

## TOWN OF OSSIAN LOCAL LAW 1-2010

### Timber Harvesting

#### ARTICLE I PURPOSE AND INTENT

The purpose and intent of this Ordinance is to promote the health and safety of the residents of the Town of Ossian by protecting the Town roads as affected by timber harvesting. The Town of Ossian 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 the timber harvesting practices are poorly carried out they can result in significant damage to Town roads. Thus this Ordinance is intended to regulate those harvesting activities that may affect the Town roads of the Town of Ossian.

#### ARTICLE II REGISTRATION

- A. Prior to the start of any timber harvesting operation, the property owner shall register with the Town.
- B. Exclusion from registration
  - 1. The clearing of land for rights-of-way for utilities except that said clearing comply with accepted forest management practices and best practices for storm water control.
  - 2. The harvesting of trees by the owner for personal use of owner, or a sale not exceeding 10,000 board feet, in one calendar year, from January 1st to December 31st, determined Doyle Log Rule.
  - 3. Trees removed for site preparation for construction or land development which has been approved by the Town Board.
  - 4. The harvesting of Christmas trees.

#### ARTICLE III REGISTRATION INFORMATION

- A. The following shall be provided to the Town Highway Superintendent on the Town of Ossian's Timber Harvesting Registration Form:
  - 1. Name, address and phone number of the property owner (s).
  - 2. Names, address and phone number of the harvester.
  - 3. Number of acres to be harvested, harvesting dates, type of harvest.
  - 4. Book and page of deed for property and Tax Map number.
    - a. The boundaries of the property
    - b. The access roads into the property
    - c. The area within which the logging operation will occur
    - d. The location of the product loading area(s)
- B. The registration form shall be signed by both the property owner (s) and the harvester. By their signatures, they shall be deemed to understand and agree to this local law and all of their responsibilities herein.
- C. At the time of registration, The Town shall provide the land owner(s) and timber harvester of the responsibilities of the owner and of harvester concerning the said roads and highways both during and at the completion of the timber harvesting operation. The owner (s) and harvester shall also be made aware of necessary insurance and bond requirements.
- D. The Town Highway Superintendent shall review and approve or deny the registration within a reasonable period of time. If the registration is denied, the owners can immediately seek a final review and determination from the Town Board.

#### **ARTICLE IV        INSURANCE**

The harvester and/or the property owner shall include with the registration proof of current liability insurance in the amount of one million (\$1,000,000.00) with an insurer acceptable to the Town, and shall keep it in full force during the life of the harvesting contract. The Town shall be a named insured.

#### **ARTICLE V        PROCEDURES**

- A. The Town Board shall review the registration:
  - 1. When the applicant has been cited for a violation of this article within five (5) years prior to the date of the request for registration.
  - 2. When a waiver of any of the provisions of this article or guidelines of operation has been requested, except when the Highway Superintendent determines that the waiver is insignificant.
  - 3. When a registrant seeks an interpretation of this ordinance.
  - 4. When the operation of the registrant does not meet the standards set under the generic determination of environmental significance which may have been issued by the Town, as defined in Article I of this Law.
- B. The Town Highway Superintendent shall have the authority to terminate road use when any roads have been or are in danger of being adversely affected. Also he shall require placement of cobblestone 12 feet wide and a distance of 50 feet from the shoulder of the road into the logging roadway and shall require a drain pipe in the ditch area.

#### **ARTICLE VI        ENFORCEMENT**

- A. This law shall be enforced by the Town Highway Superintendent as appointed by the Town Board.
- B. Any person registering hereunder or person or persons authorizing or consenting to such registration shall be deemed to have authorized the Town Highway Superintendent to enter upon the premises at any reasonable time for the purpose of inspecting the same to insure the requirements of this law are fulfilled. Said officer shall be authorized and have the right in the performance of his duties to enter upon any property proposed 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 the law. Such entrance and inspection shall be initiated at reasonable time, upon notice to the harvester and property owner, except that no notice is required in case of emergencies whenever necessary to protect the public interest. Owners, agents or harvesters on a property being harvested shall be responsible for allowing walking access to appropriate parts of the premises within their control to the Highway Superintendent acting in accordance with the requirements of these provisions.
- C. It shall be the duty of the Highway Superintendent to investigate all complaints made under this Ordinance, and to make appropriate referral for action on all violations of the Ordinance.
- D. As part of this registration, the applicant shall submit to personal jurisdiction of all matters of violation under this Ordinance to the Town Justice of the Town of Ossian.

#### **ARTICLE VII       VIOLATIONS**

- A. Upon determination by the Highway Superintendent that there has been a violation of any provision of the Ordinance, he shall cause to be served upon the property owner, the owner's representative and/or the harvester a written "STOP WORK ORDER".

- B. Where violations cannot reasonably be corrected within three (3) days the Code Enforcement Officer shall serve written notice upon the owner, and the harvester suspending the registration and requiring them to appear before the Town Justice of the Town.
- C. The Town Justice, if after a criminal hearing, finds that a violation of this ordinance has occurred, he can impose any sentence allowed by law for each day of violation.

**ARTICLE VIII HEARING BEFORE THE TOWN BOARD**

- A. Whenever a registration has been suspended or is restricted or suspended, the Town shall personally, or by certified or registered mail, serve notice upon the harvester, property owner and consulting forester, if any, which shall state that "The registrant may request an appeal hearing before the Town Board by delivering a written request to the Town Clerk within seven (7) days of personal service or ten (10) days after service by certified or registered mail". A request for a hearing shall be signed by the party requesting the hearing and shall be held at the next regularly scheduled Town Board meeting, the Town shall give the appealing party at least five (5) days written notice of the time and place of the hearing. The appealing party may waive the notice provision by filing a written waiver thereof with the Town Clerk.

**ARTICLE IX GROUNDS FOR DENIAL, SUSPENSION, ETC.**

- A. It shall be grounds for suspension, restricting, conditioning a registration that any harvester, property owner, or any persona connected or associated with the registrants as a partner, director, officer, stockholder, general manager or person who is exercising managerial authority of, or in the registrant, or acting under the authority if such registrant:
  - 1. violated any provisions of the Ordinance or other applicable statutes, codes, rules or regulations pertaining to the harvesting of trees for commercial use, or violation of any of the restrictions or conditions placed upon the harvesting operation of the registrant,
  - 2. made a false, misleading or fraudulent statement of a material fact in the registration or any report of any record required to be kept or filed with the Town.
  - 3. operated the tree harvesting in a manner so as to be detrimental to the health, welfare and safety of the public, and caused damages to the Town and/or County roads within the Town of Ossian

**ARTICLE X APPEALS**

- A. Any person aggrieved by any decision of the Town Highway Superintendent or Code Enforcement Officer of the Town may take an appeal to the Town Board, whose decision shall be final, subject only to a Civil Practice Law and Rules Article 78 Proceeding.

## TOWN OF OSSIAN TIMBER HARVESTING GUIDELINES

The primary impacts from logging include the potential for impacts associated with the actual harvesting and traffic impacts associated with the movement of logging trucks to and from the site on Town and County roads.

However, the harvesting of forest products also produces many benefits. Roads constructed for timbering also provide access to areas previously inaccessible, thereby increasing recreational opportunities. Properly managed timbering makes use of renewable resource providing wood products and fuel. Logging also provides direct and indirect jobs in areas that are often economically depressed. The potential negative impacts from timber harvesting can be minimized or avoided through the use of proper management techniques. The following management techniques shall be required on each logging operation:

Throughout the logging operation (from start to notice of completion by the landowner/harvester), the Town Highway Superintendent shall inspect highways impacted by the logging operation. When in his opinion, damages are being done to said roadways, he can cause the logging operation to be stopped. The landowner and or harvester will be charged for any and all damages to said roadways.

### STREAMS AND WATER

Check and comply with all requirements of New York State Department of Environmental Conservation for advice and approval about crossing classified streams.

### ROADS AND SKID TRAILS

Any litter resulting from any logging operation shall be cleaned up and removed from the site before it is vacated by the harvester.

No loading or skidding of logs shall take place in the Municipal right-of-way, or without the permission of the Town of Ossian Highway Superintendent.

Logging will be done during dry weather when soils are dry or when the ground is frozen and snow covered. Any exceptions will be authorized by the Town of Ossian Highway Superintendent.

Landings will be set back from Municipal roads at least 200 feet.

Logging slash shall be kept off the right-of-way of all public roads.

Skidders shall be kept off right-of-ways and back in the woods whenever possible.

The landowner and harvester shall comply with all New York Fire Laws, and New York State forestry best management practices.

Trees shall be felled directionally so the tops land away from all Municipal roads.

Hung-up, partly fallen, bent over and broken off trees shall be taken down when they are near Municipal roads.

Damages to roadways will be repaired to the satisfaction of the Town of Ossian Highway Superintendent at the expense of the landowner or harvester who is executing the logging operation.

**THE FOLLOWING MANAGEMENT TECHNIQUES SHALL BE REQUIRED ON EACH LOGGING OPERATION BUT SHALL BE SUBJECT TO WAIVER BY THE TOWN BOARD:**

**IN ORDER TO INSURE THAT PROPOSED LOGGING ACTIVITIES ARE CONSISTENT HERewith, THE TOWN HIGHWAY SUPERINTENDENT SHALL REVIEW AND APPROVE EACH WORK SITE AND IMPACTED ROADWAYS. AS THE TOWN OF OSSIAN'S REPRESENTATIVE HE SHALL HAVE THE AUTHORITY TO IMPOSE ADDITIONAL SITE SPECIFIC CONDITIONS AS HE MAY DEEM NECESSARY.**