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Chapter 109

TIMBER HARVESTING

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[HISTORY: Adopted by the Town Board of the Town of Shandaken 6-11-1997 by L.L. No. 3-1997. Amendments noted where applicable.]

GENERAL REFERENCES

Zoning — See Ch. 116.  
Environmental quality review — See Ch. A118.

§ 109-1. Legislative intent.

It is the intent of this chapter to promote the welfare of the people of the Town of Shandaken by providing for regulation of the removal of trees in such a way as to protect and preserve

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the environment, roads and quality of the community in general. Trees are a natural resource and an integral part of the natural landscape of the Town, providing soil erosion control, surface water flow barriers and scenic beauty and fostering myriad plant and wildlife species. Improper timber harvesting practices can result in significant damage to the forest environment. The removal or harvest of trees is therefore of prime concern to the people of the Town of Shandaken and shall not be permitted, except as hereinafter provided.

§ 109-2. Definitions; word usage.

For the purpose of this chapter, certain words and terms used herein are defined as follows:

A. General construction of language. All words used in the present tense include the future tense; all words in the plural number include the singular number; and all words in the singular number include the plural number, unless the natural construction of the wording indicates otherwise. Unless otherwise specified, all distances shall be measured horizontally. The word "Town" means the Town of Shandaken; the term "Town Board" means the Councilmen of said Board and the Supervisor of said Town; the term "Zoning Enforcement Officer" means the individual designated by the Town to administer this chapter and shall include the term "Building Inspector;" the term "Town Clerk" means the Town Clerk of said Town. The word "shall" is mandatory.

B. Definitions.

CLEAR-CUTTING — A method of harvesting where all or virtually all trees on a site larger than eight inches in diameter are removed.

COMMERCIAL TIMBER HARVESTING — Timber harvesting activity that falls standing trees and/or removes downed trees, stems, tops or branches within any twelve-month period whose volume is greater than

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100,000 board feet of timber as measured by the International 1/4 Inch Log Rule.

**HAUL ROAD** — A constructed road of dirt and/or gravel utilized for moving cut trees from the point where they were loaded on a truck to an exit from the site.

**LANDING** — An open or cleared area used for loading logs onto trucks or used for any general purpose, such as for storing logs or for servicing equipment.

**LOGGING SLASH AND DEBRIS** — Any residue of trees or of the associated cutting left on the site after harvesting operation, including but not limited to undesirable tree trunks, tree tops and litter.

**MINIMUM STUMP DIAMETER** — The designated diameter of the stumps of trees to be cut, measured at a point 12 inches above the high ground level, where the diameter of the remaining stumps can be checked after the tree is cut.

**PROFESSIONAL FORESTER** — A graduate forester from a Society of American Foresters accredited forestry curriculum who has at least two years of experience in the field of forest management or timber production harvesting.

**RESOURCE MANAGEMENT AREAS** — Environmentally unique or sensitive areas that warrant special development consideration and protection. The definition of the two different resource management areas are as follows:

- (1) **STREAM CORRIDOR AREAS** — The area, as mapped in the Zoning Law,<sup>1</sup> on each side of a stream or shore necessary to protect the banks and to maintain or improve water quality.
- (2) **CRITICAL SLOPES** — Slopes that show signs of severe erosion or creep.

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**SELECTION CUTTING** — A method of harvesting where trees to be cut are stated and marked via some specified criteria before harvesting begins.

**SKID TRAIL** — A trail or rough road used to move a tree from the place where it was cut to a pile or landing where it is loaded onto a truck.

**SMALL-SCALE TIMBER HARVESTING** — Timber harvesting activity that fells standing trees and/or removes down trees, stems, tops or branches within any twelve-month period whose volume is less than or equal to 100,000 board feet of timber as measured by the International 1/4 Inch Log Rule and is not exclusively for the use of the landowner and his/her immediate family.

**STANDARD CORD** — A cut pile of wood measuring four feet by four feet by eight feet.

**STREAM** — A body of running water flowing most of the year in a channel on the surface of the ground, except a body of running water that the Town Board determines to be too insignificant in size to justify such classification.

**STREAM, INTERMITTENT** — A channel on the surface of the ground in which water flows intermittently, except a channel that the Town Board determines to be too insignificant in size to justify such classification.

**THINNING** — A selective cutting or deadening of trees in an immature stand of trees for the purpose of upgrading the quality and/or growth of the trees left.

**WATERBARS** — Small humps or diversions for the purpose of erosion and sediment control built upon or across roads and landings which catch and divert runoff into adjacent vegetated areas and release the runoff in a nonerosive manner.

**ZONING ENFORCEMENT OFFICER** — The Zoning Enforcement Officer who may utilize the services of a professional forester as needed.

<sup>1</sup> Editor's Note: Editor's Note: See Ch. 116, Zoning.

**§ 109-3. Permit requirements.**

It is hereby required that a timber harvesting permit be obtained by the landowner desiring to conduct commercial or small-scale timber harvesting as defined above on any one parcel or series of contiguous parcels in the same ownership. In the event of small-scale timber harvesting, a permit shall be issued by the Zoning Enforcement Officer if it complies with § 109-7 standards and further subject to the Zoning Officer sending written notice of the proposed timber harvest to the New York State Department of Environmental Conservation (DEC) and the New York City Department of Environmental Protection (DEP). The applicant must secure any additional approvals required by the New York State DEC and/or New York City DEP. The harvesting plan, as approved, must be signed by the logger prior to the commencement of any timber harvesting. A fee of \$100 is to be paid by the landowner to obtain the permit. In the case of commercial timber harvesting, the landowner must secure a permit from the Town Board pursuant to § 109-5 et seq.

**§ 109-4. Exclusions from permit requirements.**

The application of this chapter shall not be construed in any way to prohibit or to require a permit for:

- A. The clearing of land for rights-of-way for utilities, except that said clearing shall comply with accepted forest management practices and shall be approved by a professional forester.
- B. The clearing of land for construction of residential or commercial structures, so long as said clearing does not exceed five acres.
- C. The harvesting of trees for personal use by the landowner and his/her immediate family, as long as such harvesting does not exceed 10,000 board feet in any twelve-month period.

**§ 109-5. Commercial timber harvesting permit procedures.**

The Town Board shall receive the following information from the landowner before considering a permit for commercial timber harvesting:

A. Summary of cutting operations to include:

- (1) 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) For harvesting of products such as Christmas trees, fence posts, pilings and firewood, the units to be removed per acre and the total units for the area to be removed shall be shown in lieu of information required in Subsection A(2), (4), (5) and (7).
- (9) A certificate of insurance and paid receipt insuring the landowner and naming the Town of Shandaken as an additional insured in the minimum sum of \$500,000 for any claims, damages or causes of action arising out of injury to persons or property. Said insurance shall also specifically provide coverage to roadways, bridges and culverts owned or maintained by the Town. In the event of cancellation of insurance, any permit issued shall immediately be null and void.
- (10) 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 Zoning Inspector 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.

- (11) The application shall be made by the landowner, or the landowner may designate another individual to make the application by delivering a duly notarized written statement granting said permission.
  - (12) The name, address and telephone number of the landowner and logger shall be provided.
  - (13) The section, block and lot number of the property and a copy of the landowner's deed shall be provided.
  - (14) A completed environmental assessment form, which shall be considered in the context of State Environmental Quality Review Act regulations and requirements.
- B. Sketch map. A sketch map to show:
- (1) The boundaries of the property.
  - (2) Access roads into the property, to include driveway approval from the Town Highway Superintendent.
  - (3) The area within the property where harvesting or improvement cutting will occur.
  - (4) The location of product loading areas.

C. Landowner's statement. A statement from the landowner that each tree to be removed has been designated by a professional forester with paint or other distinctive means at two points so as to be readily visible by the buyer. One point shall be low enough on the tree so as to be visible on the stump after the tree is removed. Trees being removed for other than sawtimber need not be marked on the stump.

D. The foregoing requirements are separate from and in addition to any other rules or permits which may be required of the applicant by the County of Ulster, City of New York or State of New York.

**§ 109-6. Applicant review procedures.**

A. Each application for a commercial timber harvesting permit, together with the required information described in § 109-5, shall be referred to the Town Board by the Town Clerk within five days of the date of application for preliminary review. Within 30 days of the date the application is determined to be complete, the Town Board shall call a public hearing on the application. Within 45 days after the close of the public hearing, the Town Board shall forward its findings to the applicant and the Zoning Enforcement Officer 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.

B. Applicants for a permit shall bear the expense of public hearing notice advertising.

C. Should the Town Board determine that one or more consultants should be retained to review the application, the applicant shall bear the cost of the consultants.

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**§ 109-7. Commercial and noncommercial forest stand improvement standards.**

- A. Conservation practices. The proposed operation shall not adversely affect drainage, nor shall it contribute to soil erosion by water or wind.
- B. Adjacent property. Tree falling on adjacent properties as a result of an improvement operation shall immediately be returned to the permittee's property. No trees shall be cut within 25 feet of any property line.
- C. Management practices. Loading areas shall be smoothed to remove all ruts and debris. Waste materials shall be buried or removed to a point out of sight of any public road.
- D. Hours of operation. No harvesting, cutting, processing, hauling, stockpiling or removal of timber, logs or wood shall take place between the hours of 7:00 p.m. and 7:00 a.m. nor at any time on Sundays or legal holidays.
- E. Expiration and extensions. The term of the permit shall be for one year. However, since forest stand improvement operations may be adversely affected or delayed by unusual circumstances of weather or other occurrences, an extension of one year shall be available upon written request by the landowner and a public hearing and a finding by the Town Board that all terms and conditions of this chapter have been complied with.
- F. Standards. The Town Board shall recommend that the following standards be invoked where necessary:
  - (1) Top-logging or removal of debris within 50 feet of any Town road or leaving an uncut screen along such roads.
  - (2) Protection of water from debris.
  - (3) Construction of waterbars to prevent or reduce erosion.

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**§ 109-8. Prohibition against clear-cutting.**

Except for site clearing for residential and commercial construction as provided in § 109-4B above or for utility rights-of-way pursuant to the limitations in § 109-4A above, no clear-cutting shall be permitted on any lands within the Town. Live trees less than eight inches in diameter are not to be cut or removed during a commercial timber harvest or a small-scale timber harvest or harvest for use by the owner's immediate family.

**§ 109-9. Enforcement; violations; penalties for offenses.**

- A. This chapter shall be enforced by the Town Zoning Enforcement Officer. The Zoning Enforcement Officer may request and shall receive, so far as may be necessary in the discharge of his/her duties, the assistance and cooperation of the police, the Town Highway Department and all other municipal officials exercising jurisdiction over property being harvested or harvesting operations.
- B. The Town Board, Zoning Enforcement Officer and assistants described above, upon the showing that they are officers and/or employees of the Town of Shandaken, 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, nor shall any liability be incurred by reason of said entry.
- C. Violations. Upon determination by the Zoning Enforcement Officer that there may be a violation of any of the provisions of this law, he/she may do the following:
  - (1) Direct that the act which is in violation or apparent violation cease immediately and/or direct immediate action to comply with the license and/or this chapter and any other such laws, codes, rules and regulations.

- (2) Issue a stop-work order suspending the licensee's operation for a period up to 30 days.
- (3) Notify the licensee to appear before the Town Board to explain why the license should not be suspended for a period in excess of 30 days or terminated.
- (4) Charge the logger and landowner with a violation of this chapter and direct them to appear before the Town Justice for violating this chapter. The violator shall be subject to a fine of not more than \$250 or a sentence of not more than 15 days in jail, or both, for each day it is determined that the violation was in effect.

**§ 109-10. Revocation of a timber harvesting permit.**

A. The Town Board may revoke a commercial timber harvesting permit and the Zoning Enforcement Officer may revoke a small-scale timber harvesting permit theretofore issued in the following instances:

- (1) Where it is found that there has been any misleading or 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 is found 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 Enforcement Officer within the time fixed for compliance therewith.
- (4) Where the permittee conducts the timber harvesting in a manner in which the Town Board or Zoning Enforcement Officer determines is harmful to the health, safety or welfare of the citizens of the Town of Shandaken.

**§ 109-11. Separability.**

If any clause, sentence, paragraph, section or part of this chapter shall be adjudged by any court of competent jurisdiction to be invalid, the judgment shall not affect, impair or invalidate the remainder of this chapter but shall be confined in its operation to the clause, sentence, paragraph, section or part of this chapter that shall be directly involved in the controversy in which said judgment shall have been rendered.