Request specifically states that "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." To provide additional context, the Township does hold the restoration bond in an escrow account. The Township does not hire a third-party company to provide oversight over any of its escrow accounts, and this would not be an exception

² 3 Pa.C.S. § 312.

³ 53 § P.S. 617.3.

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to those normal operational functions of the Township. Upon completion of proper restoration and the Township's inspection to ensure the same, all funds held in that escrow account will be released back to the permit holder.

The Township's enforcement of the Township's Regulations does not constitute an "unauthorized local ordinance" as defined by ACRE, nor has [REDACTED] asserted the same. In consideration of the foregoing, the Township respectfully requests the OAG deny the Request.

Very truly yours,

[REDACTED]

[REDACTED]
Penn Township Solicitor

[REDACTED]

Cc:

[REDACTED]
[REDACTED]