

PROPOSED Local Law No. 1 of 2018, entitled:

“Timber Protection and Harvesting Law”

BE IT ENACTED BY, the Town Board of the Town of Clinton as follows:

1. Chapter 210A is hereby added to the Town Code which shall read as follows:

Chapter 210A. TIMBER PROTECTION AND HARVESTING

§ 210A-1. Purpose.

The general purpose of this law is to ensure that timber harvesting practices are consistent with the Comprehensive Plan of the Town of Clinton (hereinafter referred to as the “Town”). As such this local law is intended to promote the public health, safety, and welfare of the people of the Town by regulating the removal of trees in such a way as to protect and preserve the environment, roads, property, and quality of life in the Town from the adverse effects of poorly planned timber harvesting.

§ 210A-2. Definitions.

For the purposes of this Chapter the terms below shall have the following meanings:

Zoning Administrator: The official designated by the Town Board to enforce certain chapters and provisions of the Town Code.

Cord: Cut wood stacked four (4) feet high by four (4) feet wide by eight (8) feet long. A standard cord is equivalent to 128 cubic feet.

Haul Road: A constructed (or existing) road of dirt and/or gravel utilized for moving cut trees to the point where they are loaded on a truck to exit from the site.

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

Tree: A perennial plant, having a trunk which has a diameter of five (5) inches or more when measured forty-eight (48) inches from the ground at its base.

Log: A part of the trunk or large branch of a tree that has fallen or has been cut off which is longer than forty-eight (48) inches and has a diameter of five (5) inches or more at its thickest end.

NYS Forestry BMP Field Guide: The New York State Forestry Best Management Practices for Water Quality BMP Field Guide, as amended by the New York State Department of Environmental Conservation available at <http://www.dec.ny.gov>.

Perennial Stream: A body of running water flowing continuously in a defined channel with bed and banks on the ground surface.

Timber Harvesting Permit: Permit issued by the Zoning Administrator authorizing the harvesting of certain trees as prescribed therein.

Timber Harvesting: The felling of trees, including activities related thereto, for lumber, firewood, or clearing of a parcel or a portion of a parcel.

§ 210A-3. Exempt Activities.

Timber Harvesting shall not include:

1. Harvesting of up to two (2) acres of land for noncommercial purposes annually.
Noncommercial purposes shall mean harvesting undertaken by individuals to enhance their personal or household use and enjoyment of land.
2. Harvesting of up to ten (10) cords per year for use by the property owner as lumber or firewood.
3. Site clearing preparatory to construction of a building for which a building permit has been issued.
4. Clearing of land for rights-of-ways by public utilities or their agents.
5. Clearing of land by or pursuant to government authority under the laws of the United States, the State of New York, the County of Dutchess, or the Town of Clinton.
6. The removal of trees that are located in a cemetery.
7. Trees removed in conjunction with the expansion or management of farmland for active agricultural use located in an Agricultural District.
8. Trees removed from a preexisting access road which is cleared in order to gain access to the proposed Timber Harvesting site. For the purposes of this law a preexisting access road shall mean a private road/entryway to a lot which is in existence at the time this

law becomes effective. Said private road/ entryway shall be no longer than six hundred (600) feet and no wider than ten (10) feet at its widest point.

9. Trees removed pursuant to a final subdivision or site plan approval granted by the Town Planning Board.
10. Trees removed for public road construction, maintenance, and realignment.

§ 210A-4. Permit Required.

1. No person, firm, corporation, or other entity (hereinafter referred to as “person”) shall engage in Timber Harvesting in the Town without a Timber Harvesting Permit issued by the Zoning Administrator. Such application shall be made on a form adopted by the Town Board pursuant to a resolution and shall be available in the Zoning Administrator’s office.
2. The completed Timber Harvesting Permit application shall be submitted to the Zoning Administrator along with the required fee. The application shall state the location of the proposed Timber Harvesting, the acreage impacted by the Timber Harvesting operation, the expected number of trees to be harvested, the name and address of the person or entity who will be completing the harvest, and the duration of the proposed harvest. The application shall be signed by owner of the property where the proposed Timber Harvesting will occur.
3. In addition to the application, the applicant shall submit a Timber Harvesting site map which shall show: the boundaries of the parcel or parcels where the Timber Harvesting is proposed as well as adjacent roadways, streams, waterbodies, wetlands, topographic contour interval lines, proposed harvest area, proposed Haul Roads, Landings, and ingress/egress at public roads.
4. The applicant shall also submit a site reclamation plan for the portion of the parcel or parcels affected by the Timber Harvesting. This plan shall address site cleanup and remediation taken by the landowner upon the conclusion of the Timber Harvesting. The site reclamation plan shall also address post Timber Harvesting cleanup measures as stated in the *NYS Forestry BMP Field Guide*, as amended.
5. When Timber Harvesting is proposed in connection with any site plan, subdivision approval, or steep slope permit approval submitted to the Planning Board, trees shall be

removed only in conjunction with the approved plan for development, in which case a separate Timber Harvesting Permit shall not be required.

§ 210A-5. Review by the Town Superintendent of Highways.

1. The Zoning Administrator shall refer all applications for Timber Harvesting Permits to the Town Superintendent of Highways who shall conduct a site inspection to determine if the proposed Timber Harvesting and activities related thereto will have an adverse impact on traffic safety and/or the condition of town roadways.
2. The Town Superintendent of Highways shall estimate the funds needed, if any, for repair of Town roadways as a result of the proposed Timber Harvesting activities. If the Town Superintendent of Highways determines that the Timber Harvesting activities will damage Town roadways, he shall prepare a cost estimate of the monetary impact to Town roadways. Upon notification from the Superintendent of Highways, the applicant shall deposit an amount equal to such cost estimate in an escrow account held by the Town for future highway repairs. Upon the completion of site reclamation, both the Superintendent of Highways and the Zoning Administrator will perform an inspection. After completion of this inspection, the funds not necessary for repair work will be returned to the applicant.
3. The Town Superintendent of Highways may require the applicant to create a temporary driveway entrance to the Timber Harvesting site to prevent damage to the edge of the existing roadway. Said temporary driveway shall only be used during the Timber Harvesting operation. The temporary driveway shall be removed within thirty (30) days of the conclusion of the Timber Harvesting and the site of the temporary driveway shall be restored to its previous condition.

§ 210A-6. Standard for Approval – Timber Harvesting Permit.

1. Timber Harvesting Permit applications pertaining to lots of five (5) acres or less shall be submitted to the Zoning Administrator, who shall review and approve such application if it conforms to the standards provided herein as well as the other requirements of this Chapter. The Zoning Administrator shall have the right power and authority to direct any application received to the Planning Board for review and approval if the Zoning Administrator determines, in his or her sole discretion, that such Planning Board review is necessary and appropriate given the nature of the Timber Harvesting Permit application.

2. Timber Harvesting Permit applications pertaining to lots of more than five (5) acres shall be submitted to the Zoning Administrator, who shall refer the application to the Planning Board to review and approve such application if it conforms to the standards provided herein, as well as the other requirements of this Chapter. If the Planning Board approves such an application, it shall direct the Zoning Administrator to issue a Timber Harvesting Permit in accordance with such approval.
3. A permit for Timber Harvesting shall be issued if it is determined that:
 - a. The Timber Harvesting Permit application and all attendant material have been duly submitted.
 - b. The proposed Timber Harvesting operation and activities will not endanger the health, safety, welfare, or property of the Town, the public, the property owner, or an adjacent property owner.
 - c. The proposed Timber Harvesting is consistent with good silvicultural, horticultural or vegetation management and will not have an adverse visual or ecological impact.
 - d. The proposed Timber Harvesting operation and activities, including the proposed site remediation after the conclusion of the harvest, is consistent with the *NYS Forestry BMP Field Guide*, as amended, to the extent that said Field Guide does not contradict the provisions of this local law in which case the provisions of this local law shall control.
4. When an application for a Timber Harvesting Permit is reviewed, the following additional factors shall be considered:
 - a. Whether the location of the trees prevents compliance with federal, state, county, or local standards for sight lines for driveways or intersections.
 - b. Whether the location of the trees prevents the property owner from undertaking an otherwise approved construction or alteration.
5. A determination by the Zoning Administrator to grant or deny a Timber Harvesting Permit may be appealed by the applicant or any other aggrieved person to the Zoning Board of Appeals (ZBA) within thirty (30) days of the transmission of such a decision from the Zoning Administrator.

6. A determination by the Planning Board to grant or deny a Timber Harvesting Permit may be appealed by the applicant or any other aggrieved person by the commencement of an action pursuant to the provisions of Article 78 of the Civil Practice Law and Rules.

§ 210A-7. Standards for Timber Harvesting Operations and Activities.

All Timber Harvesting activities and operations must adhere to the following standards:

1. The Timber Harvesting shall be in accordance with the *NYS Forestry BMP Field Guide*, as amended, to the extent that said Field Guide does not contradict the provisions of this local law in which case the provisions of this local law shall control.
2. The loading and skidding of timber shall not be conducted on Town roadways nor shall Landings be located on Town roadways.
3. Woodchips, crushed stone, or other approved material will be used, if necessary, on access roads for a distance of two hundred (200) feet from the edge of a public road in order to prevent debris from coming onto the public road.
4. All Timber Harvest operations and activities as well as any related stormwater runoff created as a result shall be contained within the subject parcel or parcels and shall not impact adjacent parcels or the public roadway.
5. If possible, no Haul Road used during the Timber Harvest shall exceed a slope of fifteen percent (15%) grade. In accordance with the *NYS Forestry BMP Field Guide*, as amended, under no circumstances may a Haul Road exceed a slope of thirty percent (30%) grade.
6. If possible, no Haul Road shall be located within fifty (50) feet of any Perennial Stream. Said zone shall be measured from the immediate edge of the stream bank. All Perennial Stream crossings shall be constructed and maintained in accordance with the *NYS Forestry BMP Field Guide*, as amended.
7. No skidding or Timber Harvesting activities shall occur within fifteen (15) feet of a Perennial Stream. Said non-harvesting zone shall be measured from the immediate edge of the stream bank.

8. If possible, no skidding or Timber Harvesting activities or operations shall occur in a Perennial Stream. All timber and related debris found in a Perennial Stream shall be promptly removed by the landowner.

§ 210A-8. Site Reclamation

After the completion of the Timber Harvesting activities the affected site or sites must be reclaimed in accordance with the *NYS Forestry BMP Field Guide*, as amended, to the extent that said Field Guide does not contradict the provisions of this local law in which case the provisions of this local law shall control, and the site reclamation plan submitted at the time of the Timber Harvesting Permit application. All reclamation measures are subject to inspection by the Zoning Administrator to ensure compliance with this section.

§ 210A-9. Enforcement.

This Chapter shall be administered by the Zoning Administrator and/or the Planning Board. All enforcement proceedings shall be commenced in Town of Clinton Justice Court by the Attorney for the Town or Town Attorney. Such enforcement action must be authorized pursuant to a Town Board resolution.

§ 210A-10. Insurance

Before the commencement of any work pursuant to a Timber Harvesting Permit issued in accordance with the provisions of this law, the applicant shall provide to the Zoning Administrator proof of worker's compensation insurance or exemption from coverage as applicable and proof of liability insurance in the minimum amount of \$1,000,000 against any liability arising from the Timber Harvesting activities. Homeowners undertaking the Timber Harvesting activities themselves, without engaging a third party, may complete an Affidavit of Exemption attesting to the fact that their homeowner's insurance policy will provide liability coverage against any liability arising from the Timber Harvesting activities.

§ 210A-11. Liability.

Neither the issuance of a Timber Harvesting Permit, nor the compliance with the provisions of this law or with any conditions imposed by the Timber Harvesting Permit issued hereunder, relieve the applicant from full responsibility for any damage whatsoever to other persons or property as a result of the Timber Harvesting activities undertaken, nor shall it impose any liability upon any officers, agents, or employees of the Town for damage to persons or property.

§ 210A-12. Application Fee.

The fee for a Timber Harvesting Permit shall be as provided for in Town of Clinton Fee Schedule Resolution, as amended, and shall be set by Resolution of the Town Board.

§ 210A-13. Penalties for Offenses.

Violations of this Chapter shall be considered a Violation B, punishable as set forth in Chapter 137, Fines and Penalties.

2. If any section, subsection, or specific part or provision or standard of this Local Law 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.
3. To the extent that any provision of this Chapter is inconsistent with Town Law §§ 263, 274-a, 274-b, or any other provision of Article 16 of the Town Law, or of the Public Health Law, or of Real Property Law, the provisions of this chapter 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 §10(1)(ii)(d)(3); §10(1)(ii)(a)(14) and §22 to supersede any inconsistent authority.
4. This Local Law shall take effect immediately upon filing with the Secretary of State.