

RECEIVED FROM BOB MANCHESTER, 7495 BRIGGS ROAD
12/1/20

We are here to express our concern about the new law / agribusiness definition for Firewood Production that is being considered for the town of Lima.

We live on a residential property across the road from Bob Pilato, who started a commercial tree service called BDP Tree, LLC in 2017. He began bringing home commercial tree waste from other properties to be disposed of by burning, a violation of DEC open burning regulations. A portion of the wood he brought home was also cut and split by ax for his personal use. He then began producing firewood, investing in a Kubota tractor, commercial log splitter, and a new truck, and rapidly increased his commercial production volume, taking many commercial trailer loads of firewood off his property annually. We've been negatively impacted by his business activities for 4 years. It has been extremely difficult to deal with.

BDP Tree, LLC / Bob Pilato believes that he is permitted to do "agricultural activity" like any farmer, including burning of commercial waste, because he lives in the agricultural zone, despite proximity to our residential property next door. He has resisted all our requests to stop burning his waste.

His commercial business grew very rapidly over four years. We believe that can happen again in Lima and lead to unintended consequences.

We feel the new law for firewood production puts Lima residents at risk because it is too open ended and that there is not enough detail on the necessary requirements a firewood producer needs to satisfy before being allowed to commence firewood production.

We want the town Board to carefully consider the unintended consequences of approving the new law, with only "Site Plan Review", without clearly defining appropriate restrictions and guidance related to burning, size of operation, impact on neighbors, size of the property, source of the wood, storage of raw material and finished firewood, hours of operation, etc.

As residents who have had a commercial firewood production business spring up next door which proceeded to completely change our ability to enjoy our property or even leave our windows open, we feel our input can help the town be aware of potential problems with new businesses. We want specific guidance to be given to any business starting up, so that other residents in Lima are not negatively impacted the way we have been.

Unintended Consequences which we have suffered for 4 years:

- Illegal Burning of Commercial Waste as defined by NYS D.E.C.
 - Resulted in Chronic noxious smoke pollution, health consequences
- Violations of Home Occupation Code 250-88
 - Resulted in offending smoke, odor, noise, vibration, glare across the property line from constant business activity
 - Visual pollution due to clutter, business storage, business equipment on the property
- Violations of Solid Waste Code 215 include illegal waste dumping, disposal
- Reduction in both our property values
- Deterioration of our relationship with our neighbor, because he asserted that Lima had no regulations that applied to him

Our neighbor's business activities have affected our daily lives, impacted our health, and been outside of our control in spite of our efforts to negotiate and cooperate with our neighbor, since 2017.

NYS DEC Agricultural burning requires a 5 acre parcel, extinguishing bonfires before they are left unattended, and requires agricultural burning must be combusted in 24 hours

Some suggestions for reducing negative impact of burning:

- Mulch waste for resale instead of burning waste
- Require / solicit input from neighbors
- Establish significant set backs of at least 5 acres to buffer neighbors from smoke
- We recommend that the town instill burning limits more stringent than the DEC or prohibit burning in the case of firewood producers

Some suggestions regarding noise and business equipment:

- A minimum of 5 acre parcel should be required to allow for adequate setback to reduce noise impact
- Limit size of operation and total number of employees according to the size of site
- Limit total volume of firewood production allowed to help control associated noise produced by business (this is done in town of Naples in Ontario County)

Please consider the questions we have included below as you develop robust regulations around the firewood production definition.

Does the law allow this agribusiness definition of firewood production for farmers only, on an Ag District in the Agricultural zone? We know that Ag District distinction is generally for large farms, so we assume that a farmer engaging in firewood production could isolate their activities to locations of their farmland that does not offend neighbors with noise, smoke, vibration, glare or odor.

Could this be a private landowner with a woodlot, and if so, would they be treated as a farmer and given agricultural privileges? If so, then how much land is considered minimum for handling of firewood, heavy equipment operation, chain saw operation, and business storage? Would this allow them permission to burn their firewood waste, as would be typical of farmers and homeowners, or would they be restricted from burning the waste, as this is a commercial enterprise?

Would any individual who resides on agricultural zoned land, whose parcel is of 1 or ≤ 2.5 acres, be allowed to begin producing firewood under the agribusiness definition? This would be most similar to our personal situation which created hardship.

We would like to encourage the Town Board to anticipate that firewood production is likely to grow rapidly in the case of any commercial operation such as that of our neighbor. Although we are aware this law may not be considered for residential application, here is Lima's code language on this matter in the home occupation code 250-88 D 12:

“The following uses, by the nature of the investment or operation, have a pronounced tendency, once started, to rapidly increase beyond the limits permitted for home occupations and thereby impair the use and value of zoning districts authorizing agricultural or residential uses and for residence purposes and are more suited to business districts. Therefore, the uses specified below shall not be permitted as home occupations.” Please see attached photographs.



PICTURE 1



PICTURE 2



PICTURE 3A



PICTURE 4



PICTURE 5



PICTURE 6



PICTURE 7

PICTURE 1 (PAGE 3)

SHOWING THE COLLECTION OF THE FUTURE
BURN PILE. HULK LOGS WHICH WILL NOT
FINISH BURNING, AND NON-WOOD STUFFS
IN THE PILE.

PICTURE 2 (PAGE 3)

SAME PILE FROM THE OTHER SIDE

PICTURE 4 (PAGE 4)

PILE FROM A TIME CLOSER TO BURNING
NOTE ALL THE NON-WOODY CONTENTS.

PICTURE 5 (PAGE 5)

THE BURN, TOOK PLACE AT NIGHT TO
MAYBE HIDE SMOKE FROM THOSE WHO COULD
NOT SMELL (OR SEE THE FIRE).

PICTURE 6 (PAGE 5)

REMAINS AFTER "THE FIRE", WHAT DOESN'T
BURN

PICTURES 7-8 (PAGE 6)

VIEWS OF THE PROPERTY FROM AN
OUTSIDERS PERSPECTIVE