

**REVISED DRAFT  
TOWN OF AMSTERDAM  
MONTGOMERY COUNTY, NEW YORK**

**LOCAL LAW #XX-2014  
TIMBER HARVESTING LAW**

**SECTION I. Authority**

This law is enacted pursuant to the authority granted under Section 10 of the Municipal Home Rule Law.

**SECTION II. Purpose**

The Town of Amsterdam recognizes that timber resources are an important and valuable renewable resource that may be harvested. The Town also recognizes that if harvesting practices are poorly conducted they can result in significant damage to adjacent lands, water quality, and public roads and infrastructure. Thus the purpose of this local law is to regulate those harvesting activities that hold the greatest potential for causing damage to neighboring lands, water quality and public infrastructure.

**SECTION III. Definitions**

For the purpose of this local law, the following terms shall apply:

**Agent:** Any person, corporation, firm, partnership or other entity having written authorization from the owner of property for the purpose of representing the property owner in his or her dealings with the Town and its officers and certified by the property owners in writing, over his signature on the permit application form for this purpose. Examples of agents include but are not limited to loggers, foresters, family members, tenant and adjacent landowners.

**Application:** The act of the landowner and/or the landowner's agent, of submitting a completed Timber Harvest Permit Application form to the Code Enforcement Officer, together with all required information and signatures.

**Best Management Practices (BMPs):** Devices and procedures to be considered and used as necessary to protect the values and functions of forested land during harvesting and during other forest management operations. *The New York State Forestry Best Management Practices for Water Quality BMP Field Guide (NYS Forestry BMP Field Guide)* contains reference examples of Best Management Practices.

**Code Enforcement Officer (CEO):** The official designated by the Town Board to enforce the provisions of local laws and codes.

**Consultant Forester:** A professional forester meeting education and experience qualifications and standards of conduct and responsibilities prescribed by the New York State Department of Environmental Conservation (NYSDEC) Cooperating Forester Program.

**Timber Harvesting (Logging):** The business of felling trees for lumber and/or firewood production and/or sale. Timber harvesting shall not include:

1. Harvesting of up to 10 cords/year of trees and firewood for the personal use of the property owner.
2. Site clearing preparatory to construction of a building for which a building permit has been issued.
3. Clearing of land for rights-of-ways for utilities.
4. Clearing and maintenance of land solely for agricultural purposes.
5. Harvesting of evergreens specifically planted for Christmas trees.
6. Thinning of a sugarbush.
7. A bona fide commercial landscaping operation.

**Haul Roads:** A constructed road of dirt and/or gravel utilized for moving cut trees from the point where they are loaded on a truck to exit from the site.

**Landings:** An open or cleared area used for loading logs onto trucks or used for any purpose such as storing logs or servicing equipment.

**Logger:** An individual, corporation, firm, partnership or other entity contracting with an owner of property in the Town for the purpose of commercial timber harvesting on said property.

**Skid Trail:** Temporary trail or rough road used to move a log from the place where it was cut to a pile or landing where it is loaded onto a truck.

**Standard Cord:** Cut wood stacked four feet high by four feet wide by eight feet long. A standard cord is equivalent to 128 cubic feet.

**Perennial Stream:** A body of running water flowing continuously in a defined channel with bed and banks on the ground surface.

**Top of Stream Bank:** The first substantial break in slope between the edge of the bed of stream and the surrounding terrain. The top bank can either be a natural or constructed (i.e., road or railroad grade) feature lying generally parallel to the watercourse. The top of stream bank is associated with bank full flow conditions.

**Town Designated Forester:** A professional forester retained by the Town to assist in review of permit applications and in conflict resolution during harvesting operations and site reclamation.

#### **SECTION IV. Permit Requirements**

No person, firm, partnership, corporation or other entity (hereafter referred to as "person") shall engage in timber harvesting as defined in this Law without a permit issued in accordance with Section V herein.

Any person desiring to engage in timber harvesting in the Town shall file a complete Timber Harvest Permit Application with the Code Enforcement Officer together with all required information and signatures, and payment of the permit fee in an amount which shall be set from time to time by resolution of the Town Board.

A permit shall be issued by the Town CEO if the application demonstrates compliance with Section VI, Timber Harvesting Standard Operating Procedures, of this law. Compliance with said Section VI shall be deemed to satisfy SEQR requirements under 6 NYCRR 617.

### **SECTION V. Permit Application Procedure**

The applicant shall obtain a Timber Harvest Permit application package from the Town Clerk which will include a Basic Application, a Full Application, a copy of this local law, the *New York State Forestry Best Management Practices for Water Quality BMP Field Guide*, the *New York State Cooperating Forester Program* directory, and other appropriate education materials.

The Town CEO shall not accept for review any application which does not contain the required information. A forest management plan, Real Property Tax Law §480-a management plan, a forest stewardship incentive plan, or other qualified forest management plan approved by NYSDEC may be used in place of the permit application.

#### **A. Basic Timber Harvest Application:**

1. Names, signatures and addresses of the landowner, designated agent, consultant forester (if applicable) and logger (if known).
2. Location and tax map number(s) of the property to be harvested.
3. Copy of a topographic map showing the property boundaries, roadways, streams, waterbodies, wetlands, planned harvest area, and approximate haul roads, landing areas, and stream crossings.
4. Approximate dates of harvesting and approximate amount of timber to be harvested.
5. A curb cut permit from the Town or County Highway Superintendent, or the New York State Department of Transportation (NYSDOT) as applicable.

If the Town CEO determines that the Basic Application is complete and the harvest area is not greater than 10 acres, does not have slopes exceeding 15% for more than 200 feet and contains no perennial streams, the above steps will complete the information needed and the Town CEO will issue a permit within 5 business days of application receipt.

#### **B. Full Timber Harvest Application:**

If the harvest area is greater than 10 acres, has a slope greater than 15% for more than 200 feet, or contains a perennial stream, a Full Timber Harvest Application is required. In addition to the Basic Application, the Full Timber Harvest Application includes:

1. A description of the Best Management Practices applied to the harvest area pertaining to riparian areas, haul roads, skid trails and landings. The approximate location of the BMPs shall also be shown on the site topographic map.
2. A copy of any necessary permits issued by NYSDEC and/or the US Army Corps of Engineers (ACOE) for stream crossings, when available.

The Town CEO will have 10 business days from application receipt to determine if the Full Application is complete and issue a permit.

The CEO will send a copy of all permit applications to the Montgomery County Soil and Water Conservation District, NYSDEC Region 4, Town and County Highway Superintendents and NYSDOT as applicable.

#### **SECTION V. Timber Harvesting Standard Operating Procedures**

The Town highly recommends that all timber harvest applicants work with a Consultant Forester listed in the *NYSDEC Cooperating Forester Program* directory while planning their harvest. All timber harvesting in the Town shall comply with the following standards:

- A. Loading or skidding of logs is prohibited in public road right-of-ways. Landings shall not be in the public road right-of-way and shall be properly graded to prevent sediment from washing into streams, public roads or drainage ditches along public roads. During soft ground conditions, crushed stone, wood chips or other approved material shall be used on access roads to prevent tracking excess amounts of mud or other material onto the public roads. Any damage to town roads shall be repaired by the applicant, at its sole cost, to the satisfaction of the Town Highway Superintendent.
- B. Trees shall be felled so that trees and debris do not fall on any adjoining property or roads not owned or controlled by the applicant. If any trees or debris fall on such adjoining property or roadways they shall be removed immediately.
- C. In order to minimize erosion, no haul road or skid trail used by heavy equipment during the timber harvesting operation shall exceed a slope of 15% for a distance of more than 200 feet without reducing the slope below 15% or installing a practice recommended in the *NYS Forestry BMP Field Guide* to divert running water from haul roads and skid trails. Avoid placing haul roads or skid trails within a 50-foot setback distance from streambanks or other surface waters on slopes 15% or greater.
- D. In order to minimize streambank erosion, there shall be no skidding up and down any stream channel. All logging slash and debris shall be promptly removed from any such channels.
- E. In order to minimize streambank erosion, the applicants will be responsible for complying with all NYSDEC and ACOE permitting requirements during stream and/or wetland crossings.
- F. In order to maintain the integrity of streambanks and to shade streams, no harvesting shall be allowed within fifteen (15) feet of any perennial stream unless determined to be necessary by

a Consultant Forester. The 15 foot no harvest zone will be a slope distance measured from the immediate top of the stream bank. In cases where maintenance is necessary to cut trees that are tipping and exposing the stream bank to erosion, trees may be cut within the 15 foot no harvest zone with the stump and root system left in place to stabilize the bank area.

- G. Site reclamation shall be performed as soon as site conditions allow either during or upon completion of the harvesting activity, and shall conform to the *NYS Forestry BMP Field Guide*, or any succeeding standard adopted by NYSDEC. All reclamation efforts shall be subject to inspection by the Town to ensure compliance with this provision. The following shall be considered to complete site reclamation:
1. Haul roads, skid trails and landings shall have permanent erosion control and drainage structures installed. Waterbars, dips, diversion ditches or other appropriate management structures should be placed based on the *NYS Forestry BMP Field Guide* guidelines to reduce erosion.
  2. Manage and divert overland flow on haul roads by properly shaping, sloping and ditching to prevent erosion. Grade skid trails to remove ruts.
  3. Roadways and landings, prone to erosion shall be stabilized by seeding and mulching, using 10 lbs/acre of perennial rye and 3000 lbs/acre of hay mulch.
  4. All temporary culverts and bridges at stream crossings shall be removed and stream banks restabilized and protected with waterbars.

#### **SECTION VII. Agricultural Exception**

Nothing contained in this local law shall be deemed applicable to the harvesting of timber or the clearing of land by individuals or entities actively engaged in agricultural operations in a NYS Certified Agricultural District for the sole purpose of developing agricultural land for crops or the pasturing of animals.

#### **SECTION VIII. Violations and Enforcement**

The owner, agent and logger of land where a violation of any provision of this local law has been committed or shall exist are all jointly and severally subject to the following violations and enforcement action:

- A. It shall be the duty of the Code Enforcement Officer to enforce the provisions of this local law. The Town may, at its sole discretion, designate a professional forester to review timber harvesting applications and make recommendations on permit approval to the Code Enforcement Officer. The Town Designated Forester shall also advise the Town on conflict resolution during harvesting operations and site reclamation. The Town will have ultimate authority to decide on permit acceptance, conflict resolution and enforcement.
- B. By receipt of the permit application, the Town is given authority to inspect and enforce provisions of this law. The CEO and Town Designated Forester may enter, examine and

survey all grounds affected by the timber harvest in order to ascertain whether such rules and regulations in this section are complied with by any person regulated by this local law. The Town may, at its discretion, inspect the site upon completion of the timber harvesting operation to determine if all reclamation efforts have been completed.

- C. Upon notification by the CEO to the applicant of any violation hereunder, the timber harvesting permit granted to such applicant may be suspended and/or revoked. Upon suspension or revocation, as the case may be, all operations shall immediately cease, and the applicant shall take immediate steps to implement the actions necessary to come into compliance with the application and timber harvesting permit. Such suspension or revocation notice may contain conditions to be met to obtain reinstatement of the permit.
- D. Any person violating any provision of this local law shall be guilty of an offense punishable by a fine not to exceed \$250.00 or imprisonment for a period not to exceed fifteen days, or both. Each violation will be considered a separate and distinct offense. Each day's documented violation and notice after the original notice thereof shall have been given shall be deemed a separate and distinct offense hereunder. Such notice shall be in writing, signed by the CEO, and shall be served upon the person or persons at his or their last known address.
- E. Pursuant to 150.20 of the Criminal Procedure Law and in accordance with Section 10(4)(a) of the Municipal Home Rule Law, the CEO or other appropriate law enforcement official of the Town is hereby authorized to issue and serve appearance tickets in respect to any violation of this local law.
- F. In addition to or as an alternative to the above provided penalties, the Town Board may also maintain an action in the name of the Town in a court of competent jurisdiction to compel compliance with or restrain by injunction any violation of this local law.

#### **SECTION X. Appeals Procedure**

There may be situations where strict adherence to certain provisions of this law is impossible or impractical. The Zoning Board of Appeals shall have the power, upon an appeal from a decision or determination of the CEO, to grant variances from the strict application of this law. Substantial variation from the law may require separate SEQR review.

#### **SECTION XI. Liability**

Neither the issuance of a permit, nor the compliance with the provisions hereof or with any conditions imposed in the permit issued hereunder, shall relieve the permittee from the full responsibility for any damage whatsoever to other persons or property, nor impose any liability upon any officer, agent or employee of the Town for damage to persons or property.

#### **SECTION XII. Validity**

If any section, paragraph, subdivision or provisions of this Law shall be declared invalid, such invalidity shall apply only to the section, paragraph, subdivision or provisions adjudged invalid and the rest of this Law shall remain valid and effective.