

<b>Topic:</b>	Timber Harvesting; Natural Resource Protection & Conservation; Forest Management
<b>Resource Type:</b>	Regulations
<b>State:</b>	Massachusetts
<b>Jurisdiction Type:</b>	State
<b>Municipality:</b>	N/A
<b>Year (adopted, written, etc.):</b>	2004
<b>Community Type – applicable to:</b>	Urban; Suburban; Rural
<b>Title:</b>	State of Massachusetts Forest Cutting Practices & Timber Harvesting Ordinance
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### ***Abstract***

The regulation of forest cutting practices appears to rest solely with the state of Massachusetts. Regulations and licensing are found under Chapter one hundred and thirty-two of the General Laws of Massachusetts. MASS. GEN. LAWS. ch. 132 (2004). The state declares its intention to protect forest lands in section forty of this chapter. Other helpful statutes defining terms and objectives are included below.

### ***Resource***

MASS. GEN. LAWS ch. 130 § 40 (2004).

#### **§ 40. Declaration of Policy of Commonwealth.**

It is hereby declared that the public welfare requires the rehabilitation, maintenance, and protection of forest lands for the purpose of conserving water, preventing floods and soil erosion, improving the conditions for wildlife and recreation, protecting and improving air and water quality, and providing a continuing and increasing supply of forest products for public consumption, farm use, and for the woodusing industries of the commonwealth.

Therefore, it is hereby declared to be the policy of the commonwealth that all lands devoted to forest growth shall be kept in such condition as shall not jeopardize the public interests, and that the policy of the commonwealth shall further be one of cooperation with the landowners and other agencies interested in forestry practices for the proper and profitable management of all forest lands in the interest of the owner, the public and the users of forest products. FORMS

License to Cut and Remove Timber  
This license made [-----] [date], between [-----] , of [-----] [address], County of [-----] ,  
Commonwealth of Massachusetts, herein referred to as licensor, and [-----] , of [-----]  
[address], County of [-----] , Commonwealth of Massachusetts, herein referred to as  
licensee.

1. Consideration and description. For the consideration and upon the conditions hereinafter expressed, licensor hereby grants licensee a license to cut and remove the following described timber on the real property described as follows: [-----] [legal description].

(a). Licensee shall remove the following described timber from the above-mentioned real property: Species Minimum size Estimated quantity

[-----][-----]	[-----]
[-----][-----]	[-----]

[-----][-----] [-----] and shall pay to licensor the sum of [-----] Dollars (\$) per [-----] board feet, according to the [-----] Scale. Licensee shall make such payments on the [-----] and [-----] days of each month until all of the above-described timber has been removed from the premises.

(b). Licensee shall, for the duration of this agreement on the [-----] and [-----] days of each month, furnish licensor with an accurate log scale of all logs removed from the premises during the period between such days.

2. Source of payments. All payments for the logs taken from licensor's property are to be made by [-----] [describe, such as: the purchaser of the logs sold by licensee]. Licensee shall authorize the [-----] [source of payment] to make such payments for stumpage direct to licensor, and authorize [-----] [source of payment] to furnish licensor with an accurate scale of all sawed logs delivered to the [-----] [describe].

If licensee constructs a saw mill on licensor's premises and manufactures the timber taken from licensor's premises into lumber, licensee shall pay licensor the stumpage heretofore mentioned based on the mill cut of such operation. The lumber broker, or brokers, purchasing the lumber from licensee shall be authorized and directed by licensee to deduct the stumpage from any sums becoming due to the licensee for the lumber. Licensee shall direct the broker to deliver on the payment dates to licensor an accurate tally of all lumber so purchased by the broker from licensee.

3. Duration of license. Licensee shall begin logging operations contemplated by this agreement on [-----] [date]. Licensee shall conduct a continuous logging operation on the premises thereafter until all of the above-described timber has either been removed from the premises or before [-----] [date].

If the licensee is prevented from removing the timber because of strikes, shut-downs, lock-outs or other conditions beyond licensee's control, on the part of parties to whom the timber is being sold, then licensee shall have an additional period of [-----] in which to complete the contract.

4. Construction by licensee. Licensee shall build and repair at its own expense such roads, bridges, loading docks, and the like, as will be necessary to the operation contemplated by this agreement.

5. Cutting specifications. Licensee shall cut all timber to a [-----] -inch top and shall sell all merchantable trees that will make a [-----] -foot log, [-----] inches in diameter at the top.

6. Licensee as independent contractor. Licensors are not associated or in any manner connected with the actual performance of this contract on the part of licensee. Licensee is an independent contractor respecting the performance of this contract and solely and personally liable for all labor and expenses in connection therewith and for all damages which may be occasioned on account of the operations under this agreement.

7. Assignment of license. This license may not be assigned without the prior written consent of licensor.

8. Termination of license. Time is of the essence with respect to this agreement. On the failure of the licensee to comply with any of the terms and conditions of this agreement, or on failure of licensee to pay any labor or expense in connection therewith, licensor shall have the right to cancel this contract. In event of such cancellation all additions of value, including saw logs, roads, bridges, or other improvements theretofore made by licensee shall be retained and held by licensor as liquidated damages.

In witness whereof, the parties have executed this agreement at [-----] [designate place of execution] the day and year first above written.

[Signatures]

MASS. GEN. LAWS ch. 130 § 41 (2004).

§ 41. State Forestry Committee; Minimum Forest Cutting Practices and Guidelines; Hearings.

The governor shall appoint a state forestry committee, to consist of eight members representing, respectively: forest land owners; primary wood-using industries; licensed timber harvesters; consulting foresters; environmental organizations; water supply agencies; fisheries and wildlife; and one member representing the public at large. The director of the division of forests and parks, hereinafter referred to as the director, shall be an ex officio member of the committee and shall vote only in case of a tie.

In the initial appointments of said committee members, three shall be appointed for a one year term, three for a two year term, and two for a three year term. Thereafter, as the term of a committee member expires, his successor, with like qualifications as his predecessor, shall be appointed for a term of three years. Said committee shall select its own chairman. The members of said committee shall serve without pay, but shall be reimbursed for actual travelling expenses within the commonwealth, when approved by said director.

The state forestry committee, with recommendations of such other advisory committees as the director in his discretion may appoint, shall prepare tentative minimum forest cutting practices and guidelines. Before recommending any forest practices, said committee shall hold hearings, with due notice being given, in conformance with chapter thirty A, in at least three places conveniently located throughout the commonwealth. Said committee may thereafter recommend such practices or modifications thereof and submit them to the director of forests and parks. Said director shall, subject to the approval by the commissioner of environmental management, thereupon adopt the practices and place them in effect, by posting in all city and town halls in the region affected and by publication in at least one daily newspaper in every county affected. Such approved practices may be amended at any time by said committee in the same manner, on its own motion or upon the petition of not less than twenty-five forest owners or licensed timber harvesters of the commonwealth or upon petition of any person authorized under section four of chapter thirty A.

MASS. GEN. Laws ch. 130 § 44 (2004).

#### § 44. Exempted Cuttings.

The provisions of sections forty-two and forty-three shall not apply to (1) cutting by an owner or tenant of any forest product for his own noncommercial use; (2) cutting or sale of such products by any owner to an amount not exceeding twenty-five thousand board feet or fifty cords on any parcel of land at any one time; (3) cutting for clearance or maintenance on rights of way pertaining to public utilities and public highways; (4) clearing land for building or for purposes of cultivation or (5) maintenance cutting in pastures.

MASS. GEN. Laws ch. 130 § 47 (2004).

#### § 47. Definitions Applicable to Sections 47 to 51.

As used in sections forty-seven to fifty, inclusive, the following words shall have the following meanings, unless the context clearly requires otherwise—

"Forestry", the science, the art and the practice of conserving and managing for human benefit the natural resources, including trees, other plants, animals, soil and water, that occur on and in association with forest lands.

"Practice of forestry", any professional services requiring the application of forestry principles and techniques. Such services shall include, but not be limited to, forest inventory, forest management planning, timber appraisal, the responsibility for the direction and supervision of silvicultural activities, use and protection of forested areas, and the evaluation of the economic and biological consequences of forest management activities.

**<http://www.mass.gov/legis/laws/mgl/gl-132-toc.htm>**

**<http://www.mass.gov/legis/laws/mgl/132-40.htm>**

**<http://www.mass.gov/legis/laws/mgl/132-41.htm>**

**<http://www.mass.gov/legis/laws/mgl/132-44.htm>**

**<http://www.mass.gov/legis/laws/mgl/132-47.htm>**

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