TOWN OF CRAWFORD
INTRODUCTORY LOCAL LAW
TREE CUTTING AND REMOVAL

BE IT ENACTED by the Town Board of the Town of Crawford, County of Orange, State of New York, as follows:

Section 1. The Code of the Town of Crawford is amended by adding a new chapter, titled "Tree Cutting and Removal," designated as Chapter 128, to read as follows:

§128-1. Legislative intent.

The Town Board finds that the excessive and indiscriminate cutting of trees, including the clear cutting of trees, in and on private property causes barren and unsightly conditions, creates increased surface water drainage problems, destabilizes the soil and increases erosion, increases municipal cost to control stormwater runoff, impairs the stability and value of real property, deteriorates the aesthetic values of the community, and adversely affects the health, environment and general welfare of the Town of Crawford community. The Board finds that the excessive and indiscriminate cutting of trees, including clear cutting, is particularly injurious in the area comprising the Scenic Corridor Overlay district.

The Town Board also finds that timber resources may have value to a landowner and may be harvested in appropriate circumstances. However, if timber harvesting practices are not properly carried out, they can result in significant damage to the forest environment and cause the same adverse impacts cited above. This Chapter is also intended to regulate timber harvesting, require land reclamation and utilize professional forest management expertise in the preparation and evaluation of timber harvest planning and work.

The Town Board recognizes that regulating tree cutting and removal might have an affect on bona fide agricultural operations. However, the Town Board believes, and determines, that the provisions of this Chapter will not unreasonably restrict accepted agricultural practices.

§128-2. Definitions.

As used in this Chapter, the following terms shall have the meanings set forth:

Clear cutting - The cutting or removal of 50% of trees having a diameter of two inches or more measured four feet above the ground in a total area of two acres or more during a single twelve-month period.

Timber harvesting - The cutting or removal of trees having a diameter of twelve inches or more measured four feet above the ground, but not cutting or removal of smaller trees except as

necessary for cutting and removal of the 12-inch or larger trees, in an area of one acre or more during a single twelve-month period for the purpose of commercial sale of the trees.

§128-3. Permit required.

A. Timber harvesting is prohibited unless the landowner has first obtained a permit from the Town of Crawford Planning Board. It is a violation of this Chapter to conduct timber harvesting until such permit has been obtained. It is a violation of this Chapter to conduct timber harvesting in violation of any permit condition imposed by the Planning Board or in violation of any of the applicable standards or requirements set forth in this Chapter.

B. Clear cutting is prohibited unless the property owner has first obtained a permit from the Town of Crawford Planning Board. It is a violation of this Chapter to conduct clear cutting until such permit has been obtained. It is a violation of this Chapter to conduct clear cutting in violation of any permit condition imposed by the Planning Board or in violation of any of the applicable standards or requirements set forth in this Chapter.

C. An application fee shall be established and amended from time to time by the Town Board. In addition to paying the application fee, the landowner shall be responsible for paying all of the Town's review costs, including the cost of any consultant retained by the Planning Board to review the application and/or monitor cutting, harvesting, transport and reclamation activities

D. No permit shall be issued until the Planning Board holds a public hearing on the application. Notice of said hearing shall be published and posted at least ten days prior to the hearing and shall be mailed by the applicant, by certified mail, return receipt requested, at least ten days prior to the hearing to all owners of property located within five hundred (500) feet of the outside boundaries of the applicant's contiguous lands.

§128-4. Exemptions.

A permit pursuant to this Chapter shall not be required for:

A. Clearing of land for rights-of-way for approved public utilities, except that said clearing shall comply with accepted forest management practices.

B. Removal of trees to the extent required or necessary for site preparation for construction or land development pursuant to a building permit or approval granted by the Planning Board or Zoning Board of Appeals. Removal of trees in excess of that required or necessary to carry out the construction or land development authorized by such approval or permit is not exempt from the requirements of this Chapter.

C. Timber harvesting from lands of a bona fide farm operation within a total area of ten acres or less.

D. Permitted commercial timber harvesting under direct supervision of the State Department of Environmental Conservation, including lands managed and timbered pursuant to and in compliance with the New York State 480-a [Real Property Tax Law §480-a] program.

E. Harvesting from lands of a bona fide farm operation of Christmas trees, fence posts and fire wood, but only where the primary purpose of the work is the harvesting of Christmas trees, fence posts or fire wood.

§128-5. Clear cutting.

The Planning Board may issue a permit for clear cutting only if specified clear cutting is recommended by a professional forester for forest management reasons.

§128-6. Application information required for timber harvesting.

The landowner shall submit the following information to the Planning Board before the Planning Board may issue a timber harvesting permit:

A. Written narrative, including:

(1) The total land area involved in cutting operations;

(2) The number of trees of each species to be cut;

(3) The range, in inches of diameter, of trees to be cut;

(4) The total board foot volume for each species to be cut;

(5) The total volume to be removed from the cutting area;

(6) The average number of trees per acre to be removed;

(7) The average number of board feet per acre to be cut;

(8) Purpose and extent of earth moving, storage and reclamation.

B. Plan certified by professional forester, showing:

(1) Boundaries of property and all neighboring lands (and owners thereof) within 300 feet of property boundaries;

(2) Access roads to property;

(3) Haul roads or other internal roads, trails or ways;

(4) Area within the property where harvesting will occur;

(5) Location of product loading areas;

(6) Erosion control and stormwater management measures;

(7) Streams, wetlands, ponds and other water bodies.

C. Landowner's statement: The landowner shall be the applicant and shall provide a signed statement that each tree to be cut has been designated by a professional forester, with paint or other distinctive means, at two (2) points so as to be readily visible. One (1) point shall be low enough on the tree so as to be visible on the stump after the tree is cut.

D. Name of logger(s). If a logger changes at any time prior to completion of work, the landowner must immediately notify the Planning Board in writing of the name of the replacement logger(s).

E. Property maintenance plan.

F. Copy of Town-issued driveway permit, if access to property is from a Town highway.

G. The Planning Board may require submission of a report prepared by a qualified forester and may retain, at the applicant's expense, its own forester and/or other consultant(s) to review the application.

H. Any other information deemed reasonably necessary by the Planning Board.

§128-7. Standards for timber harvesting and clear cutting.

A. Approved erosion control and stormwater management measures shall be implemented at all times.

B. The proposed operation shall not adversely affect drainage or growth of vegetation, contribute to soil erosion or adversely affect lands or waters of the applicant's or other properties.

C. Only designated trees shall be cut within twenty-five (25) feet of any property line or public right-of-way. Trees falling on an adjacent property shall immediately be removed

to the permittee's property.

D. The access road from the public right-of-way shall be located not closer than 100 feet from any adjacent property. If the access road is located within 200 feet of adjacent property, the access road shall have a dustless surface. For purposes of this paragraph only, adjacent property shall not include property located on the opposite side of the public right-of-way.

E. Loading areas shall be located on the applicant's property only and shall be smoothed to remove all ruts and debris. Non-organic waste materials shall be properly removed and disposed. Organic waste materials within fifty (50) feet of any property line or public right-of-way shall be cut and slashed into smaller pieces so as to settle close to the ground.

F. The landowner shall be responsible to keep all public roads clear and clean at all times and to repair any damaged caused, directly or indirectly, by the operation. If the landowner fails to clean, clear or repair any Town highway after due notice, the Town may cause such cleaning, clearing or repair and bill the landowner for all costs. If such bill is not paid within thirty (30) days, then the costs may be assessed and levied against the landowner's property and collected in the same manner as real property taxes.

G. No harvesting, cutting, milling or removal of products or any other activity related to harvesting shall take place between the hours of 7:00 PM and 7:00 AM or at any time on Sundays or legal holidays.

H. Appropriate screening, access, dust and noise controls as determined by the Planning Board shall be implemented.

I. Property maintenance plan. The property maintenance plan shall be prepared by a professional forester and shall provide, at a minimum, for adequate erosion and stormwater management control, after harvesting operations are completed.

J. The Planning Board may impose additional requirements and permit conditions governing harvesting operations and post-harvesting conditions if recommended by a professional forester.

K. The Planning Board may waive or reduce any of the standards or requirements of this law. Any such waiver or reduction shall be affirmatively made and supported by a reason stated in the record.

L. The term of a permit shall be for one (1) year. One (1) one-year extension may be granted by the Planning Board upon written request made prior to expiration of the initial term. The Planning Board may impose additional or revised requirements as conditions

of a permit extension.

§128-8. Performance/Maintenance Bond

Prior to permit issuance, the Planning Board may require the applicant or its agent to provide a bond in an amount determined by the Planning Board and in a form approved by the Planning Board and its attorney, sufficient to secure the performance of the forestry plan, requirements of this chapter, permit conditions, and the maintenance plan. The bond shall remain in effect until formally released by the Planning Board, except the bond shall remain in effect no longer than one year after completion of the tree harvesting or cutting operation unless the applicant consents to a longer period of time. In the event the applicant or agent does not fulfill the conditions of the bond or fails to comply with any requirement or permit condition, the Town may, after due notice to the applicant, agent or surety, proceed to perform the work necessary to cause compliance with the bond, requirements or permit conditions, and shall charge the cost to the owner, agent and/or surety.

§128-9. Right of entry.

Town officials, employees and agents shall be authorized to enter upon the landowner's property for purposes of reviewing an application and of determining compliance with any permit issued pursuant to this Chapter. Such entrance and inspection shall be initiated at reasonable times, but at any time whenever deemed necessary to protect the public interest. Owners, agents and operators shall be responsible for allowing access to the entire property.

§128-10. Monitoring of operation.

The Planning Board or the Town Board may retain a forester and other consultants, at the applicant's expense, to monitor harvesting and reclamation activities, make recommendations and advise regarding permit compliance. Such board may require the applicant to deposit a specified sum of money with the Town to pay for the consultant(s).

§128-11. Limitation on number of permits issued.

The Town Board is authorized to limit the number of permits that may be issued and/or in effect during any period of time specified by the Town Board. The Town Board may, by resolution, establish such limitation, and amend same from time to time.

§128-12. Enforcement.

This chapter shall be enforced by the Building Inspector, Highway Superintendent or police officers. Enforcement officers are authorized to issue violation notices, orders to remedy, appearance tickets and stop work orders.

§128-13. Penalties.

A. Every person who violates any provision of this chapter, any permit condition, any provision of an approved plan or any order made pursuant to this chapter shall be guilty of a violation and, upon conviction thereof, shall be punished by a fine of not more than Thirty-Seven Thousand Five Hundred Dollars ($37,500.00) per day of violation, or by imprisonment for not more than fifteen (15) days, or by both such fine and imprisonment. In addition, the Town shall have such other remedies for any violation or threatened violation of this chapter, any permit condition, any provision of an approved plan or any order made pursuant to this chapter as is or may hereafter be provided by law.

B. (1) In addition to and not in lieu of the above, every person who violates any provision of this chapter, any permit condition, any provision of an approved plan or any order made pursuant to this chapter shall be liable for a civil penalty of not more than Twenty-Two Thousand Five Hundred Dollars ($22,500.00) for each such violation and an additional penalty of not more than Twenty-Two Thousand Five Hundred Dollars $22,500.00 for each day during which such violation continues.

(2) Civil penalties may be ordered in any action or proceeding by any court of competent jurisdiction, including but not limited to state and federal courts. All penalties shall be paid to the Town.

(3) The judgment amount of any civil penalty ordered pursuant to this section, if not paid, may be assessed and levied against the real property which is the subject of the penalty and collected in the same manner as a real property tax.

C. In addition to and not in lieu of the remedies authorized above, the Town Board or an enforcement officer may institute any appropriate action or proceeding to prevent, restrain, enjoin, correct or abate any violation or threatened violation of this chapter, any permit condition, any provision of an approved plan or any order made pursuant to this chapter or to enforce any provision of this chapter, any permit condition, any provision of an approved plan or any order made pursuant to this chapter.

D. In addition to and not in lieu of the above, the Planning Board may require any permittee to appear before the Planning Board at any meeting to address any matter related to the permit and the Planning Board is authorized to revoke, suspend or modify such permit.

Section 2. Severability. If any part or provision of this local law or the application thereof to any person or circumstance be adjudged invalid by any court of competent jurisdiction, such judgment shall be confined in its operation to the part or provision or application directly involved in the controversy in which such judgment shall have been rendered and shall not affect or impair the validity of the remainder of this local law or the application thereof to other persons or circumstances, and the Town Board hereby declares that it would have enacted this local law or the remainder thereof had such invalid application or invalid provision be apparent.

Section 3. Supersession. The Town Board hereby declares its legislative intent to supercede any provision of any local law, rule, or regulation or provision of the law inconsistent with this local law. The provisions of law intended to be superceded include all the Town Law and any other provision of law that the Town may supercede pursuant to the Municipal Home Rule Law and the Constitution of the State of New York. The courts are requested to take notice of this legislative intent and apply it in the event the Town has failed to specify any provision of law that may require supersession. The Town Board hereby declares that it would have enacted this local law and superceded such inconsistent provision had it been apparent.

Section 4. This local law shall take effect immediately upon filing with the Secretary of State.