

# MODEL LOCAL TIMBER HARVESTING LAW

**10/26/2006- consensus changes**

A local law establishing timber harvesting regulations in the Town of \_\_\_\_\_

**Be it enacted by the town board as follows:**

**This local law shall take effect 60 days after filing with the Secretary of State.**

**I - Authority:** This law is enacted pursuant to the authority granted under Section 10 of the Municipal Home Rule Law.

## **II - Purposes.**

The purpose of this law is to promote the general health, safety and welfare of the residents of the town by protecting the natural environment as affected by timber harvesting. The town recognizes that timber resources are of significant value and should be harvested. The town also recognizes that if harvesting practices are carried out poorly, they can result in significant and direct environmental damage to water quality, land and infrastructure. This chapter requires the landowner, logger and his agent to be responsible for implementation of the best management practices as outlined in this chapter.

## **III - Conflict with other provisions.**

Whenever the requirements of this chapter are at variance with the requirements of any other lawfully adopted rules, regulations, ordinances or laws, the most restrictive shall govern.

## **IV - Definitions.**

For the purpose of this Chapter, the following terms shall apply:

**AGENT** – Any person, corporation, firm, partnership or other entity having written authorization from the owner of property for the purpose of representing the property owner in his or her dealings with the town and its officers and certified by the property owner in writing, over his signature on the permit application form for this purpose. Examples of agents include but are not limited to loggers, foresters, family members, tenant and adjacent landowners.

**APPLICATION** – The act of the landowner and/or the landowner's agent, of submitting a completed permit information form to the Code Enforcement Officer, signed by the property owner and his agent (if applicable).

**BEST MANAGEMENT PRACTICES** – devices and procedures to be considered and used as necessary to protect the values and functions of forested land during harvesting and during other forest management operations. The New York State Guidelines for Timber Harvesting and New York State Forestry BMP Field Guide are reference examples of Best Management Practices.

**CODE ENFORCEMENT OFFICER (CEO)** – The official designated by the Town Board to enforce the provisions of the Chapter.

**COMMERCIAL TIMBER HARVESTING (LOGGING)** – The business of felling trees for commercial lumber and/or firewood production and/or sale other than:

- A. Felling trees for firewood production for the personal use of the landowner or the immediate family members of such landowner fewer than twenty-five standard cords (25) within a twelve month period.
- B. Production of saw lumber by the landowner for the personal use of the landowner or the immediate family members of such landowner of fewer than 10,000 board feet within a twelve month period.

HAUL ROADS – A constructed road of dirt and/or gravel utilized for moving cut trees from the point where they are loaded on a truck to exit from the site.

LANDINGS – An open or cleared area used for loading logs onto trucks or used for any purpose such as storing logs or servicing equipment.

LOGGER- An individual, corporation, firm, partnership or other entity contracting with an owner of property in the town for the purpose of commercial timber harvesting on said property.

QUALIFIED FORESTER- an individual who has a Bachelors or higher degree in forest management or an associated forestry discipline from a Society of American foresters accredited or candidate institution, and at least three years of substantial forestry experience of a grade and character satisfactory to the Director of the Division of Lands and Forests. Such experience can include professional level work in silviculture, forest land management planning, urban forestry, forest land taxation planning, forest engineering, forest pest control or similar duties deemed suitable by the Director or shall mean an individual who is a Society of American Foresters Certified Forester, or shall mean a member of the Association of Consulting Foresters.

SKID TRAIL – temporary trail or rough road used to move a log from the place where it was cut to a pile or landing where it is loaded onto a truck.

STANDARD CORD - Cut wood stacked four feet high by four feet wide by eight feet long. A standard cord is equivalent to 128 cubic feet.

STREAM – A body of running water flowing continuously or intermittently in a defined channel with bed and banks on the ground surface. All streams regulated under this law will be identified on an official map for each town.

TOP OF STREAM BANK- the first substantial break in slope between the edge of the bed of the stream and the surrounding terrain. The top of bank can either be a natural or constructed (i.e. road or railroad grade) feature, lying generally parallel to the watercourse. The top of stream bank is associated with bankfull flow conditions.

## **V - Permit Requirements**

No person, firm, partnership, corporation or other entity (hereafter referred to as “person”) shall engage in commercial timber harvesting as defined in this Law without a permit issued in accordance with Part VI herein.

Any person desiring to engage in commercial timber harvesting in the Town shall file a timber harvesting permit application with the Town Code Enforcement Officer (CEO), together with payment of the permit fee in an amount which shall be set from time to time by resolution

of the Town. The application shall be signed by the owner of real property on which the activity will occur, and the logger or their respective designated agent.

A permit shall be issued by the Town CEO, if the application demonstrates compliance with Part VI - Standard Operating Procedures of this Law. Compliance with said Part VI shall be deemed to satisfy SEQR requirements under 6 NYCRR 617.

## **VI - Standard Operating Procedures.**

All commercial timber harvesting pursuant to this Chapter shall comply with the following standards:

- A. In order to minimize erosion no haul road or skid trail used by heavy equipment during the timber harvesting operation shall exceed a slope of 15% for a distance of more than 200 feet without reducing the slope below 15% **or** installing a practice recommended in the NYS Forestry BMP Field Guide to divert running water from haul roads and skid trails. Avoid placing haul roads or skid trails within a 50-foot set back distance from streambanks or other surface waters on slopes 15% or greater.
- B. In order to minimize streambank erosion there shall be no skidding up and down any stream channel. All logging slash and debris shall be promptly removed from any such channels. There shall be no skidding on any public roads.
- C. In order to minimize streambank erosion the applicants will be responsible for complying with all NYS-Dept. of Environmental Conservation (DEC) and Army Corps of Engineers (ACOE) permitting requirements during stream and/or wetland crossings.
- D. In order to maintain the integrity of streambanks and to shade streams no harvesting shall be allowed within fifteen (15) feet of all streams. The 15 foot no harvest zone will be a slope distance measured from the immediate top of the stream bank. In cases where maintenance is necessary to cut trees that are tipping and exposing the stream bank to erosion, trees may be cut within the 15 foot no harvest zone with the stump and root system left in place to stabilize the bank area.
- E. Landings shall not be in the public right of way and shall be properly graded to prevent sediment from washing into streams, public roads or drainage ditches along public roads.
- F. Site reclamation shall be performed as soon as site conditions allow either during or upon completion of the harvesting activity. The following shall be considered to complete site reclamation:
  1. Haul roads, skid trails and landings shall have permanent erosion control and drainage structures installed as necessary to prevent soil movement and water quality degradation. It is **recommended** that waterbars, dips, diversion ditches or other appropriate management structures should be placed based on the NYS Field Guide guidelines to reduce erosion.

## **VII - Permit application procedure.**

The Town CEO shall not accept for review any application which does not contain the required information. The permit application package will include **a copy of the permit application**, a copy of this chapter, and a "New York State Forestry Best Management Practices for Water Quality,

Field Guide” and other appropriate educational materials. The permit application is broken down into two parts.

**Part A: Basic Timber Harvest Application** requires the following information:

1. Names, signatures and addresses of landowner and his or her logger, forester and agent (if applicable).
2. Tax map number(s) of the property to be harvested.
3. Copy of a topographic map with property boundaries, landing area and area to be logged clearly marked.
4. Approximate dates of harvesting and approximate amount of timber to be harvested.

If the Town CEO determines that the basic application is complete and the area to be harvested does not have slopes exceeding 15% for more than 200 feet and no streams are present in or contiguous to the harvest area, the above steps will complete the information needed and the Town CEO will issue a permit within 2 business days of application receipt.

**Part B: Full Timber Harvest Application:**

If the harvest area has a slope greater than 15% for more than 200 feet or a stream is in the harvest area then the second page of the application will need to be filled out in addition to the basic application. In addition to the basic application, the Full Timber Harvest Application will require:

1. A description of the Best Management Practices applied to the harvest area pertaining to riparian areas, haul roads, skid trails and landings.
2. The approximate location of haul roads, skid trails and stream crossings will be identified on the project application map.

A 480a Plan or Forest Stewardship Incentive Plan that has the above information can be used to in place of the permit application. The Town CEO will have 3 business days from application receipt to determine if the full application is complete and issue a permit.

The CEO will send a copy of all permit applications to the Town and County Highway Superintendents, the County Soil and Water Conservation District and the Canandaigua Lake Watershed Manager (if in Canandaigua Lake watershed).

## **VIII - Violations and Enforcement.**

The owner, agent and logger of land where a violation of any provision of this local law has been committed or shall exist are all jointly and severally subject to the following violations and enforcement action:

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this chapter. The Town may at its sole discretion ask for assistance from a separate individual to include but not limited to the Watershed Manager, Soil and Water Conservation District and/or a qualified forester of the town’s choice to review timber harvesting

applications and make recommendations on permit approval to the town Code Enforcement Officer. The Town will have ultimate authority to decide on permit acceptance and enforcement.

- B. By receipt of permit application the Town is given authority to inspect and enforce provisions of this law. The Code Enforcement Officer, may enter, examine and survey all grounds affected by the timber harvest in order to ascertain whether such rules and regulations in this section are complied with by any person regulated by this chapter. The town may at its discretion inspect the site upon completion of the timber harvesting operation to determine if all reclamation efforts have been completed.
- C. Upon notification by the CEO to the applicant of any violation hereunder, the timber-harvesting permit granted to such applicant may be suspended and/or revoked. Upon suspension or revocation, as the case may be, all operations shall immediately cease, and the applicant shall take immediate steps to implement the actions necessary to come into compliance with the application and timber-harvesting permit. Such suspension or revocation notice may contain conditions to be met to obtain reinstatement of the permit.
- D. Any person violating any provision of this chapter shall be guilty of an offense punishable by a fine not to exceed \$250.00 or imprisonment for a period not to exceed fifteen days, or both. Each violation will be considered a separate and distinct offense. Each day's documented violation and notice after the original notice thereof shall have been given shall be deemed a separate and distinct offense hereunder. Such notice shall be in writing, signed by the CEO, and shall be served upon the person or persons at his or their last known address.
- E. Pursuant to 150.20 of the Criminal Procedure law and in accordance with section 10(4)(a) of the Municipal Home Rule Law, the CEO, Town Constable or other appropriate law enforcement official of the town is hereby authorized to issue and serve appearance tickets in respect to any violation of this chapter.
- F. In addition to or as an alternative to the above provided penalties, the Town Board may also maintain an action in the name of the town in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this chapter.

## **IX Appeals Procedure**

There may be situations where strict adherence to certain provisions of this law is impossible or impractical. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the CEO, to grant variances from the strict application of this law. Substantial variation from the law may fall outside of the scope of the Timber Harvesting Generic Environmental Impact Statement thus possibly requiring separate SEQR review.

## **X Liability**

Neither the issuance of a permit, nor the compliance with the provisions hereof or with any conditions imposed in the permit issued hereunder, shall relieve the permittee from the full responsibility for any damage whatsoever to other persons or property, nor impose any liability upon any officer, agent or employee of the Town for damage to persons or property.

## **XI Validity**

If any section, paragraph, subdivision or provisions of this Law shall be declared invalid, such invalidity shall apply only to the section, paragraph, subdivision of provisions adjudged invalid and the rest of this Law shall remain valid and effective.