

Town of Liberty

Forest Harvesting Notification Ordinance

Section 100 - Title & Purpose

101 - Title

This Ordinance is entitled "Forest Harvesting Notification Ordinance" and may be referred to as such and shall be referred to herein as "this Ordinance."

102 - Purpose

The purpose of this Ordinance is to encourage better local knowledge of the use of land throughout the Town of Liberty. It is not intended to regulate the harvest of forest products in any way but only to provide notification of such operations to the Citizens of the Town of Liberty.

Section 200 - Authority, Adoption & Separability

201 - Authority

This Ordinance is adopted pursuant to the enabling provisions of Article VIII, Part 2, Section 1 of the Maine Constitution, the provisions of Title 30-A MRSA § 3001 "Home Rule," Title 30-A MRSA §3001, "Ordinance Power," and Title 12 MRSA §8867 et. seq., "Forest Practices Act."

202 - Adoption & Amendment

202.1 This Ordinance is effective upon a vote of a regular or special Liberty Town Meeting.

202.2 This ordinance may be amended by a majority vote of the Liberty Town Meeting.

203 - Separability

It is the intention of the Citizens of Liberty that each separate section of this ordinance shall be deemed independent of all other sections herein. It is the further intention of the Citizens of Liberty that if any provisions of this ordinance be declared invalid, all other sections remain valid and effective.

Section 300 - Applicability

301 - Commercial Forest Harvesting Operations

This Ordinance shall apply to all Commercial Forest Harvesting Operations as defined herein.

302 - Exempt Forest Harvesting Operations

The following Forest Harvesting Operations are exempt from the provisions of this Ordinance:

302.1 Non-commercial forest harvesting for private or personal use, including, but not limited to fire wood, building materials or clearing of land for approved construction or roadways.

302.2 Precommercial silvicultural activities, as defined herein.

Section 400 - Administration & Enforcement

401 - Administration

This Ordinance shall be administered by the Code Enforcement Officer of the Town of Liberty as specified herein. A copy of all notices and notifications required under Section 500 of this Ordinance shall be filed by the Code Enforcement Officer with the Board of Selectmen and the Chairman of the Planning Board of the Town of Liberty.

402 - Enforcement

This Ordinance shall be enforced by the Code Enforcement Officer of the Town of Liberty and may be enforced by any state, county or other municipal law enforcement officer, including forest rangers and field foresters of the Bureau of Forestry and wardens of the Department of Inland Fisheries and Wildlife for operations regulated by Title 12 MRSA §8867 et. seq., "Forest Practices Act" and for public ways regulated by Title 29-A M.R.S.A. §2395, "Ways requiring special protection."

Section 500 - Notification Prior to Harvest Required

501 - Forest Harvesting Notification Required to be Filed with the Town of Liberty

501.1 Prior to the commencement of forest harvesting operations, the landowner or legally designated agent as defined herein shall notify the Town of Liberty Code Enforcement Officer of the intent to conduct or cause to be conducted forest harvesting operations.

501.2 The notification must be submitted no later than thirty (30) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.

501.3 Such notification shall be made for each separate tax lot to be harvested and is only valid for the tax lot designated.

501.4 Notification shall be made to the Town of Liberty and shall include the following information:

- 501.4.1 The name, address and phone number of the landowner, any designated agent, and, if known, any harvester or harvesters;
 - 501.4.2 The name and address of any licensed professional forester consulting the landowner on forest management or harvesting practices;
 - 501.4.3 The name of the nearest public or private all-weather road;
 - 501.4.4 The definite date the harvest will begin and the approximate date of finish;
 - 501.4.5 The anticipated acreage to be harvested;
 - 501.4.6 Whether the land is being harvested to convert to another use within two (2) years and, if so, what that use is to be;
 - 501.4.7 The signature or signatures of the landowner, designated agent or harvester filing the form together with a clear statement of their capacity;
 - 501.4.8 A map locating the harvest site in relation to known or easily identifiable terrain features, such as a road junction or a stream and road junction, that includes the Town of Liberty Tax Map and Lot Number(s), drawn or copied onto 8 1/2" x 11" white paper and signed by the preparer. Any map must be acceptable to the Code Enforcement Officer; a copy of that portion or portions of the Town of Liberty Tax Maps may be used; a north arrow and a scale shall be included; and
 - 501.4.9 The date of notification.
- 501.5 Any Operation may submit a copy of the State of Maine Form: Notification-1, "Notification of Intent to Harvest Forest Products" with the Town of Liberty Tax Map and Lot Number(s) of the site of the operation appended thereto as their notification.

502 - Notification of Landowner and Abutters

- 502.1 The landowner is required to file a notice of intent to commence forest harvesting operations, including the harvester's name, address and telephone number, with all abutting landowners of the parcel or parcels based on the Town of Liberty Tax Maps where such operations will take place.
- 502.2 Such notice to abutters shall be sent no later than fifteen (15) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.
- 502.3 A certified return of notice shall be filed by the landowner with the Code Enforcement Officer, giving a listing of each abutter and their address, the date of mailing and a copy of the notice no later than fifteen (15) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.

503 - Notification Form to be Posted at Site

- 503.1 The notification required under Section 501 of this Ordinance must be posted conspicuously at the nearest public way for the public to see.
- 503.2 The notification must be posted no later than fifteen (15) days prior to the commencement of forest harvesting activities. The Code Enforcement Officer may waive the time frame of this requirement as specified in Section 604 of this Ordinance.

504 - Notification Duration

A notification shall remain valid from the date of notification for two (2) years or upon completion of the harvest, whichever occurs first. If the harvest extends beyond the two (2) year period, a new notice under Section 501 of this Ordinance must be filed.

505 - Protection of Ways

If, in the opinion of the Code Enforcement Officer or the Board of Selectmen of the Town of Liberty, a public way leading to or from a forest harvesting operation is at risk of damage because of condition, seasonal weather, or other reason that may be mitigated by the designation of restrictions on gross weight, speed, operation or equipment, pursuant to Title 29-A M.R.S.A. §2395(4), the Code Enforcement Officer, Road Commissioner, or other authorized municipal official may post a notice specifying the designated sections of a public way, and the prescribed restrictions or exclusions conspicuously at each end of the public way requiring special protection in accordance with 29-A M.R.S.A. §2395, "Ways requiring special protection."

Section 600 - Violation & Penalties

601 - Violations

When any violation of any provision of this Ordinance shall be found to exist, the Board of Selectmen is hereby authorized and directed to institute any and all actions and proceedings either legal or equitable that may be appropriate or necessary for the enforcement of this Ordinance, the same to be brought in the name of the Town of Liberty. Any violation of this Ordinance shall be a nuisance.

- 601.1 If the Code Enforcement Officer shall find that any provision of this Ordinance is being violated, notification by said Officer in writing to the landowner responsible for such violation, indicating the nature of the violation and ordering the action necessary to correct it, including discontinuance or stoppage of any work being done and abatement of nuisance conditions. A copy of such notices shall be submitted to the municipal officers and shall be maintained as a permanent record.

- 601.2 The Code enforcement Officer may allow the continuance of work after notice of a violation of this Ordinance as defined in Section 601.1 is completed if he finds that there is clear and convincing evidence that the owner did not act in bad faith and the necessary notifications as required by Section 501 of this Ordinance are completed and filed. Such allowance shall be in writing and a copy submitted to the Board of Selectman. Work stoppage must be ordered and the provisions of Section 603 of this Ordinance must be observed if any abutter has submitted written or verbal objections to the Code Enforcement Officer.
- 601.3 The Code Enforcement Officer shall conduct on-site inspections to insure compliance with all applicable laws and conditions. The Code Enforcement Officer shall also investigate all complaints of alleged violations of this Ordinance.
- 601.4 The Code Enforcement Officer shall keep a complete record of all essential transactions, including notices submitted, permits granted or denied, variances granted or denied, revocation actions, revocation of permits, appeals, court actions, violations investigated, violations found, and fees collected.
- 601.5 When the above action does not result in the correction or abatement of the violation or nuisance condition, the Municipal Officers, upon notice from the Code Enforcement Officer, are hereby directed to institute any and all actions and proceedings, either legal or equitable, including seeking injunctions of violations and the imposition of fines, that may be appropriate or necessary to enforce the provisions of this Ordinance in the name of the municipality.
- 601.6 The municipal officers, or their authorized agent, are hereby authorized to enter into administrative consent agreements for the purpose of eliminating violations of this Ordinance and recording fines without Court action. Such agreements shall not allow an illegal use to continue unless there is clear and convincing evidence that the illegal use was conducted as a direct result of erroneous advice given by an authorized municipal official and there is no evidence that the owner acted in bad faith.

602 - Penalties

Any person, firm or corporation being the owner or having control or use of any lot or site of Commercial Forest Harvesting who violates any provision of this Ordinance shall be subject to the following penalties, payable to the Town of Liberty:

- 602.1 For starting work or undertaking any land use activity without the required notification or for any other specific violation of this Ordinance, the minimum fine shall be \$100.00 and the maximum fine for any single violation shall be \$2,500.00. Assessment of penalties under this Ordinance shall be in accordance with Title 30-A MRSA § 4452, as amended.
- 602.2 Each day a violation continues may be counted as a separate offense. An offense shall commence on the date of issuance of a Notice of Violation signed by the Code Enforcement Officer to the person or party in violation of this Ordinance. Return of the receipt indicating that the Notice was undeliverable as addressed or otherwise not delivered to the person or party shall not invalidate enforcement of this Ordinance or any penalties provided for herein. The Town may bring action in District Court to enjoin violation of this Ordinance and for other such relief as the law may provide.

603 - After-the-Fact Permits and Appeals

- 603.1 A permit to resume work issued by the Planning Board shall be required for any forest harvesting operation that has failed to provide notification as required under Section 500 of this Ordinance, unless the Code Enforcement Officer has allowed work to continue as allowed in Section 601.2 of this Ordinance, following the enforcement procedure and penalties requirements of Section 600 of this Ordinance. Before issuing such permit, the Planning Board shall review all data required under Section 500 of this Ordinance and may conduct a site inspection, if they deem it necessary.
- 603.2 Any landowner, designated agent or harvester who believes the Code Enforcement Officer or the Planning Board made an error or errors in their decisions relating to this Ordinance shall bring an appeal to the Town of Liberty Board of Appeals within forty-five (45) days of the action of the Code Enforcement Officer or the Planning Board that is in dispute.

604 - Waivers and Variances

- 604.1 The Code Enforcement Officer may reduce the minimum time frames for notification as defined in this Ordinance to not less than seven (7) days if he finds all of the following facts to be true:
- 604.1.1 All the necessary notifications as required by Section 501 of this Ordinance are completed and filed; and
- 604.1.2 The notice to abutters alerts them of the possible reduction of time frame and their right to object either in writing or verbally to the Code Enforcement Officer within the seven (7) day period; and
- 604.1.3 There is no objection to this time reduction by the abutters of the property received by the Code Enforcement Officer either in writing or verbally within the seven (7) day period.
- 604.2 Variances under this Ordinance may be granted by the Liberty Planning Board only under the terms of 30-A M.R.S.A. Section 4353.

Section 700 - Definitions

All words not defined herein shall carry their customary and usual meanings.

Commercial forest harvesting operations

A timber harvesting operation on land within the Town of Liberty, Maine for the primary purpose of selling or processing forest products. Land harvested need not be contiguous or under single ownership and more than one harvester may work a harvest operation.

Forest products

Logs, pulpwood, veneer, bolt wood, wood chips, stud wood, poles, pilings, biomass fuel wood, fuel wood, fire wood, or other products commonly known as forest products, but does not include Christmas trees, maple syrup, nursery products used for ornamental purposes, wreaths, bough material, cones, or other seed crops.

Harvester

A person, firm, company, corporation or other legal entity which harvests or contracts to harvest a forest product.

Legally designated agent

A person, firm, company, corporation or other legal entity representing the land owner in timber sales or land management, legally and duly authorized in writing, signed by the landowner.

Precommercial silvicultural activities

Chemical or mechanical thinning operations, planting, stand conversion or timber stand improvement activities provided that no forest products are sold.

Timber harvesting

The cutting or removal of at least 50 cords of timber for the primary purpose of selling or processing forest products.