

Local Law Filing

(Use this form to file a local law with the Secretary of State.)

Text of law should be given as amended. Do not include matter being eliminated and do not use italics or underlining to indicate new matter.

County City Town Village
(Select one.)

of BEEKMAN

FILED
STATE RECORDS
MAR 08 2021

DEPARTMENT OF STATE

Local Law No. 2 of the year 2020

A local law ADOPTION OF LOCAL LAW
(Insert Title)
TIMBER HARVESTING AND FOREST MANAGEMENT

Be it enacted by the TOWN BOARD of the
(Name of Legislative Body)

County City Town Village
(Select one.)

of BEEKMAN as follows:

SEE ATTACHED

(If additional space is needed, attach pages the same size as this sheet, and number each.)

(Complete the certification in the paragraph that applies to the filing of this local law and strike out that which is not applicable.)

1. (Final adoption by local legislative body only.)

I hereby certify that the local law annexed hereto, designated as local law No. 2 of 2020 of the (County)(City)(~~TOWN~~)(Village) of BEEKMAN was duly passed by the TOWN BOARD on DECEMBER 1 2020, in accordance with the applicable provisions of law.
(Name of Legislative Body)

2. (Passage by local legislative body with approval, no disapproval or repassage after disapproval by the Elective Chief Executive Officer*.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ and was deemed duly adopted *(Elective Chief Executive Officer*)* on _____ 20 , in accordance with the applicable provisions of law.

3. (Final adoption by referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. *(Elective Chief Executive Officer*)*

Such local law was submitted to the people by reason of a (mandatory)(permissive) referendum, and received the affirmative vote of a majority of the qualified electors voting thereon at the (general)(special)(annual) election held on _____ 20____, in accordance with the applicable provisions of law.

4. (Subject to permissive referendum and final adoption because no valid petition was filed requesting referendum.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the (County)(City)(Town)(Village) of _____ was duly passed by the _____ on _____ 20____, and was (approved)(not approved) *(Name of Legislative Body)* (repassed after disapproval) by the _____ on _____ 20____. Such local law was subject to permissive referendum and no valid petition requesting such referendum was filed as of _____ 20____, in accordance with the applicable provisions of law.

* Elective Chief Executive Officer means or includes the chief executive officer of a county elected on a county-wide basis or, if there be none, the chairperson of the county legislative body, the mayor of a city or village, or the supervisor of a town where such officer is vested with the power to approve or veto local laws or ordinances.

5. (City local law concerning Charter revision proposed by petition.)

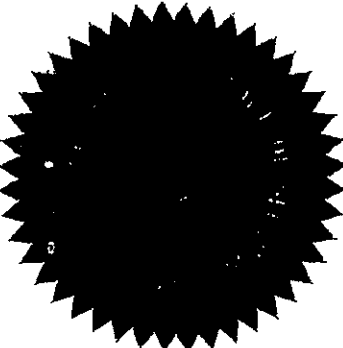
I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the City of _____ having been submitted to referendum pursuant to the provisions of section (36)(37) of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of such city voting thereon at the (special)(general) election held on _____ 20____, became operative.

6. (County local law concerning adoption of Charter.)

I hereby certify that the local law annexed hereto, designated as local law No. _____ of 20____ of the County of _____ State of New York, having been submitted to the electors at the General Election of November _____ 20____, pursuant to subdivisions 5 and 7 of section 33 of the Municipal Home Rule Law, and having received the affirmative vote of a majority of the qualified electors of the cities of said county as a unit and a majority of the qualified electors of the towns of said county considered as a unit voting at said general election, became operative.

(If any other authorized form of final adoption has been followed, please provide an appropriate certification.)

I further certify that I have compared the preceding local law with the original on file in this office and that the same is a correct transcript therefrom and of the whole of such original local law, and was finally adopted in the manner indicated in paragraph _____ above.



[Handwritten Signature]

Clerk of the county legislative body, City, Town or Village Clerk or officer designated by local legislative body

Date: December 8, 2020

RESOLUTION NO. 12:01:20 - 6
RE: ADOPTION OF LOCAL LAW – TIMBER HARVESTING AND FOREST
MANAGEMENT

COUNCILMAN BATTAGLINI offers the following and moves for its adoption:

WHEREAS, the Town Board members have before us a proposed local law enacting provisions in the Town Code regulating the cutting of trees and the harvesting of timber in the Town; and

WHEREAS, the Town Board members had the opportunity to review the proposed local law and it has sat of the desks of the Town Board for the required period of time; and

WHEREAS, public hearings were held and the Town Board members have considered the public comments received during those public hearings as well as written comments received; and

WHEREAS, the Town Board has taken the required hard look at the potential environmental effects of the proposed local law under the State's SEQRA regulations, and determined that its adoption would not have a significant adverse environmental impact, and issued a Negative Declaration.

Now therefore be it

RESOLVED, the Town Board hereby adopts Local Law 2 of 2020 and directs the Town Clerk to take such further actions as are set forth in the resolution adopting the Local Law, including filing the same with the Secretary of State.

Seconded: COUNCILMAN STIEGLER

ROLL CALL VOTE:

Councilman Stiegler	AYE
Councilman Battaglini	AYE
Councilman Swartz	ABSENT
Councilwoman Wohrman	AYE
Supervisor Covucci	AYE

Dated: December 1, 2020

TOWN OF BEEKMAN
LOCAL LAW NO. 2 – 2020

**A Local Law Amending the Town's Zoning Code
for the Purpose of Adding and Revising Regulations Pertaining to
Timber Harvesting and Forest Management**

Be it enacted by the Town Board of the Town of Beekman as follows:

1. Authority

This Local Law is adopted pursuant to §263 of the New York State Town Law, which generally authorizes the Town of Beekman to adopt zoning provisions that advance and protect the health, safety, and welfare of the community, and specifically authorizes the Town "to facilitate the practice of forestry." It is enacted under the authority of Municipal Home Rule Law §10.

2. Statement of Purpose

This Local Law is adopted to advance and protect the public health, safety, and welfare of the residents of the Town of Beekman, by enacting a regulatory framework to permit the safe and orderly harvesting of timber within the Town, while at the same time also protecting the interests of the owners of the neighboring properties, the Town's highways and roads, and the aesthetic qualities of the Town as a whole, by preventing the indiscriminate or unnecessary removal of trees within the Town of Beekman and requiring, among other things, tree harvesting to be done in accordance with a timber harvesting management plan.

3. Applicability

The requirements of this law shall apply to all timber harvesting commenced or continued after the law's effective date.

4. Definitions

The following shall be added to the Town Code §155-4 Definitions:

BASAL AREA (BA)

The cross-sectional area of all stems of a tree species or all stems in a stand measured at breast height (4.5 feet or 1.37 meters above the ground) and expressed per unit of land area.

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. For purposes of this section, the "best management practices" shall be defined as the current best management practices of forestry accepted by the New York State Department of Environmental Conservation, including but not limited to: A Landowner's Guide to Building Forest Access Roads, by Richard Wiest, USDA NA-TP-06-98, July 1998, and Best

Management Practices for Water Quality BMP Field Guide, New York State Forestry (Last Revised 2007), as such documents may be amended or supplemented from time to time.

CLEAR-CUTTING

Any cutting of trees over six inches in diameter at breast height over any ten-year cutting cycle where the average residual basal area of such trees after such cutting is less than 30 square feet per acre, measured within the area harvested.

CORD, STANDARD

A measurement of cut wood, being stacked four feet high by four feet wide by eight feet long, or the equivalent amount. A standard cord is equivalent to 128 cubic feet or solid wood equivalent to 85 cubic feet.

FOREST

A wooded area, whether managed or unmanaged, that may include conservation of wildlife habitat, provision of outdoor recreation, production of timber and forest crops, protection of water quality, regulation of water flows, conservation of soil, carbon sequestration and/or protection of aesthetic qualities.

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.

MANAGEMENT OBJECTIVE

A concise, time-specific statement of measurable, planned results that correspond to pre-established goals in achieving a desired outcome, identifying the resources to be used and the precise steps to be taken, and assigning responsibility in achieving the identified goals.

PRESCRIPTION

A planned series of treatments designed to change current stand structure to one that meets management goals taking into account ecological, economic, and societal constraints.

SILVICULTURE

The art and science of controlling the establishment, growth, composition, health, and quality of forests and woodlands to meet the diverse needs and values of landowners and society on a sustainable basis.

SKID TRAIL

Temporary trail or rough road used to move a tree-length log from the place where it was cut to a pile or landing where it is loaded onto a truck.

TIMBER HARVESTER

An individual, corporation, firm, partnership or other entity harvesting timber on a parcel of property, whether on a parcel owned by the timber harvester or pursuant to a contract with an owner of the property.

TIMBER HARVESTING

The felling of trees, whether for forest or woodland products, including but not limited to logs, lumber, posts and firewood, or otherwise, on a single parcel or within contiguous parcels. Timber harvesting shall also include the clearing, cutting, uprooting, removing or any other similar activity of any tree or trees having a trunk diameter of six inches or greater, measured at a height of 4 1/2 feet above the ground (dbh).

5. Permitted use added.

Section 155-23, Schedule A of the Town Code entitled "Schedule of permitted uses" shall be amended to add "Forest Management" as a permitted use in all districts in the Town, subject to the requirements of §155-51.

6. Deletion of two sections and insertion of new section on timber harvesting.

Sections 155-51 of the Town Code entitled "Tree Harvesting" and §155-53.1 entitled "Tree Removal" shall each be deleted in their entirety and the following section shall be added:

"155-51 Timber Harvesting, Tree Removal and Forest Management"

155-51(A) Findings and Purpose.

1. Findings:

- a. While it is known that trees and forests have commercial value and may be a source of income to the landowner, it has also been established that trees and forests stabilize the soil, especially on steep slopes; control water pollution by preventing soil erosion and flooding; assist with the reduction in greenhouse gases through the absorption of carbon dioxide and the provision of oxygen; yield advantageous microclimatic effects including providing cooling shade; provide recreation; offer a natural barrier to noise; provide a natural habitat for wildlife; and yield mulch, nuts, fruits and maple syrup. The forest resources of the Town of Beekman help to provide clean water, a diversity of habitat for wildlife, outdoor recreational activities, and a wide range of products.
- b. Zoning laws that discourage forestry uses, or that make the practice of forestry uneconomical, may force forest owners to change their property to other uses. It is in the best interest of the Town to encourage forest parcels to be continued as forest land and to encourage the creation of new forest land where possible.

c. Timber harvesting is not incompatible with the maintenance of a forested landscape. Good forest management helps to maintain forests and is often necessary for the health of a forest. However, indiscriminate, unregulated cutting, clearing or other removal of trees and forests may deprive the landowner, individual and the community of these benefits; have adverse impact on future growth of trees and forests; adversely affect soils and water resources and supplies and result in soil erosion and sedimentation; create a detrimental effect on neighboring property; and disrupt ecological systems in which trees and forests are an integral part. The Town of Beekman recognizes that timber is a renewable resource of significant value. The Town also recognizes that, if timber harvesting is not conducted properly, this activity can result in significant and direct environmental damage to water quality, soils, adjacent lands, public roads, land and infrastructure, and future forest quality. This section is intended to require the landowner and the timber harvester to be responsible for implementation of the best management practices as outlined herein.

2. Purpose: The following provisions are designed to prevent the indiscriminate or unnecessary removal of trees within the Town of Beekman and to regulate timber harvesting activities so as to minimize, to the greatest extent possible, the potential negative effects from such activity while preserving the rights of the landowners to manage their land. This code section is adopted to advance and protect the public health, safety, and welfare of the residents of the Town of Beekman, by enacting a regulatory framework to permit the safe and orderly harvesting of timber within the Town, while at the same time also protecting the interests of the owners of the neighboring properties, the Town's highways and roads, and the aesthetic qualities of the Town as a whole, by requiring, among other things, tree harvesting to be done in accordance with a timber harvesting management plan.

155-51(B) Definitions Incorporated. The definitions contained in §155-4 of any terms used herein are incorporated by reference.

155-51(C) New Use. "Forest Management" shall be a permitted use in all districts subject to the following:

1. Qualifying parcels:
 - a. The lot on which such use is to occur consists of at least 10 acres.
 - b. Any parcels currently receiving a tax exemption pursuant to Real Property 480-a, "Forest Tax Law" shall be deemed to comply with all requirements of this section, without need for further investigation.
2. Scope of Use:
 - a. Residential dwellings are permitted at a density no greater than 1 dwelling per 15 acres.
 - b. Felling trees for firewood production for the personal use of the landowner or the immediate family members of such landowner fewer than 20 standard cords within a twelve-month period shall be permitted.

- c. Production of saw logs 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 shall be permitted.
- d. Passive recreation shall be permitted.
- e. Maple syrup production shall be permitted.

155-51(D) Permit Required. No person, firm, partnership, corporation or other entity (hereafter referred to as "person") shall engage in timber harvesting without a permit issued by the Code Enforcement Officer in accordance with the following provisions.

155-51(E) Exempt Activities.

The following activities shall be exempt from the permit requirement of §155-51(D):

1. Felling trees for firewood production for the personal use of the landowner or the immediate family members of such landowner fewer than 20 standard cords within a twelve-month period;
2. Production of saw logs 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;
3. Felling trees on fewer than three (3) acres of land (one lot or contiguous);
4. Harvesting of sap for maple syrup production;
5. Harvesting Christmas trees derived from a managed Christmas-tree operation whether dug for transplanting or cut from the stump;
6. An on-farm "timber operation" as that phrase is defined under Agriculture & Markets Law §301(14);
7. Clearing in connection with activities protected under Article 25-AAA of New York State Agriculture and Markets Law;
8. The cutting or removal of timber or trees in connection with a bona fide operation for which a special use permit has been issued pursuant to Town Code Chapter 155, Article XI;
9. The cutting or removal of timber or trees in connection with construction pursuant to an approved subdivision plat or site plan approved by the Beekman Planning Board pursuant to Town Code Chapter 130 or Chapter 155, Article XI, provided that the following limits of disturbance are satisfied: Tree removal shall be limited to the cutting of trees for the purpose of establishing building sites, roadways, appropriate drainage, and appropriate grading. Such cutting shall be limited to an area within 60 feet of the principal structure and within 10 feet of any other proposed improvements. Prior to the

removal of an area larger than that described above, a recommendation by the Town Engineer and the approval of the Planning Board for the removal shall be required.

10. The normal maintenance of trees or property through the pruning or topping of trees or timber, or the cutting, removal or harvesting of trees or timber which are dead or diseased or are a hazard to public safety or health or property; or

11. The cutting or removal of timber or trees in the case of a bona fide emergency to protect or preserve health, safety or welfare of persons or property as determined by the Code Enforcement Officer or other competent public safety or public health authority.

155-51(F) Permit Procedure.

1. Prior to the issuance of any permit pursuant to 155-51(D), the applicant for such permit shall provide to the Town:
 - A. The landowner's name, address, telephone number and signature;
 - B. If there is an authorized representative, their name, address and telephone number, and an affidavit from the landowner stating that the representative is authorized to seek the permit and harvest the timber;
 - C. The property location, including its tax parcel identification number(s), street address(es) and cumulative acreage;
 - D. Approximate dates of harvesting and approximate volume of timber to be harvested;
 - E. A timber harvesting plan, as set forth below.
 - F. The name of the forester who prepared the plan, and his or her forestry qualifications.
 - G. A performance bond, in an amount to be determined by the Town forester, in conjunction with the Code Enforcement Officer, and approved by the Town Board, such amount being deemed sufficient to guarantee that the specified best management practices are utilized, and the site satisfactorily stabilized during the tree harvesting and upon completion of the work. Such bond shall be released only upon certification by the Code Enforcement Officer and the Town forester that all requirements of the tree harvesting permit have been met.
 - H. A road bond, in an amount deemed sufficient by the Superintendent of Highways to remediate the damage, if any, that may occur to Town roads as a result of the activities permitted herein. If the Superintendent of Highways is unable or unwilling to make such a determination, it shall be made by the Code Enforcement Officer. Prior to the release of any such road bond, an inspection shall be made by the Highway Superintendent or his designee, and a report given to the Code Enforcement Officer, as to the condition of any Town roads impacted by the harvesting and, if applicable, the need for repair of any damage resulting from the timber harvesting, and the anticipated cost of such repair. Such bond shall be released only upon certification by the Highway Superintendent or the Code Enforcement Officer that the Town roads have been satisfactorily remediated.

- I. Payment of an escrow fee in an amount determined by the Code Enforcement Officer in conjunction with the Town forester sufficient to cover the anticipated fees to be charged by the Town forester for the review of the project, including the timber harvesting plan and the associated inspections.
 - J. Payment of any application fee as may be set from time to time by resolution of the Town Board.
 - K. Copies of any other local, State or Federal permits, where required for stream crossings, wetland disturbance, compliance with the Town's overlay districts (ridgelines, scenic roads, scenic view sheds, and aquifer overlays), or otherwise, as may be required, or a statement from NYS Department of Environmental Conservation (DEC) that no additional permits are required.
2. The Code Enforcement Officer shall not accept for review any application which does not contain the required information.
 3. If the Code Enforcement Officer determines that the application is complete, it is not an application for clear-cutting, the haul roads or skid trails in the area to be harvested do not have slopes exceeding 15% for more than 200 feet, and no streams are present in or contiguous to the harvest area, as shown on the topographic map(s), the above steps will complete the information needed, the Code Enforcement Officer shall issue a permit within 10 business days of receipt of the complete application.
 4. The Code Enforcement Officer may require, in his or her discretion, that the boundaries of any property subject to a permit for tree harvesting be clearly and conspicuously marked, indicating that the property is subject to a permit for tree harvesting or forest management activities.
 5. Permits shall be valid for a period of ten (10) years if the property is subject to a forest management plan as set forth in §155-51(G)(3). In the absence of such a plan, the permit shall be valid for a period of twenty-four months from the date of issuance. A twenty-four-month extension may be granted by the Code Enforcement Officer. Any additional extensions shall require a renewed application.
 6. The Code Enforcement Officer may add any conditions to the permit that he or the Town forester believe should be required to prevent or mitigate any adverse effects from the granting of the permit.
 7. Once a permit has been granted, the Code Enforcement Officer shall provide a copy of the same to the Town Highway Superintendent and the Town Supervisor.

155-51(G) Timber Harvesting Plan Required.

1. The timber harvesting operation shall be conducted in accordance with an approved timber harvesting plan, developed by the landowner or their authorized representative and submitted to the Code Enforcement Officer. The timber

harvesting plan shall incorporate the standard operating procedures set forth in 155-51(H).

2. A timber harvesting plan shall contain at least the following information:
 - A. A copy of a United States Geological Survey 7.5-minute quadrangle topographic map, a US TOPO Map, or a property survey with elevation contours at a scale of 1:24,000 or less, showing the area to be harvested and all lands within 1/4 mile thereof, wetlands, waterbodies (including permanent streams), roads and the approximate locations of property boundaries, landing areas, haul roads, and skid trails clearly marked;
 - B. Identification of streams, water bodies and wetlands, and any stream crossings;
 - C. Identification of all roads within the Town on which vehicles carrying timber are anticipated to travel;
 - D. An estimate of number of trees to be harvested;
 - E. The planned Best Management Practices (BMPs) to protect water quality identified in detail, landings and public road access identified, in accordance with recommendations in the current NYS DEC Forestry BMP guide;
 - F. The anticipated dates of harvest;
 - G. The silvicultural objectives for stand(s) to be harvested;
 - H. The Plan preparer's name and qualifications;
 - I. The planned post-harvest BMPs identified and located to minimize erosion, sedimentation or pollution of waters from skid trails, haul roads and landings;
 - J. Evidence that access to public roads provides adequate sight distance so as to not create any hazards;
 - K. A silvicultural prescription including the following:
 - [1] A description of the stand (for example, Northern hardwoods, red pine plantation, Allegheny hardwoods, etc.);
 - [2] Diameter class (for example, Pole timber, small sawtimber, sawtimber, etc.);
 - [3] Species composition;
 - [4] Basal area;
 - [5] Management objective; and
 - [6] Prescription.
 - L. An incidental taking permit for endangered, and threatened species issued by DEC pursuant to the provisions of 6 NYCRR §182 or a letter from DEC issued pursuant to 6 N.Y.C.R.R. §182.9 that the proposed activity is not subject to regulation. A forest management plan, Real Property Tax Law §480-a management plan, a forest stewardship incentive plan, or any other qualified forest management plan previously approved by DEC is exempt from this provision as the review has previously been done;
 - M. A description of the best management practices that are proposed to be applied to skid trails, landings and haul roads within the harvest area for erosion and sediment control and any other information that is necessary to comply with

the provisions of Section 93 of this Code (Stormwater Management and Erosion and Sediment Control); and

- N. A driveway permit issued pursuant to Chapter 65 of the Town Code, if required, or an equivalent authorization for the use of state and county highways issued by the controlling jurisdiction.
3. The 2005 publication "A Municipal Official's Guide to Forestry in New York State," a joint publication of the New York State Planning Federation, the New York State Department of Environmental Conservation and the Empire State Forest Products Association, published in 2005 with a grant from the United States Forest Service, recommends that towns have a streamlined approval process that is generally not subject to review under the State Environmental Quality Review Act (SEQRA) when best management practices are followed. Accordingly, a forest management plan, if one exists, shall be deemed acceptable without the need for further SEQRA review, provided that it complies with the requirements of Real Property Tax Law §480-A; or is from a recognized sustainable forestry certification program such as the Sustainable Forestry Initiative, Forest Stewardship Council, Tree Farm, Green Tag, or similar; or is a DEC-approved, Forest Stewardship Plan.
 4. The timber harvesting plan shall be submitted to a qualified professional forester retained by the Town on an as-needed basis. The forester retained by the Town shall be a professional member of the Society of American Foresters; a member of the Association of Consulting Foresters; a forester approved by the New York City Department of Environmental Protection Watershed Agricultural Council; or a person having a degree in forest management from a college or university program recognized by the United States Department of Education, the New York State Board of Regents, the Council for Higher Education Accreditation or the Society of American Foresters. The forester shall review the timber harvesting plan for compliance with this section, approve or disapprove the plan, and submit his/her written findings to the Code Enforcement Officer. The Town Board shall maintain a list of qualified professional foresters suitable to undertake such review.
 5. The timber harvesting plan also shall be submitted to the Highway Superintendent for review and comment on the potential effects of the plan on Town roads and any mitigation that may be required, and the sufficiency of the bond required by §155-51(F)(2)(G).
 6. Following issuance of the permit, the forester shall perform a minimum of three site visits (pre-harvest, during harvest and post-harvest) or more if deemed necessary based upon site conditions to ensure compliance with this code section. The forester promptly shall report any non-compliance in writing to the Code Enforcement Officer.

155-51(H) Standard operating procedures.

All timber harvesting shall be supervised by a qualified forester and shall comply with the following standards:

1. In order to minimize erosion, all haul roads and skid trails shall be constructed and maintained in accordance with the best management practices set forth in A Landowner's Guide to Building Forest Access Roads, by Richard Wiest, USDA NA-TP-06-98, July 1998, and Best Management Practices for Water Quality BMP Field Guide, New York State Forestry (Last Revised 2007).
2. 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.
3. In order to minimize streambank erosion, the applicants will be responsible for complying with all DEC and Army Corps of Engineers (ACOE) permitting requirements during stream and/or wetland crossings.
4. Clear-cutting shall only be allowed with a permit issued pursuant to §§155-51(D) and (I).
5. In order to maintain the integrity of streambanks, all operations within the area of streams shall conform to the Best Management Practices for Water Quality BMP Field Guide, New York State Forestry, or any succeeding standards adopted by DEC.
6. 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.
7. If applicable, all operations shall comply with the terms of the incidental taking permit issued by DEC pursuant to the provisions of 6 NYCRR 182.
8. Site reclamation shall be performed as soon as site conditions allow either during, or upon completion of the harvesting activity, and shall conform to the Best Management Practices for Water Quality BMP Field Guide, New York State Forestry, or any succeeding standards adopted by DEC. The following shall be considered to complete site reclamation:
 - A. 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.
 - B. Waterbars, dips, diversion ditches or other appropriate management structures should be placed in accordance with Best Management Practices for Water Quality BMP Field Guide to reduce erosion.

9. All local wetland, water body, watercourse and stormwater protection regulations shall apply, including the provisions of Chapter 128, with the exemption noted in §128-5(B) and Article VI, including §§155-52 and -53.
10. A 50-foot buffer shall be required between the area of operations and any public road.
11. All trees shall be felled so that no trees or debris shall fall on any adjoining property or on any roads.
12. No harvesting operations shall take place between the hours of 8:00 p.m. and 7:00 a.m. or at any time on Sundays or legal holidays.
13. The Code Enforcement Officer shall have the authority to issue a stop-work order or order the suspension of for all or part of the cutting or harvesting activity tree harvesting operations if, in the opinion of the Code Enforcement Officer or the Town forester:
 - A. stumps are being removed or there is other evidence which indicates land clearing rather than timber harvesting;
 - B. adverse weather conditions, such as spring thaw or excessive rain make soil erosion and stream sedimentation, or damage to public roads, or damage beyond or outside of the boundaries of the area of the timber harvesting operation, likely; or
 - C. a violation exists of New York State Forestry Best Management Practices (BMP) for Water Quality Field Guide 2011 Edition or any other conditions of the Timber Harvesting Permit.

155-51(I) Clear-cutting.

1. In addition to the general requirements for applications shown above, no application for a clear-cutting permit shall be deemed complete unless it includes a draft harvest plan prepared by a qualified forester containing:
 - A. The map required by §155-51(G)(2)(a) showing:
 - [1] The areas to be clear-cut;
 - [2] Proposed buffers; and
 - [3] Significant areas of timber infestation or disease on the area to be clear-cut, including but not limited to beech bark disease, scleroderris canker, spruce budworm, and pine blister rust;
 - B. A description of the location and nature of any harvesting on the area to be clear-cut or within 1/4 mile thereof within the prior 10 years.
 - C. A description of harvest methods (including use of portable chippers), preharvest and postharvest techniques and harvest objectives.
 - D. In the event pesticide or herbicide use is proposed, the name of the chemical, the applicator and the manner and rate of application.

2. Standards for the review of clear-cutting.
 - A. If the Code Enforcement Officer is not a qualified forester, the Code Enforcement Officer shall retain the services of an independent qualified forester in the manner provided for by §155-51(G)(4) to review the clear-cutting application.
 - B. The Code Enforcement Officer will not issue a permit to allow clear-cutting unless:
 - [1] The clear-cutting is for a recognized silvicultural purpose;
 - [2] There are adequate buffers on the shorelines of lakes, ponds, rivers or streams; along major travel corridors, and, if necessary, around dwellings on adjacent lands, so as to preserve water quality and visual quality and to control noise;
 - [3] If applicable, habitats of rare and endangered species will be protected in accordance with the provisions of any incidental taking permit issued pursuant to 6 NYCRR 182;
 - [4] Regeneration of timber is assured;
 - [5] If proposed, and if allowed by the Code Enforcement Officer, any use of pesticides and herbicides will be strictly controlled;
 - [6] Harvest will be controlled by qualified personnel by contract, marked stand, direct supervision, or other adequate means;
 - [7] The storage, mixing, or bulk handling of fuel, chemicals, or other hazardous materials will be strictly controlled;
 - [8] The provisions of this section will be strictly adhered to; and
 - [9] The independent forester has approved the clear-cutting application in writing.

155-51(J) Enforcement.

1. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this section.
2. The Town may, at its sole discretion, ask for assistance from a separate individual including but not limited to 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.
3. The Town may require the applicant to establish an escrow account to pay the reasonable costs for the services of a qualified forester to review the permit. If an escrow is required, the application is not complete until such escrow is posted.
4. By submitting a permit application, the applicant grants to the Town and its agents the authority to inspect and enforce provisions of this section. By applying for a timber harvesting permit from the Town, the applicant, and, if different, the landowner, grant to the Town, including but not limited to the Code Enforcement Officer and the Town forester, the right to enter upon any property to be harvested, in the process of being harvested, or in the process of being reclaimed after

harvesting, to make such inspections as are necessary to determine satisfactory compliance with the provisions of this section. The Code Enforcement Officer, or his or her designee, 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 section. 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.

5. Upon notification by the Code Enforcement Officer 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.
6. Pursuant to §150.20 of the Criminal Procedure law and in accordance with §10, Subdivision 4(a) of the Municipal Home Rule Law, the Code Enforcement Officer and the Zoning Administrator of the Town are hereby authorized to issue and serve appearance tickets with respect to any violation of this section.
7. 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 section.
8. An enforcement action for violations of this section may be brought against the owner, an applicant, a timber harvester, and any or all of them, where a violation of any provision of this section has been committed or shall exist.
9. Failure to obtain a permit. Upon determination by the Code Enforcement Officer that timber harvesting was undertaken without first having obtained a timber harvesting permit, the Code Enforcement Officer shall serve upon the landowner and, if different, the timber harvester, a written cease and desist order that shall be effective immediately and which shall direct the landowner to apply for such a permit. In addition to the foregoing, the landowner shall be subject to the penalties set forth herein.

155-51(K) Penalties for offenses.

1. A violation of this section shall be deemed an offense punishable by:
 - A. For a first offense, a fine of not less than \$100 nor more than \$1,000.
 - B. For a second offense committed within five years of the first offense, a fine of not less than \$300 nor more than \$2,000, or a period of imprisonment not to exceed 15 days, or both.
 - C. For a third offense committed within five years of the first offense, a fine of not less than \$1,000 nor more than \$5,000, or a period of imprisonment not to exceed 15 days, or both.
2. 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, personally, or at his or their last known address or at the address listed in the application.

155-51(L) Appeals procedure.

There may be situations where strict adherence to certain provisions of this section 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 require separate SEQR review.

155-51(M) 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.

7. Severability

If any section, subsection or specific part or provision or standard of the foregoing sections or the application hereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such section, subsection or specific part or provision or standard shall be deemed a separate, distinct and independent provision and such judgment shall not affect the validity of the remaining portions thereof.

8. Supersession

To the extent that any provision of this section is inconsistent with the Town Law or any other provision of Article 16 of the Town Law, the Real Property Law, or the General Municipal Law, the provisions of this section are expressly intended to and do hereby supersede any such inconsistent provisions under the Town's municipal home rule powers, pursuant to Municipal Home Rule Law §§22, 10(1)(ii)(d)(3) and 10(1)(ii)(a)(14) to supersede any inconsistent authority.

9. Effective Date

This section shall take effect immediately upon filing with the Secretary of State, or as soon as permissible thereafter.