

**FOREST PRACTICE REGULATIONS  
OF THE  
TOWN OF NEWTOWN, CONNECTICUT**

Effective Date: October 16, 1998

# FOREST PRACTICES REGULATIONS

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## SECTION I TITLE AND AUTHORITY

- 1.1 These regulations shall be known as "Forest Practices Regulations of the Town of Newtown, Connecticut"
- 1.2 These regulations have been prepared by the Conservation Commission pursuant to an ordinance of the Town of Newtown entitled "An Ordinance to Regulate Forest Practices", for the purposes therein enumerated.

## SECTION II DEFINITIONS

As used in these Regulations the following mean:

- 2.1 ACCESS ROAD - a roadway normally designed and intended for use by motor vehicles which provides access to or into forest land.
- 2.2 ACRE - an area measurement of 43,560 square feet, or approximately 208' x 208'.
- 2.3 BEST AVAILABLE FOREST MANAGEMENT PRACTICES - those silvicultural practices recommended or approved by the United States Department of Agriculture Forest Service.
- 2.4 BORDER STRIP - an area or variable width and length in which forest practices are restricted to provide a visual screen or to protect water quality.
- 2.5 COMMISSION - The Conservation Commission of the Town of Newtown, Connecticut.
- 2.6 FORESTED LAND - land having a cover of trees and shrubs.
- 2.7 FOREST PRACTICES - any activity which may alter the physical characteristics of any forested land including, but not limited to, any activity involving or associated with the cutting of trees or harvesting of forest products.

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- 2.8 HOMESITE - that portion of any lot or parcel of land covered or to be covered by any structure, including but not limited to, septic systems and reserve area, wells, buildings, pools, and driveways.
- 2.9 MARKING - the identifications of those trees to be harvested and/or to be left.
- 2.10 PASTURE LAND - land devoted to the production of forage for livestock.
- 2.11 PERSON - any person, firm, partnership, association, corporation, company, organization or legal entity of any kind, including any political subdivision of the state and excluding any federal or state agency.
- 2.12 SIGNIFICANT IMPACT OR MAJOR EFFECT - means any forest practice which may substantially alter the characteristics of any forested land, or wetland or watercourse associated with forested land.
- 2.13 SKIDDER - a machine used in moving logs from stump site to a landing, commonly rubber-tired.
- 2.14 SKIDDING - the act of moving logs from the stump site to a landing.
- 2.15 SKID ROAD - a main pathway normally intended for repeated use by a skidder to reach skid trails and where extensive exposure of soils can be expected from heavy traffic.
- 2.16 SKID TRAIL - a secondary pathway intended for use by a skidder to reach trees or groups of trees which have been cut and where extensive exposure of soils is not expected.
- 2.17 SLASH - the woody material or debris resulting from cutting trees, and left on the ground after an area is logged.
- 2.18 TREE - a large woody plant usually having one self-supporting stem or trunk, and numerous branches, normally expected to attain heights in excess of 20 feet, and having a stump diameter of at least four inches.
- 2.19 WATERCOURSE - rivers, streams, brooks, waterways, lakes, ponds, marshes, swamps, bogs and all other bodies of water, natural or artificial, vernal or intermittent, public or private, which are contained within, flow through or border upon the Town of Newtown.

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- 2.20 WETLAND - land including submerged land which consists of any of the soil types designated as poorly drained, very poorly drained, alluvial or flood plain by the National Cooperative Soils Survey of the Soil Conservation Service of the U.S. Department of Agriculture, as it may be amended from time to time.
- 2.21 YARDING AREA - a cleared area to which trees are hauled by skidder for storage before transfer to trucks.

### SECTION III EXEMPTED ACTIVITIES

- 3.1 The following activities shall be exempt from the operation and effect of these Regulations:
- 3.1.1 the cutting of trees by an Homeowner or licensee for his or the licensee's own personal, noncommercial use;
  - 3.1.2 routine maintenance of roads, pasture land, easements, rights of way and the clearing of farm fence lines;
  - 3.1.3 the clearing of homesites, (as defined in Section 2.8), to the extent that the clearing per homesite shall not exceed an area of more than three-quarters of an acre, not including the area for use as a driveway, however, this clearing cannot commence until a building permit has been obtained;
  - 3.1.4 Christmas tree culture (clearing in excess of one acre to establish a Christmas tree plantation is not exempt);
  - 3.1.5 clearing of approved subdivision roads and public utility easements, however, for new subdivision roads the area the trees may be removed is limited to the right of way and areas where clearing for cuts and fills shown in the road design as approved by the Planning & Zoning Commission;
  - 3.1.6 maintenance of open space and trail system easements as shown on the Newtown open space and trail maps;
  - 3.1.7 Agricultural Stabilization and Conservation Service cost shared forestry projects.

### SECTION IV LICENSING OF FOREST PRACTICE ACTIVITIES

- 4.1 Subject to the provisions of Section III hereof, no person shall conduct or cause to be conducted any forest practice within the Town of Newtown until a permit is issued by the Commission

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## SECTION V APPLICATION PROCEDURE

- 5.1 Any person wishing to carry out forest practices shall submit an application to the Commission.
- 5.1.1 The day of receipt of any application shall be the day of the next regularly scheduled meeting of the Commission immediately following the day of submission to the Commission, or its agent, of such application, or thirty-five days after such submission, whichever is sooner, or the date on which a license has been granted, if earlier.
  - 5.1.2 No application shall be deemed complete unless it shall be in such form and contain such information as the Commission deems necessary for a fair determination of the issues. The Commission shall inform all applicants of any necessary information without delay.
  - 5.1.3 If requested information is not received within six months of the day of request, the application will be deemed withdrawn, unless an extension is granted by the Commission.
  - 5.1.4 All information submitted in the application shall be considered factual. A knowing failure on the part of the applicant or any of his agents to provide correct information or the performance of activities exceeding the levels of anticipated activity shall be sufficient grounds for the revocation of any permit issued under these regulations and/or for penalties to be imposed.
- 5.2 All applications shall include the following information in writing and shall be on a form provided by the Commission available from the office of the Conservation Commission:
- 5.2.1 The applicant's name, home and business addresses and telephone numbers.
  - 5.2.2 Applicant's interest in the land.
  - 5.2.3 The owner's name(s), if not the applicant, home and business addresses and telephone numbers, and written consent to the proposed activity set forth in the application.
  - 5.2.4 Description of the proposed forest practices.
  - 5.2.5 The estimated number of acres to be harvested and the estimated volume of forest products to be harvested.
  - 5.2.6 General description of the area in which the forest practices are proposed.
  - 5.2.7 The following shall be shown on maps or supporting documents:

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- 5.2.7.1 the area in which the proposed forest practices are to occur
  - 5.2.7.2 the boundaries of the applicant's land
  - 5.2.7.3 proposed and existing access roads, skid roads, yarding areas which are planned to utilized, if any.
  - 5.2.8 Estimated time for completion.
- 5.3 Non-regulated Application. If the Commission or its designated agent finds, on the basis of the evidence before it, that a proposed activity or use does not involve a forest practice as defined in Section 2.7 of these regulations, the application shall be dismissed as non-regulated. This dismissal shall be subject to review by the Commission if it is later shown that a regulated activity is a consequence of the proposed activity.
- 5.4 Short Form Application. If the Commission or its designated agent finds that a proposed agent finds that a proposed activity is a forest practice not involving a significant impact or major effect on forested land, as defined in Section 2.12 of these regulations, it or its designated agent may permit the activity with or without conditions after initial review.
- 5.5 Long Form Application. If the Commission finds that the activity applied for does or may involve a significant impact or major effect on forested land, as defined in Section 2.12 of these Regulations, the Commission shall request information which may included, but is not limited to the following:
- 5.5.1 all the information required in Section 5.2;
  - 5.5.2 detailed sedimentation and erosion control plan;
  - 5.5.3 a general description of dimensions, locations, grades, construction and maintenance guidelines for proposed access roads, skid roads, sawmill sites and yarding areas;
  - 5.5.4 a description of all existing and proposed drainage structures such a culverts;
  - 5.5.5 location and nature of all existing or proposed construction affecting or which may affect a wetland or watercourse;
  - 5.5.6 detailed Forest Management Practices Plan which must address aesthetic considerations, harvesting methods to be used, wildlife conservation, regeneration, and hours of the day and days of the week during which harvesting will occur.

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- 5.6 Public Hearings The Commission may docket an application for forest practices determined to have significant impact or major effect on forested land, for public hearing.
- 5.6.1 All public hearings shall commence not later than fifty (50) days after the application has been complete.
  - 5.6.2 Notice of the hearing shall be published at least twice at intervals of not less than two days, the first not more than fifteen days before the date set for the hearing, in a newspaper having a general circulation in the Town of Newtown.
  - 5.6.3 All applications, maps, documents relating to the hearing shall be open for public inspection in the office of the Commission. Notice of the hearing shall be sent to the applicant by certified mail.
  - 5.6.4 Where possible, public hearings shall be completed in a single session. However, the hearing may be continued (to a date certain), where necessary for the full development of the evidence, or for the full and adequate participation of the parties, or for such other substantial purposes.
  - 5.6.5 An audio tape recording will be made of all such hearings.
- 5.7 The Commission may submit a copy of an application to the following agencies or Commissions for review:
- 5.7.1 The Fairfield County Soil and Water Conservation District.
  - 5.7.2 Connecticut Department of Environmental Protection, Bureau of Forestry.
  - 5.7.3 The Town Engineer.
  - 5.7.4 Any other agency or consultant the Commission deems appropriate.
- 5.8 The Commission shall collect the following application fees to help defray the costs and expenses of carrying out its duties under these regulations:
- |                            |        |
|----------------------------|--------|
| Non-regulated Applications | No fee |
| Short Form Applications    | \$50   |
| Long Form Applications     | \$250  |
- 5.9 Application for a permit shall constitute permission for and consent to the Commission or its designated agent to conduct inspections of the site of the proposed activity at any reasonable time before or after the granting of a permit.

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- 5.10 The applicant shall notify all adjacent property owners of its submission of an application for a license to conduct a regulated activity on the applicant's property, on a form provided by the Commission, by certified mail, return receipt requested, within five (5) days of the date of such application. "Adjacent property owners" shall refer to all property owners located within 200 feet of all boundary lines of the applicant's property.

The applicant shall provide the Commission with a copy of the form of such notice and its affidavit, or that of its attorney, certifying the names and addresses of the property owners to whom such notice was mailed and the date of such notice, within ten (10) days of the date of its application. The Commission may deny any application for failure to comply with the provisions of this Section.

#### Section VI PERMIT DECISIONS

- 6.1 The Commission shall consider the following in making its final decision on all permit applications:
- 6.1.1 the record from any public hearing;
  - 6.1.2 any reports from consultants, commissions, and/or federal or state agencies, including the Soil and Water Conservation District and/or the Connecticut Department of Environmental Protection;
  - 6.1.3 additional requested information;
  - 6.1.4 all relevant facts and circumstances, including but not limited to the following:
    - 6.1.4.1 The environmental impact of the proposed action including the effects of the activity on inlands wetlands' and/or watercourses' natural capacity to support desirable biological life, to prevent flooding, to supply water, to control sediment, to facilitate drainage, and to promote public health and safety.
    - 6.1.4.2 The character and degree of injury to, or interference with, safety, health, aesthetics, or the reasonable use of property which would be caused or threatened.
    - 6.1.4.3 Whether proposed sediment and erosion controls generally conform to the recommendations contained in the booklet entitled "Logging and Water Quality in Connecticut, a Practical Guide for Protecting Water Quality While Harvesting Forest Products", which was developed by the Connecticut 208 Forestry Advisory Committee and was published in 1982.

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- 6.1.4.4 Whether the proposed construction of logging roads and trails, proposed harvest methods and fire control considerations generally conform to the Connecticut Department of Environmental Protection's "Guidelines for Silvicultural Operations on the Department of Environmental Protection Lands", dated June 8, 1979.
  - 6.1.4.5 Steps the applicant proposes to take to prevent damage to the aesthetic values of adjoining properties, which may include the use of border strips, the special treatment of slash, site restoration and regeneration of trees.
  - 6.1.4.6 When applicable, does the Forest Management Practices Plan adequately address wildlife considerations, and does the plan provide for harvesting during reasonable hours and days of the week.
  - 6.1.4.7 Whether the application represents the use of Best Available Forest Management Practices.
  - 6.1.4.8 Measures which would mitigate the impact of the proposed activity and may be imposed as conditions of the permit. Such measures include the availability of further technical improvements or safeguards which could reasonably be added to the plan or action.
- 6.2 In the absence of a public hearing, the Commission shall render a final decision within fifty (50) days of the receipt of the complete application. The Commission shall notify the applicant by certified mail of its decision within fifteen (15) days of the date of such decision.
- 6.3 When a public hearing is held, action shall be taken on applications within thirty (30) days after completion of the hearing. The Commission shall inform the applicant by certified mail of its decision within fifteen (15) days of the date of such decision; and the Commission shall cause notice of its decision to be published in the newspaper having a general circulation in the Town of Newtown.

### SECTION VII

#### The Permit

- 7.1 At the time of denying a permit, the Commission shall issue a decision presenting its reasons. The opinion may include discussion of the considerations and criteria listed in Section 6.1 of these regulations.
- 7.2 The Commission may deny a permit with or without prejudice. If a permit is denied with prejudice, the application shall not be resubmitted for one year following the date of such denial. If a permit is denied without prejudice, the applicant may modify, amend, or correct the proposal at any time.

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- 7.3 Before any permit can be issued by the Commission, the applicant must receive all other necessary permits from other Town agencies.
- 7.4 A permit shall expire within 12 months of the date of issuance with ir without conditions, unless harvesting has commenced. One harvesting has commenced, a permit shall expire twenty-four (24) months from the date of issuance or at the completion of harvesting, whichever is earlier.
- 7.5 Upon granting a permit the Commission shall provide notice to the State Bureau of Forestry with respect to the applicant's name, harvest location, acres to be harvested and volume of forest products to be harvested.

### SECTION VIII ENFORCEMENT

- 8.1 If the Commission or its duly authorized agent finds that any person is conducting or maintaining any activity or conditions in violation of these regulations or the ordinance authorizing these regulations, or the decisions of the Commission, the Commission or its duly authorized agent may issue a written order by certified mail to such person conducting such activity or maintaining such conditions to cease immediately such activity or to correct such conditions. Within ten days of issuance of such order the Commission shall hold a hearing to provide the person an opportunity to be heard and show cause why the order should not remain in effect. The Commission shall consider the facts presented at the hearing, and within ten days of the completion of the hearing, notify the person by certified mail that the original order remains in effect, that a revised order is in effect, or that the order has been withdrawn. The original order shall be effective upon the issuance and shall remain in effect until the Commission affirms, revises or withdraws the order. The issuance of an order pursuant to this section shall not delay or bar any action pursuant to Subsection 3 of this section.
- 8.2 The Commission or its agent may revoke or suspend any permit whose conditions or limitations have been exceeded, or which was secured through deception or through inaccurate information. Before such suspension or revocation may take effect, the Commission shall afford the applicant opportunity to show compliance with all lawful requirements for retention of the permit. In the event that the Commission shall suspend or revoke a permit pursuant to this Subsection, the applicant shall be notified of the date or the decision and the Commission shall cause notice of its order in revocation or suspension of a permit to be published in a newspaper having general circulation in the Town of Newtown. The issuance of an order pursuant to this Section shall not delay or bar any action pursuant to Subsection 3 of this section.

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- 8.3 Any person who violates these regulations or the ordinance authorizing these regulations, or the decisions of the Commission, shall be fined not more than \$100.00 per tree cut, in the event of not having obtained a permit, and not more than \$100.00 per day for all other violations.

### SECTION IX ADOPTION AND AMENDMENT OF REGULATIONS

- 9.1 No regulations shall become effective until a public hearing is held by the Commission at which the public shall have an opportunity to be heard. Notice of the time and place of such hearing shall be published in the form of a legal advertisement, appearing in a newspaper having a substantial circulations in the Town of Newtown at least twice at intervals of not less than two days, the first not more than twenty-five days, and not less than fifteen days, and the last not less than two days before such hearing. A copy of such proposed regulations shall be filed in the Commission's office for public inspection at least one day before such publication. Upon the request of the Commission or any person, any such regulations may be amended or repealed. In the event that the request is made by any person, such request shall be in writing in a form prescribed by the Commission and acted upon within 90 days of the Commission's next regular meeting following the submittal of such request. A public hearing shall be held upon any such request within 60 days of submittal. The Commission may require a filing fee to be deposited with the agency to defray the cost of publication of the notice required for a hearing. Any regulation shall be come effective at such time as is fixed by the Commission which shall be no later than 60 days from the affirmative vote by four (4) members of the Commission.

### SECTION X CONFLICT AND SEVERANCE

- 10.1 Where there is a conflict between the provisions of these Regulations and those of any other applicable ordinance or regulation, the provisions of the ordinance or regulations which impose the greatest restriction on the use of forested land shall govern.
- 10.2 The invalidity of any word, clause, sentence, section, part or provision of these regulations shall not affect the validity of any other part which can be given effect without such invalid part or parts.

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SECTION XI

Appeal

- 11.1 The Town of Newtown consents to a suit against it by any person aggrieved by any order or decision of the Commission, provided said suit is commenced and returned to the Superior Court in and for the Judicial District of Danbury within 21 days of receipt of any order or decision of the Commission.

SECTION XII

- 12.1 Sections 4 and 8 shall be effective thirty (30) days after adoption of the original regulations of the Commission, and all other sections shall be effective fifteen (15) days from publication.

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**\*NOTICE TO ADJACENT PROPERTY OWNERS\***

Application # \_\_\_\_\_ has been submitted by \_\_\_\_\_

(Name of Applicant)

to the Newtown Conservation Commission for a permit to conduct a regulated activity on

property located at \_\_\_\_\_

(Street Address)

Newtown, Connecticut, which property may be located within 200 feet of your property.

A copy of such application is available for public inspection at the Newtown Conservation Commission, Town Hall South, 3 Main Street, Newtown, CT 06470. If a public hearing is to be held, then a notice of the date and time will be published in the Legal Notices Section of THE NEWTOWN BEE, prior to such hearing.

Public Hearing Date: \_\_\_\_\_

