

LOCAL LAW #2 OF 2018
TOWN OF CHATHAM
REGULATION OF TIMBERING

§ 1. Findings.

The Town of Chatham recognizes that the timber resource in the Town is a renewable resource of significant value and may be harvested. The Town also recognizes that if timber harvesting practices are poorly carried out, they can result in significant environmental and aesthetic damage to the land and to adjacent lands and waters. It is the purpose of this local law to protect the public health, safety and welfare of the residents of the Town of Chatham by regulating tree clearing and timber harvesting, so as to prevent problems related to erosion, sedimentation, drainage, noise, dust and damage to local roadways while honoring the intent and terms of the Right to Practice Forestry Law contained in Environmental Conservation Law sections 3-0301 and 9-0815.

§ 2. Statutory authority.

In accordance with the provisions of Article 9 of the Town Law of the State of New York, the Municipal Home Rule Law and Section 96-b of the General Municipal Law, the Town Board of the Town of Chatham has the authority to enact local laws for the purpose of promoting the health, safety and general welfare of the Town of Chatham, including the protection and preservation of the property of its inhabitants, and to provide for the protection and conservation of trees and related vegetation.

§ 3. Definitions and word usage.

A. Customary meaning. Except where specifically defined herein, all words used in this chapter shall carry their customary meanings. Words used in the present tense include the future, and the plural includes the singular. The word "shall" is intended to be mandatory. An infinite number of variables exist in the field of timber harvesting due to differences in soil, terrain, weather, type of timber and ownership objectives. Therefore, the use of such terms as "where possible," "should," "avoided," etc., are realistic understandings of field conditions.

B. Defined phrases. As used in this chapter, the following terms shall have the meanings indicated:

ACCESS ROAD: A roadway normally designed and intended for use by motor vehicles which provides access to or into forest land.

APPLICANT: Any individual or individuals, firm, partnership, association, corporation, company, organization or other legal entity of any kind, including municipal corporations, governmental agencies or subdivisions thereof, who has a request for a permit to conduct a regulated activity before the Code Enforcement Officer.

BEST AVAILABLE FOREST MANAGEMENT PRACTICES: Those practices recommended in a manual entitled, New York State Forestry, BMP Field Guide, Best Management Practices for Water Quality, 2011 Edition. A copy is on file in the Town Building Department office.

BUFFER STRIP: An area of variable width and length in which forest practices are restricted in order to provide a visual screen or to protect water quality.

CLEAR CUT: A regeneration of harvest method that removes essentially all trees in a stand; provided, that a clearcut may or may not have reserve trees left to attain goals other than regeneration depending on management objectives.

CLEARING: Any activity which removes or significantly disturbs trees, brush, grass or any other type of vegetation.

CODE ENFORCEMENT OFFICER or CEO: The officer designated by the Town of Chatham Town Board and charged with the enforcement of zoning, building and fire codes.

COMPLETE APPLICATION: An application which has been declared to be complete by the CEO.

DATE OF RECEIPT OF COMPLETE APPLICATION: A complete application shall be deemed received by the Code Enforcement Officer upon his/her receipt of all items set forth in §6 of this local law.

DRAINAGE: The gravitational movement of water or other liquids by surface runoff or surface flow.

EROSION: The wearing away of the land surface by action of wind, water, gravity or other natural forces.

FOREST LAND: An ecosystem supporting a dense growth of trees covering a large area. Fence or hedgerows alone do not constitute a forest system.

HOMESITE: That portion of any lot or parcel of land covered or to be covered by any structure, including but not limited to buildings, septic systems and their reserve areas, wells, pools and driveways.

LANDING AREA: A cleared area to which felled trees and logs are hauled by a skidder for their storage before being transferred to trucks.

NYSDEC: New York State Department of Environmental Conservation.

PERSON: Any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including any political subdivision of the state.

PROTECTED STREAM: Any stream as so designated under Article 15 of the Environmental Conservation Law (ECL).

SEDIMENT: Solid material, both mineral and organic, that is in suspension, is being transported, has been deposited or has been removed from its site of origin by erosion.

SELECTIVE CUTTING: A cutting that removes only a portion of trees in a stand; provided, that cutting done in accordance with the selection method is not included in this definition.

SKIDDER: A machine, used in moving logs from the stump site to a landing.

SKIDDING: The act of moving logs from the stump site to a landing.

SKID ROAD (HAUL ROAD): A main pathway, normally intended for repeated use by a skidder to reach skid trails, where extensive exposure of soils can be expected from heavy traffic.

SKID TRAIL: A secondary pathway, intended for use by a skidder to reach trees or groups of trees which have been cut, where extensive exposure of soils is not expected.

SLASH: The woody material or debris resulting from cutting trees and left on the ground after an area is logged.

SLOPE: Land with a topographic gradient, usually expressed as percent slope, the percent being calculated by measuring vertical elevation relative to horizontal distance. A slope of 25% means a twenty-five-foot rise in elevation from one point to another along a one-hundred-foot horizontal plane (calculated as: twenty-five-foot rise/one-hundred-foot horizontal distance = twenty-five-percent slope).

TIMBER HARVESTING: The felling of trees for commercial lumber or firewood production.

TOWN BOARD: The duly elected Town Board of the Town of Chatham.

TOWN CLERK: The duly elected Town Clerk of the Town of Chatham.

TREE: A large woody plant, usually having one self-supporting stem or trunk and numerous branches, normally expected to attain heights in excess of 20 feet and having a stump diameter of at least four inches.

WATERBODY: Any natural or artificial pond, lake, reservoir or other area containing a surface area of over 1,000 square feet and which usually or intermittently contains water and has a discernible shoreline.

WATER COURSE: Any natural or artificial, permanent or intermittent, public or private waterbody or water segment, such as ponds, lakes, reservoirs, rivers, streams, brooks, waterways or natural drainage swales, that is contained within, flows through or borders on the Town of Chatham, except those which are regulated by the NYSDEC.

WETLAND: Any wetland under the regulatory jurisdiction of New York State or the United States and as defined respectively in the laws and regulations which govern such wetlands.

§ 4. Applicability.

A. Timber harvesting shall not be commenced until a permit has been issued under the provisions of this chapter.

B. The following activities are exempted from permit requirements:

- (1) Firewood production for the personal use of the landowner or the immediate family members of such landowner;
- (2) Firewood production of less than 1 full cord, per acre, annually for sale by the landowner;
- (3) Production of saw lumber for the personal use of the landowner or his immediate family;
- (4) The clearing of homesites, to the extent that the clearing per homesite shall not exceed an area of more than one acre, not including the area for use as a driveway;
- (5) The cutting of holiday or celebration trees, whether for personal or commercial activities;
- (6) Projects carried on by any entity which shall be deemed to be a public utility under New York State law; and
- (7) Projects carried out pursuant to New York State Real Property Tax Law §480-a and other possible future forest tax law programs made available by the State of New York.
- (8) Agricultural uses as that term is defined in the NYS Agriculture and Markets Law.

C. Clear Cutting is prohibited when conducted without a valid timber harvesting permit if required hereunder, when conducted in violation of any provision of this Local Law or when done without consideration for and in disregard of legitimate forest management practice recognized by the Society of American Foresters. Clear cutting may be used for certain forest stand conditions and timber or wildlife management goals as recognized by the Society of American Foresters but should not be used to harm the environment.

§ 5. Conflict with other provisions.

Where this chapter imposes greater restrictions than are imposed by the provision of any other law, ordinance, regulation or private agreement, this chapter shall control. Where greater restrictions are imposed by any other law, ordinance, regulation or private agreement than are imposed by this chapter, such greater restrictions shall control.

§ 6. Permit applications.

A. Timber harvesting permit application.

(1) Any person proposing to conduct, or causing to be conducted, a regulated activity requiring a permit under this law shall file an application for a permit with the Code Enforcement Officer, together with the filing fee established by resolution of the Town Board, and together with any escrow deposit required by the Code Enforcement Officer. All costs incurred by the Town in the review and approval(including inspection)of this application shall be borne by the applicant as provided by State Law or as provided by Town Code.

(2) All permit applications must include the following:

(a) The name, address and telephone number of the owner and of the property owners abutting the land to be timbered.

(b) The street address and tax map designation of the property.

(c) A statement of authority from the owner for any agent making application.

(d) The estimated number of acres to be harvested and the estimated volume of forest products to be harvested.

(e) A general description of the area in which the forest practices are proposed.

(f) Maps or supporting documents showing the following:

[1] The area in which the proposed forest practices are to occur;

[2] The boundaries of the applicant's land.

(g) The estimated time for start-up and completion.

(h) A plan to close out skid trails, roads, landing or other temporary improvements must follow Best Management Programs as provided by the New York State Forestry Best Management Practice for water Quality Field Guide referenced in www.dec.gov/lands/37845.html or as amended by New York State.

(i) Proof of insurance. An insurance policy shall be submitted with the application listing the Town of Chatham as a party insured in an amount sufficient to cover any anticipated damages.

(j) A copy of the signed contract (with financial terms redacted) between the logger and the property owner(s) which delineates the manner in which the work performed shall be in conformity with the standards of this local law and Best Management practices.

(k) For residential home site clearing applications not exempted in Section 4 (4), the CEO shall have the discretion, in situations in which he or she determines, that there shall be de minimus impact to the environment and public property, to waive the requirements set forth herein.

(l) Acknowledgement that applicant is responsible for itself or its agents under Highway Law Sections 320 and 326 relating to treble (triple) damages for damage to town roads.

(m) Proof of mailing by certified Mail Return Receipt Requested of notice of application to all adjoining property owners who own land abutting the land to be timbered.

B. Additional information. The applicant may be required to submit more supplement information and/or plans for the proposed site alterations if the original application provides inadequate information.

C. Fees for technical review. The CEO shall have the power to retain such independent consultants as reasonably necessary in order to provide it with information and guidance regarding any application before it and with due regard of the scope of the project so that the consultant review does not render forest management impractical for smaller projects. In the event that such consultants shall be required with regard to a particular application, the CEO shall notify the applicant of the amount of the actual expense to be incurred, and the applicant shall, prior to any further review of his application, remit the entire cost of said consultants' fees to the Town. Applicant shall be provided with all invoices from said consultant before they are paid by the Town.

D. Duties of the CEO.

During his/her review of the application, the CEO shall:

(1) Determine the completeness of the application.

(2) Approve, approve with conditions or deny applications, in accordance with this chapter. Such decision shall be in writing and shall set forth the reasons in support of the decision and, furthermore, shall be filed in the Office the Code Enforcement Officer. Applicants aggrieved by said decision may appeal to the Town Board within 30 days of said decision. Pursuant to an application approval, a permit will be issued by the Code Enforcement Officer.

3) The CEO may, in his/her discretion, obtain the assistance and /or recommendation of Town Engineer, Town Attorney or other professionals if necessary to review the application.

E. Inactive applications. Applications must be diligently pursued by the applicant. Should any application before the CEO remain inactive for six months while awaiting receipt of information as requested by the Code Enforcement Officer, the application shall be considered abandoned. The CEO may consider the granting of no more than one six-month extension for the submittal of the requested information.

§ 7. Administration of permit applications.

A. Time to act. Within 30 days of the date of receipt of a complete application from the Code Enforcement Officer, he/she must approve, approve with conditions or deny applications, in accordance with this chapter. In instances when an escrow deposit is required, the application will not be considered complete until the required escrow deposit is received by the Code Enforcement Officer. If no action is taken within 30 days of receipt, the application shall be deemed approved.

B. Permit standards.

1. All applications for timber harvesting permits shall demonstrate compliance with the performance standards for timber harvesting. The applications should also take actions necessary to comply with the Federal Clean Water Act and provide, where applicable, due regard to the voluntary applicable provisions contained in the manual entitled New York State Forestry, BMP Field Guide, Best Management Practices for Water Quality, 2011 Edition, on file in the Town Building Department office.

C. Permit conditions.

(1) Every permit issued pursuant to this chapter shall contain the following general conditions:

(a) The Code Enforcement Officer or Highway Superintendent have the right to inspect compliance with this Local Law at any reasonable time, including weekends and holidays.

(b) The permit holder shall notify the Code Enforcement Officer of the date on which project construction is to begin at least 3 days in advance of such date.

(c) The permit shall be prominently displayed at the project site during the undertaking of the activities authorized by the permit. The sign shall be displayed at the point where the access road meets the public road.

(d) All permits shall be valid for a period dictated in the harvesting contract or if none exists for eighteen(18) months,, subject to renewal, but shall expire upon completion of the acts specified.

(e) Operations, including harvesting, cutting, milling or removal of products or any other activity related to harvesting shall not take place between the hours of 7:00 p.m. and 7:00 a.m. or at any time on Sundays or legal holidays unless the Highway Superintendent grants a variance for good reason shown.

(f) Where a proposed commercial logging operation is to use or develop an access onto a Town highway, such proposal shall be referred to the Town Highway Superintendent, who shall approve such access, subject to the following conditions:

[1] Posting of site entrance and exit signs.

[2] No skidding of timber shall be permitted across unpaved Town highways as part of the logging operation at any time unless a bond is posted in an amount sufficient to repair any damages.

[3] The Town highways and ditches shall be cleared of substantial dirt, mud and vegetation debris that would interfere with said highways and ditches.

[4] An off-street parking area for logging equipment and other vehicles should be located on the logging site to prevent damage or that interferes with said highway. No loading or unloading on town highway is permitted at any time without advance notice to the town highway department.

(2) Any permit issued pursuant to this chapter may also be issued with specific conditions, beyond those listed above. Such conditions may be attached by the CEO as are necessary in order to assure compliance with the policy and provisions of this law.

(3) Site Clean Up. Within 50 feet of the highway tops shall be lopped to within 3 feet of the ground and hung up or partly fallen trees shall be pulled down. No equipment shall be abandoned, nor shall any liquid or solid waste be dumped or otherwise deposited on the site or in the Town.

C. Permit renewal. Upon written request of the applicant, the Code Enforcement Officer may renew a permit for additional time required to complete the harvesting contract period. The fee for a permit renewal will be determined by resolution of the Town Board.

§ 8. Financial guaranty.

A. After the approval of the application and before the issuance of any permit, the applicant shall file with the Town Clerk (1) A certified check in an amount satisfactory to the CEO, after consultation with the Town Highway Superintendent and the applicant, to provide security for compliance with this application or (2) A bond in said amount in lieu of said check.

B. Upon termination of the permit or the operation, whichever may come first, the project shall be in conformity with both the approved specific requirements of the permit and the provisions of this chapter. In the event of a material default of such and material violation of any other applicable laws, such financial guaranty, in whole or in part, shall be kept by the Town until the applicant makes the repairs or alterations to bring the project into compliance. The Town shall return to the applicant any amount in excess of the hard costs of restoration, administration and or other expenses incurred by the Town as a direct result of the applicant's default within 60 days of the issuance of the Certificate of Compliance.

§ 9. Penalties for offenses.

A. Reporting. Any resident of the Town may file a written complaint with the Code Enforcement Officer alleging a violation of this chapter. The Code Enforcement Officer shall file said complaint, investigate the same and report thereon to the Town Board.

B. Punishment. A violation of any of the provisions of this chapter by an owner of land and/or a builder or contractor shall constitute an offense punishable either:

(1) By the imposition of a fine not exceeding \$350 or imprisonment for a period not exceeding six months, or both, for conviction of a first offense; for a conviction of a second offense, both of which were committed within a period of five years, by a fine of not less than \$350 nor more than \$700, or imprisonment for a period not exceeding six months, or both; and, for conviction of a third or subsequent offense, all of which were committed within a period of five years, by a fine of not less than \$700 nor more than \$1,000, or imprisonment for a period not exceeding six months, or both; or

(2) By the imposition of a civil penalty in the above amounts, which said penalty may be assessed and recoverable against the violator in a small claims proceeding instituted by the Town in the Town Justice Court, pursuant to the provisions of Article 18 of the Uniform Justice Court Act.

(3) Each week's continued violation shall constitute a separate, additional violation for which separate and additional fines or civil penalties in the above amounts may be imposed or recovered.

C. Injunctions. The Town may bring an action for an injunction in addition to the above penalties herein.

§ 10. Compliance with other standards.

All development and improvement allowed by right or allowed by permit shall also conform to all rules and regulations contained in the Code of the Town of Chatham and all other applicable state and federal laws and regulations.