



**Town of Fishkill  
Office of the Town Clerk**

807 Route 52  
Fishkill, NY 12524  
845-831-7800 ext. 3338 | btompkins@fishkill-ny.gov  
www.fishkill-ny.gov

**Rebecca Tompkins**  
**Town Clerk/Receiver of Taxes/Registrar of Vital Statistics**

New York State Department of State  
Divisions of Corporations  
State Records and Uniform Commercial Code  
One Commerce Plaza  
99 Washington Avenue  
Albany, NY 12231

**Re: Town of Fishkill Proposed Local Law No 6 of 2023**

Local Law No. 6 of 2023 of the Incorporated Town of Fishkill, New York Town Board repealing Chapter 140 "Timber Harvesting", and re-enacting the same to include regulations for tree preservation

Dear Sir/Madam:

Enclosed please find the original, fully executed Local Law Filing Form with regard to the above-referenced Local Law for filing with your office.

**Please provide written confirmation of receipt and filing to the undersigned. Also, we have never received our State filing letter for Local Law #3-2023. Please forward as soon as possible.**

If you have any questions, or need anything further, please do not hesitate to contact me.

Thank you in advance.

Respectfully,

Becki Tompkins, RMC, CTO, MMC  
Town Clerk

bt

enclosures

cc: Steven Gaba, esq..

# 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 FISHKILL

Local Law No. 6 of the year 2023

A local law amending the Town Code of the Town of  
(Insert Title)  
Fishkill by Repealing Chapter 140 "Timber  
Harvesting", and re-enacting the same to  
Include Regulations for Tree Preservation

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

County  City  Town  Village  
(Select one.)

of FISHKILL

as follows:

SEE ATTACHED LOCAL LAW

(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. 6 of 2023 of the ~~(County)(City)(Town)(Village)~~ of Fishkill was duly passed by the Town Board of the Town of Fishkill on December 20 20 23, 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 *(Elective Chief Executive Officer\*)* 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 1 above.

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

Date: December 21, 2023

(Seal)

TOWN OF FISHKILL  
LOCAL LAW NO. 6 OF THE YEAR 2023

A local law amending the Town Code of the Town of Fishkill by repealing Chapter 140 “Timber Harvesting”, and re-enacting the same to include regulations for tree preservation.

SECTION 1. PURPOSE

The purpose of this Local Law is to promote the public health, safety and welfare by amending the Town Code to add regulations for tree preservation.

SECTION 2. MUNICIPAL HOME RULE LAW:

This law is adopted pursuant to the provisions of the Municipal Home Rule Law § 10(1)(ii)(a)(1) which grants local governments the authority to enact local laws regarding the public health, safety and welfare. To the extent the provisions of this Local Law are in conflict with State law, the Town Board hereby asserts its intention to supersede same pursuant to the Municipal Home Rule.

SECTION 3. AMENDMENT OF TOWN CODE:

The Town Code of the Town of Fishkill is hereby amended to repeal Chapter 140, “Timber Harvesting”, and to re-enact in its place a new Chapter 140 entitled “Tree Preservation” which shall read as follows:

“§ 140-1 Purpose.

A. The Town Board finds that trees stabilize the soil, control water pollution by preventing soil erosion and flooding, reduce air pollution, provide oxygen, yield advantageous microclimatic effects, temper noise, provide a natural habitat for wildlife and have aesthetic and historic value. Indiscriminate removal of trees causes deprivation of these benefits and disrupts the town's ecological systems. It is the purpose of this chapter to prevent the indiscriminate destruction of trees within the Town of Fishkill while respecting the rights of residents and owners to maintain and improve their properties.

B. The Town takes note of the findings of the New York State Environmental Quality Review Act, among them being the obligation of the Town to serve as a steward of air, water, land and living resources and the obligation to protect the environment for the use of this and future generations. It is the intent of the Town to recognize these responsibilities in part by providing these procedures as well as to preserve the health and welfare and rural and suburban character of the community which is reflected in the trees and woodlands of the Town of Fishkill

and to maintain tree buffers to screen proposed development from adjacent residential neighborhoods.

C. The Town also recognizes that the forest resource in the Town is a renewable resource of significant value and, if properly harvested, could improve the health, vigor, value and aesthetics of the forest. The Town recognizes that if tree harvesting practices are poorly carried out they can result in significant environmental and aesthetic damage to the land and to adjacent lands and waters. One of the intents of this chapter is to assure that those harvesting activities that most readily affect the environment, such as the location of stream crossings, landings, haul roads and skid trails, are carried out with the use of professional forest management techniques, particularly to control soil erosion and sediment-laden runoff.

D. The Town of Fishkill Comprehensive Plan Update (CPU), adopted by the Town Board May 3, 2023, includes Goal F, Objective 8: "Preserve existing trees where possible and require planting of new trees when appropriate." The tree preservation regulations in this Chapter are consistent with and supportive of Goal F, Objective 8 in the CPU.

§ 140-2 Definitions.

The following terms shall have the meanings indicated:

#### BOARD-FOOT

A measure of lumber 12 inches by 12 inches by one inch as measured by International 1/4 inches Log Rule.

#### COMMERCIAL TIMBER HARVESTING

The cutting or removal of live healthy trees for sale or exchange of goods, commodities or services, when it is not performed in connection with legally permitted soil mining, building construction or building site development.

#### DBH (DIAMETER AT BREAST HEIGHT)

The diameter of a tree measured at a point 4-1/2 feet above the ground.

#### DEAD TREE

A tree that lacks vitality, is lifeless and without foliage.

## PROFESSIONAL FORESTER

A person who has a minimum of a bachelor of science degree in forestry from a four-year college accredited by the American Society of Foresters and acceptable to the Town Board.

## STANDARD CORD

A cut stack of wood measuring four feet by four feet by eight feet or 128 cubic feet.

## TREE

A living, woody plant with an erect perennial trunk of six inches or more dbh with a definitely formed crown of foliage and a total height of at least 13 feet from the ground.

## TREE PRESERVATION PLAN

A map of the property in question that shows site boundaries, all existing and proposed structures, easements, etc., and the location, species, dbh and condition of all existing trees with a dbh of eighteen inches or greater and all trees proposed to be removed with a dbh of eighteen inches or greater. The tree preservation plan shall detail the methods and practices to be used to provide protection from injury during construction/tree removal for all trees to be preserved, as specified in this chapter.

## TREE REMOVAL

Any human act which causes a tree to die.

### § 140-3 Applicability.

(A.) There shall be no cutting or removal of trees from any property in the Town of Fishkill except as provided herein. Provided, however, that these provisions shall not be construed as prohibiting or limiting the normal maintenance of trees or property through the selective removal of tree limbs, dead or diseased trees, or brush.

(B.) This chapter shall apply to all property owners, including owners of existing residential dwellings within the Town of Fishkill. This law shall apply to but not be limited to the owner of the property wishing to cut or remove a tree as defined in this chapter, all persons or corporations who will be applying for building permits, all persons or corporations applying for site development plan approval, special use permits, land disturbance permits, applications for

subdivisions, and any persons or corporations who wish to remove trees for any other purpose not stated herein.

(C.) This chapter shall not apply to site development plan or subdivision applicants who have been granted preliminary approval prior to the effective date of re-enactment of this chapter or to site development plan or subdivision applications which do not propose cutting or removal of existing trees.

§ 140-4 Administration and enforcement.

A. The Approving Authority to administer and enforce this chapter shall be the Town Building Inspector/Zoning Administrator. The Approving Authority may seek the advice and recommendation of any licensed/certified arborist or professional forester engaged by the Town Board (as may be applicable) for purposes of reviewing any application seeking issuance of a permit pursuant to this chapter.

B. The Approving Authority shall:

- (1) Receive and keep accurate records of clearing and tree removal permit applications.
- (2) Inspect the trees described in each application based on the standards for granting permits described herein, both before and after removal takes place.
- (3) Grant, grant with conditions or deny clearing and tree removal permits according to the standards in this chapter, giving reasons for denial and specifying conditions for such tree removal as specified below.
- (4) Carry out such related duties as may be specified from time to time by the Town Board.

§ 140-5 Clearing and tree removal permit required.

A. General regulations. A clearing and tree removal permit will be required before removal of any of the following:

- (1) Any tree 18 inches and over dbh.
- (2) Any tree designated by the New York State Department of Environmental Conservation as a protected native plant pursuant to 6 CRR-NY 193.3.



- (3) Any tree within the common lands and facilities of a conservation cluster development, as described in Article XIII, § 150-130 of the Code of the Town of Fishkill.
- (4) Any tree within any property subject to the Town of Fishkill historic structures and sites regulations defined as regulated structures or sites in Chapter 150, Article XIVB of this Code.
- (5) More than the number of trees listed below on a single property of the indicated size within any calendar year:
  - (a) More than 15 trees on properties of four acres or less.
  - (b) More than 20 trees on properties of six acres or less and more than four acres.
  - (c) More than 30 trees on properties of eight acres or less and more than six acres.
  - (d) More than 40 trees on properties of 10 acres or less and more than eight acres.
  - (e) More than 50 trees on properties of more than 10 acres.
- (6) Any tree within any wetland or wetland buffer as defined in Chapter 82 of this Code.
- (7) Any tree on any steep slope as defined in Chapter 150 of this Code, except as specifically permitted by the Planning Board.

B. Exceptions. Notwithstanding the foregoing, no permit shall be required for the removal of:

- (1) Any dead tree.
- (2) Trees posing a danger to a structure or to vehicle or pedestrian traffic.
- (3) Trees the removal of which is needed to control forest fires during such fires.
- (4) Trees the removal of which is necessary to maintain rights-of-way of public utilities, provided that such removal is conducted according to lawful easements, statutory requirements and franchise agreements.

C. Standards of review. In making its determination to grant, deny or grant with conditions a clearing and tree removal permit under this chapter, the Approving Authority shall consider the following factors:

- (1) Whether the trees proposed for removal include trees designated as threatened or endangered on the New York State Department of Environmental Conservation list of protected native plants pursuant to 6 CRR-NY 193.3.
- (2) Whether the removal will have significant adverse impact on ecological systems, including erosion potential and wildlife habitat.
- (3) Whether the removal will have significant adverse impact on other properties or roadways, including impact on screening or drainage.
- (4) Whether the trees proposed for removal provide an important buffer area adjacent to existing residential homes or neighborhoods.

D. Approval granted by other agencies. Approvals granted by the Planning Board, including but not limited to site development plan, special use permit and subdivision approvals, and/or the Building Inspector/Zoning Administrator, shall be deemed clearing and tree removal permits when tree removal or preservation is specifically proposed in conjunction with applications submitted to such agencies. These agencies shall apply the criteria, procedures and standards of this chapter and shall consider how tree removal might be reduced by changes to the application being considered. The opinion of the Town Environmental Board, a licensed/certified arborist or a professional forester may be sought to assist such agencies in their determinations. These agencies shall record in their determinations the specific tree removal which they approve.

#### § 140-6 Tree preservation plan required.

A. A tree preservation plan shall be filed with the Planning Board, except where excluded in § 140-3, with every application for a subdivision or site development plan review, unless specifically waived by the Planning Board. The tree preservation plan shall be prepared by a registered landscape architect, professional land surveyor or engineer. The Planning Board shall approve, disapprove or approve with modifications the tree preservation plan, in conjunction with the subdivision or site development plan review, pursuant to the regulations and provisions of this chapter. The Planning Board may include, but not necessarily be limited to, requiring any of the conditions stated in § 140-8 of this chapter. A tree preservation plan shall show site boundaries, all existing and proposed structures, easements, etc., and the location, species, dbh and condition

of all existing trees with a dbh of eighteen inches or greater and all trees proposed to be removed with a dbh of eighteen inches and greater. The plan shall provide tree wells or walls at the dripline of all trees to be preserved. No disturbance or storage of materials or equipment shall occur within the dripline of trees to be preserved, including but not limited to regrading and installing structures or impervious surfaces. Methods for protecting trees during construction or tree removal shall be specified on the plan. The plan must demonstrate and detail the steps to be taken to protect and preserve the trees to remain for a period of two years after the issuance of a certificate of occupancy for each building. Where the owner of the property having an approved tree preservation plan wishes to remove a tree as defined within, and is not otherwise required to file an application with the Planning Board as outlined above, said property owner shall apply for a tree removal permit from the Approving Authority.

B. Prior to the commencement of any development activity or tree removal on any part of a site, the Town Planning Board Engineer shall meet with the developer and his/her construction manager to ensure that:

(1) Those trees designated to be preserved are physically identified on the site so as to be easily recognizable as trees to be protected.

(2) The identified measures to protect trees before, during and for a period of two years after construction are implemented.

C. The applicant shall be required to pay the cost necessary for the Town to retain a certified/licensed arborist or professional forester to review compliance with the requirements of the tree preservation plan should the Planning Board require same using funds from the established escrow account.

D. Enforcement; penalties for offenses. Upon any violation of the tree preservation plan, the Building Inspector/Zoning Administrator shall issue a stop-work order immediately, and the applicant shall be required to take such remedial action as the Planning Board deems appropriate before any certificate of occupancy or completion may be issued. Any violation of an approved tree preservation plan shall also constitute a violation punishable as provided in § 140-11 of this chapter, for purposes of which the removal of each tree which was to have been preserved shall constitute a separate and distinct violation.

§ 140-7 Permit applications.

A. Except when tree removal is being proposed as part of an application to the Planning Board or Building Inspector/Zoning Administrator, the applicant shall file with the Approving Authority a clearing and tree removal permit application. The application shall include:

- (1) Name and address of the applicant.
- (2) Name and address of the property owner, if different.
- (3) Address and Town Tax Map designation of the property.
- (4) Purpose of tree removal.
- (5) If the purpose of removal is for commercial timber harvesting as defined in this chapter, then a separate application for a Timber Harvesting permit shall be filed pursuant to the provisions of § 140-13 of this chapter.
- (6) If the purpose of removal is other than as described in Subsection A(5) above:
  - (a) Color photographs or slides showing the areas and environment where trees are to be removed, with sufficient detail to identify the remaining trees in the area after work is completed.
  - (b) A survey or sketch of that section to be disturbed, showing the number, location and common name of all trees to be removed, the dbh of each and the distance of each from nearby structures, roads or other landmarks which will enable the trees to be easily identified.

B. Submission of a clearing and tree removal permit application shall constitute permission for the Approving Authority and/or a professional consultant especially retained for this purpose by the Town to enter upon the property described in the application, at reasonable times with prior notice to and agreement by the applicant, which agreement shall not be unreasonably withheld, to carry out the inspections required in this chapter and to otherwise enforce its provisions.

C. The Approving Authority shall approve, approve with conditions or deny a clearing and tree removal permit application within 60 days after receipt of a complete application. If no action is taken by the Approving Authority within 60 days after receipt of the complete application, it shall be deemed to be approved as submitted.

D. A clearing and tree removal permit shall expire 24 months after it is granted.

§ 140-8 Conditions.

The Approving Authority or the enforcing agencies listed in § 140-4 and § 140-5D above may seek the advice of the Town Environmental Board and may impose conditions upon the granting of a tree removal permit, including:

- A. Days and hours of removal operations, size and number of trucks and routes to be followed, and location and methods of storage of felled trees on the site.
- B. New York State Department of Environmental Conservation Timber Harvesting Guidelines, including location of stream crossings, landings, skid trails and haul roads, the restoration of the effects of such removal and the obtaining of all permits required by town, state or other agencies for such operation.
- C. Replanting of replacement trees or other vegetation or other mitigation to prevent erosion, provide screening, preserve ecological systems or remediate effects on neighboring properties.
- D. Reasonable relocation of proposed surface or subsurface improvements.
- E. Marking of trees to be removed in a way that the markings are visible both before and after tree removal.
- F. In case of removal of more than the number of trees specified in § 140-5A(5) above, a performance bond to assure compliance with this chapter and the conditions imposed, with such bond, if one of its purposes is to assure replanting, to have a minimum term of two years.
- G. Such safeguards as are appropriate to mitigate the environmental impact of removal operations, including but not limited to a report from an arborist certified by the International Society of Arboriculture or a professional forester in the New York State cooperating consultant forester program (retained by the applicant).
- H. Tree protection or other mitigation to prevent erosion, provide screening, preserve ecological systems or remediate effects on neighboring properties or roads.

§ 140-9 Tree felling exception.

Notwithstanding other provisions of this chapter to the contrary, in conjunction with site development plan and/or subdivision applications being actively

reviewed by the Planning Board, the Planning Board may, by resolution, at its sole discretion, allow the felling of trees on a property prior to the final approval of a site development plan or subdivision when the timing of such tree felling is deemed by the Board to be in the best interest of protecting the Indiana bat (*Myotis sodalis*). Such felling of trees, and any other physical alterations to the site, shall not be permitted until the provisions of the NYS Environmental Quality Review Act (SEQRA) have been complied with, and at least preliminary site development plan or preliminary subdivision approval have been granted by the Planning Board. In the context of this tree felling provision, the removal of stumps shall not be permitted, and the Applicant shall submit a plan illustrating and detailing the chipping and removal of felled trees from the site demonstrating that felled trees will be removed in a safe and ecologically sound manner, and subject to the other provisions of this chapter. Further, if the Board approves said tree felling, all of the following shall occur prior to the cutting of any trees:

- A. The applicant shall submit a sufficiently detailed plan prepared by a design professional and acceptable to the Planning Board which shows the area proposed for the tree felling.
- B. A bond or other performance guarantee in an amount as determined by the Town Engineer for the possible restoration of the land being developed shall be filed with the Town.
- C. A notice of intent (NOI) and a stormwater pollution prevention plan (SWPPP) shall be approved by the Town, if applicable.
- D. Tree protection (for the trees to be preserved on-site), erosion and sedimentation protection under the Town's MS4 (Municipal Separate Storm Sewer System) Program, and wetland protection measures, as applicable, shall be implemented to the satisfaction of the Town Building Department and Town Engineer. No tree felling under this section shall take place in any regulated wetland or regulated adjacent buffer area.
- E. The applicant shall attend a pre-construction meeting with the Town Building Department and Town Engineer.

#### § 140-10 Fees.

A clearing and tree removal permit application shall be accompanied by a fee to be set in a fee schedule determined by the Town Board, except when the applicant is the Town of Fishkill.

§ 140-11 Penalties for offenses.

A. The owner of record of any property on which trees subject to this chapter are removed without the granting of a clearing and tree removal permit or are removed in violation of conditions attached to a clearing and tree removal permit, or any person removing or in the process of removing such trees, shall be guilty of an offense which may be punishable by a fine of not more than \$350, by imprisonment for not more than 15 days, by a direction or order of a court directing the violator to restore the property and to replace removed trees by comparable trees according to a plan approved by the Approving Authority, or by all of the above. Each tree removed without a clearing and tree removal permit or in violation of the conditions attached to a clearing and tree removal permit shall constitute a separate offense. When such restoration is directed, no site plan approval, building permit, certificate of compliance, certificate of occupancy, variance, wetlands permit or any other permit shall be issued by any Town agency until such replacement has been completed and approved by the Approving Authority.

B. The foregoing provisions for enforcement of the regulations in this chapter are not exclusive, but are in addition to any and all laws applicable thereto.

§ 140-12 Appeals.

A. Any applicant aggrieved or affected by the determination of the Approving Authority with respect to an application for a clearing and tree removal permit, but not including applications before the Planning Board for site development plan or subdivision approval, may, within 10 business days of such determination, appeal to the Zoning Board of Appeals, stating the reason for such appeal. The Zoning Board of Appeals shall conduct a hearing on the appeal within 60 calendar days of receipt of such appeal and shall, based upon the standards contained herein and the facts of the matter, deny, grant or grant with conditions the permit being sought.

B. Any person or persons aggrieved by a decision of the Zoning Board of Appeals or the Planning Board pursuant to this chapter may apply to the Supreme Court for review by a proceeding under Article 78 of the Civil Practice Law and Rules. Such proceeding shall be instituted within 30 days after the filing of a decision of the Zoning Board of Appeals or the Planning Board in the office of the Town Clerk.

§ 140-13 Commercial Timber Harvesting.

A. Permit requirements.

1. Notwithstanding other provisions of this chapter to the contrary, no person, firm or corporation shall conduct any commercial timber harvesting operation in the Town without first obtaining a timber harvesting permit from the Town Board.

B. Application for permit.

1. Application. In all cases where a timber harvesting permit is required, the applicant shall file with the Town Clerk an application, in triplicate, for such permit, which shall include:
  - (a) A letter of application stating a description of the proposed operation, the name and current address of the owner of the property to be harvested, and the name and current address of the professional forester to be consulted in the operation. This letter shall designate the Town Clerk as a person upon whom process may be served, and shall bear the signature of the applicant and the property owner.
  - (b) A site map which shall show:
    - (i) The location and boundaries of the property to be harvested.
    - (ii) The names and addresses of the owners of adjacent properties.
    - (iii) The zoning classification of the property and adjacent properties. (See Chapter 150, Zoning.)
    - (iv) Existing topography at a contour interval of 10 feet.
    - (v) The location and status of any previous timber harvesting operations on the property within the last five years or sufficient data for the Town Environmental Board to make an adequate evaluation.
    - (vi) All public roads within 500 feet of the property and roads that are to be used for access or removal of the harvest.
    - (vii) The location and bounds of areas to be harvested.
    - (viii) The intended location of storage piles, loading areas and skidding roads.
    - (ix) Road access to the property.



- (x) All existing or intermittent streams or standing bodies of water in or within 500 feet of the harvest site.
- (xi) All buildings within 500 feet of the harvest site.
- (xii) Sufficient data to determine whether the timber harvest will be controlled to prevent permanent environmental damage to the site or surrounding area.
- (c) A data sheet summarizing cutting operations, which shall include:
  - (i) The total area involved in cutting operations.
  - (ii) A stand analysis.
  - (iii) The number of trees of each species to be cut.
  - (iv) The percentage of trees which have been cut in previous harvesting within the last five years or sufficient data for the Town Environmental Board to make an adequate evaluation.
  - (v) The range, in inches, of diameter at breast height (4 1/2 feet above the ground) of the trees to be cut.
  - (vi) The total board-foot volume for each species to be cut.
  - (vii) The total volume to be removed from the cutting area.
  - (viii) The average number of board-feet per acre to be cut.
  - (ix) For harvesting of trees for products such as fence posts, poles, pilings and firewood, the number of units per acre and the total number of units to be removed (expressed in the applicable unit of measurement, e.g., cords of firewood) may be shown in lieu of the items in Subsection A(3)(b), (d), (e) and (g).
- (d) An application fee as provided for in Chapter 68, Fees.
- (e) Proof of workmen's compensation insurance.
- (f) The application shall be accompanied by a stormwater pollution prevention plan (SWPPP) consistent with the requirements of Town of Fishkill Town Code Chapter 130. The SWPPP shall meet the performance and design criteria and standards in Chapter 130, Article V. The Town may, in its sole discretion, require a SWPPP for disturbances of less than

one acre. In determining whether to require a SWPPP for disturbances of less than one acre, the Town shall consider the following:

- (i) Water sources present on the site.
  - (ii) The slopes present on the site.
  - (iii) The height (elevation) of the site.
  - (iv) The soil conditions present on the site.
  - (v) The visual and/or scenic significance of the site.
2. Bond requirements. A performance bond shall be posted with the Town Board, in an amount and form to be determined by the Town Board, to ensure conformance to the approved plans and this chapter and to ensure repair of any Town road or Town property which may be damaged as a result of harvesting operations. The Town Board shall set a reasonable time limit for such bond, but not to exceed two years; a bond may be renewed or extended with each permit renewal. Said bond shall remain in full force and effect until a certificate of completion has been issued by the Building Inspector/Zoning Administrator indicating that all the provisions of this chapter and conditions of the permit have been complied with. In lieu of such a bond, the applicant may post a cash deposit or certified check with the Town Supervisor.
  3. Owner's protective insurance policy. An owner's protective insurance policy shall be posted with the Town Board in an amount and form to be determined by the Town Board, but not to exceed \$1,000,000 naming the Town of Fishkill as a party insured, to insure the protection of the Town of Fishkill against any liability arising from the logging operations.
- C. Application review procedures.
1. Each application for a timber harvesting permit, together with the required information described in § 140-13.B.1 shall be referred to the Town Board by the Town Clerk within five days of the date of application, for preliminary review. Within 45 days of the date the application is determined to be complete, the Town Board shall call a public hearing on the application. A public hearing shall be conducted in conformance with the requirements of Chapter 114 of the Town of Fishkill Code. Notice of such public hearing shall be posted, published and mailed as required by Chapter 114 before said hearing is held. Within 45 days after the close of the public hearing, the Town Board shall forward its findings to the

applicant and the Building Inspector/Zoning Administrator, indicating that the application has been approved, disapproved or approved with modifications or conditions. A copy of the Town Board's findings shall also be maintained in the Office of the Town Clerk.

2. Each application for timber harvesting may be referred to the Town Environmental Board by the Town Board, for review and recommendation which shall be considered before the close of the public hearing. Each application shall also be submitted to the Dutchess County Department of Planning and Development in accordance with the General Municipal Law of the State of New York, to the extent that the same may be applicable.
  3. Applicants for a permit shall bear the expense of public hearing notice advertising.
  4. Should the Town Board determine that a consultant should be retained to review the application, the applicant shall bear the cost of the consultant.
  5. Permits issued under this section shall expire two years from the date of issuance, except that after a public hearing, and upon a finding of the Town Board that all terms and provisions of this chapter have been complied with, the Town Board may extend permits for one-year periods.
- D. Harvest procedures.
1. Review by a professional forester. Where an applicant wishes to conduct timber harvesting under permit, the area to be harvested shall first be reviewed by a consulting professional forester who shall be retained by the applicant. Said forester shall mark each tree to be removed, with paint or other distinctive means, at two points so as to be readily visible for inspection. One paint marking shall be low enough on the tree so as to be visible on the stump after the tree is removed.
  2. No cutting or loading shall take place between the hours of 5:00 p.m. and 7:00 a.m. or on Sundays, New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day or Christmas Day.
  3. Timber harvesting shall be conducted in accordance with the operational standard entitled "Timber Harvesting Standards," which shall be maintained on file in the office of the Town Clerk.
  4. Where it is recommended by the Town Environmental Board, the Town Board may require additional harvesting standards which shall be set forth on the harvesting permit.

E. Enforcement.

1. This section 140-13 shall be enforced by the Town Building Inspector/Zoning Administrator. The Building Inspector/Zoning Administrator may request and shall receive, so far as may be necessary in the discharge of his duties, the assistance and cooperation of the police, the Town Environmental Board, the Town Highway Department and all other municipal officials exercising jurisdiction over property being harvested or harvesting operations.
2. The Town Building Inspector/Zoning Administrator and assistants described above, upon the showing of proper credentials and in the discharge of their duties, may enter upon any property at any reasonable hour, where timber harvesting is reported, proposed or being conducted, and no person shall interfere with such entry.

F. Revocation of permit.

The Town Board may revoke a timber harvesting permit theretofore issued in the following instances:

1. Where it finds that there has been any false statement or misrepresentation as to a material fact in the application, plans or information on which issuance of the permit was based.
2. Where it finds that the permit was issued in error and should not have been issued in accordance with applicable law.
3. Where the permittee fails or refuses to comply with a written order issued by the Zoning Inspector within the time fixed for compliance therewith.

G. Penalties for offenses.

Any person, firm or corporation who shall violate or fail to comply with a written order or notice of violation issued by the Building Inspector/Zoning Administrator, or with any of the provisions of this chapter or conditions of the timber harvesting permit, shall be liable to punishment by a fine of not more than \$100 or by imprisonment, or both. Each day that a violation continues shall be deemed a separate offense.

#### SECTION 4. SEVERABILITY

If any clause, sentence, paragraph, word, section or part of this local law shall be judged by any court of competent jurisdiction to be unconstitutional, illegal or invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, word, section or part thereof directly involved in the controversy in which judgment shall have been rendered.

#### SECTION 5. EFFECTIVE DATE

This local law will take effect immediately upon filing in the Office of the Secretary of State in Albany.

**RESOLUTION NO. 2023-309**

**Resolution Adopting Tree Preservation Local Law**

At the Regular Meeting of the Town Board of the Town of Fishkill, Dutchess County, New York, held at Francois R. Cross meeting room, 807 Route 52, Fishkill, New York, on December 20, 2023, at 7:00 P.M.

The meeting was called to order by Ozzy Albra, Supervisor, and upon roll being called, the following were present:

**PRESENT:** Supervisor - Ozzy Albra  
Council Members - Louise Daniele  
John Forman  
Carmin Istvan  
Brian Wrye

**ABSENT:**

The following Resolution was introduced by Supervisor Albra and seconded by Council Member Daniele.

WHEREAS, the Town Board has before it for consideration a local law entitled: "A local law amending the Town Code of the Town of Fishkill by repealing Chapter 140 'Timber Harvesting', and re-enacting the same to include regulations for tree preservation"; and

WHEREAS, following due notice the Town Board held a public hearing on the proposed local law,

NOW, THEREFORE, BE IT RESOLVED that the Town Board hereby adopts the above local law which said local law shall be effective upon publication, posting and filing in the Office of the Secretary of State in Albany, New York

Supervisor Albra, Supervisor aye

Louise Daniele, Council Member aye

John Forman, Council Member aye

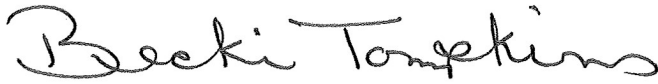
Carmine Istvan, Council Member aye

Brian Wrye, Council Member aye

Motion carried 5-0

Dated: Fishkill, New York

December 20, 2023



*Becki Tompkins*

Becki Tompkins, MMC, RMC, CTO

Town Clerk