

LOCAL LAW __2____2004

TIMBER HARVESTING ORDINANCE

Be It Enacted By the Town Board of the
Town of Denning As Follows:

Section 1. Purpose

The purpose of this Law is to promote the health and safety of the residents of the Town of Denning by protecting the natural environment as affected by timber harvesting. The Town recognizes that the timber resource in the Town is a renewable resource of significant value and may be harvested. The Town also recognizes that if timber harvesting practices are poorly carried out they can result in significant environmental and aesthetic damage to the lands and waters. Thus, this law is intended to regulate those harvesting activities that most readily affect the environment, such as stream crossings and the location of landings, haul roads and skid trails, particularly to control soil erosion and sediment laden runoff; and to encourage the use of professional forest management expertise in the preparation and evaluation of timber harvests.

Our intention is to be informed of all logging operations in the Town of Denning while not interfering with the owner's right to harvest timber. Thus we have defined three levels of harvesting:

1. Harvests of lumber from three acres or less, involving 10 cords of wood or less do not require any notification to the Town and do not require a Special Use Permit. The assumption is that the owner needs to clear land or harvest firewood.
 2. Harvests of timber from over three acres to ten acres resulting in the production of up to 100 cords of wood require a notification to the Town, but do not require a Special Use Permit.
 3. Harvests of 100 cords of wood or more from 10 acres or more require a Special Use Permit.
- Please read the pertinent Sections for further details for each of these three levels of harvest.

Section 2. Definitions

Erosion Control Structures:	Diversions that include water bars and broad based dips constructed across roads and or landings for erosion and sediment control. They catch and divert runoff into adjacent vegetated areas.
Haul (truck) road:	Constructed road of dirt and/or gravel used for moving cut trees from a landing where they are loaded on a truck to an exit from the site.
Landing:	Open or cleared areas used for loading logs onto trucks or any general purpose such as storing logs or servicing equipment.
Logging Debris:	Any residue associated with a harvesting operation, including undesirable tree trunks, logs and slash.

Logging Operation:	The removal of timber in quantities greater than 10 standard cords of wood, or 5,000 board feet (5 MBF) measured by the Scribner log rule on any one ownership of land exceeding 3 acres within any given calendar year.
Protected Stream	A stream protected under Article 15 of the Environmental Conservation Law (ECL). A permit is required from NYS Department of Environmental Conservation (DEC) for any work which will disturb the stream bed or its banks.
Scribner Rule	One of the three basic methods of measuring the board feet in a piece of timber. While tends to underestimate the volume of wood in very long logs it is the most commonly used rule in this area.
Skid Trail (road)	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.
Slash:	Felled trees, tree tops, and small branches left over from a harvesting operation.
Stream:	Body of water flowing continuously or intermittently in an identifiable channel on the surface of the ground.
<u>Volume Terms:</u>	
Basal Area:	The total cross sectional area of trees on one acre measured at 4 1/2 feet above the ground expressed in square feet.
Cubic Foot:	A unit of timber volume measured 12"x12"x12".
Standard Cord:	A cut, stacked pile of wood measuring 4x4x8 or its equivalent.
Thousand Board Feet:	A unit of measure of logs. Represents an estimate of the board feet of lumber (one board foot equals 12'x12'x1') that can be sawn from a log. Note: Measurement shall be by a Scribner Rule.

Section 3. Notification

- A. Anyone in the Town of Denning who intends to harvest lumber from an area exceeding three acres, or ten (10) cords of wood, or 5,000 board feet in any given calendar year must give the Town two business days notice before the commencement of logging operations. This is done by filing a Notification Form with the Town Clerk.
- B. The Town Clerk shall give copies of the Notification Form to the Local Forest Ranger and the Superintendent of Highways as soon as possible. Such notification is primarily for the purpose of data collection in order to gain a comprehensive picture of logging in the Town of Denning.
- C. The Code Enforcement Officer has the right to suspend any logging operation which has not filed a Notification Form with the Town Clerk.

Section 4. Registration to Apply for a Special Use Permit for Logging

The Town Clerk shall provide each applicant with an information package consisting of the following:

- 1. The Timber Harvesting Guidelines for New York State, and the NY Forest Practice Standards.
- 2. Sources of professional forestry assistance and timber harvesters such as the DEC Foresters, Cooperating Consultant Foresters and Cooperating Timber Harvester lists, The Society of American Foresters, N.Y. State Institute of Consulting Foresters, Watershed Agricultural Council Forestry Program, and the Catskill Forest Association.
- 3. Current NYS DEC Stumpage and Price Report and contract information
- 4. Information on liability considerations for NY woodland owners.
- 5. Model logging contract as published by the NYS DEC.

Section 5. Applicability of this Law

The provisions of this Law shall apply to all parcels of approximately ten or more acres on which logging operations are proposed, whether on one lot or two or more contiguous lots.

Section 6. Exemptions

The provisions of this Law shall not apply to the following:

- A. Harvesting of trees and firewood for the personal use of the property owner on the same site.
- B. Reasonable site clearing preparatory to construction of a building for which a building permit has been issued or a site plan or subdivision plat approved.
- C. Clearing of land for rights-of-way for utilities.
- D. Harvesting of Christmas trees.
- E. Any other removal of timber from an area less than ten (10) acres or in quantities of less than 100 standard cords of wood, or 50,000 board feet, as measured by a Scribner Rule,

within any given calendar year.

- F. Properties in state programs are exempted. Lands anywhere in the Town which are enrolled under 480-A of the NY State Real Property Tax Law are exempted from these provisions provided that:
- 1.. a copy of a valid certificate of approval of enrollment in 480-A is presented to the Planning Board prior to the commencement of any logging operations.
 - 2.. A copy of the renewal forms certifying continued enrollment of a parcel in the 480-A program is filed annually in years of active logging with the Planning Board.
 - 3.. A copy of file maps and management plan from 480-A is submitted in conjunction with a certificate of approval.
- G. Other forest management plans certified by the proper authorities such as, but not limited to:
1. Tree Farm Certification
 2. The Forest Stewardship Council (FSC)
 3. The Watershed Forestry Program, overseen by the Department of Environmental Protection, NYC. shall be reviewed by the Planning Board on an individual basis for exemption.

Section 7. Submission Procedure

- A. The applicant or his representative shall submit the following information to the Planning Board in a form established by the Planning Board:
- 1 The name and address of the property owner and the logger
 2. The date on which logging is proposed to begin
 3. All applicable parcel id=s (Section, Block and Lot etc.)
 4. A Timber Harvesting Plan plan and necessary agreements as described in Section 9 below.
- B. The applicant shall identify the owners of all property adjacent to the proposed logging operation from the most recent tax rolls. The Planning Board shall send notice by certified mail at the applicant's expense, the return receipt to be addressed to the Planning Board at Town Hall, to each such property owner at least 20 days prior to the first day on which logging is to begin. Such notice shall include the information requested in Section 7, subsection A., paragraphs 1,2 and 3. Neighbor notification forms are available from the Town Clerk at the Town Hall.
- C. Upon approval of the Timber Harvesting Plan and proof that all surety and insurance (as set forth in Section 10 and Section 15) has been provided, the Planning Board shall issue a Special Use Permit for Logging. Copies of this Permit must also be provided to the Superintendent of Highways, the State Forest Ranger and the Code enforcement Officer.

Section 8. Timber Harvesting Guidelines

In reviewing the Special Use Permit Application the Planning Board shall, to the fullest extent

practical, require adherence to the following standards. As silvaculture practices evolve, these guidelines may be subject to change.

A.. Stream Crossings

Every effort shall be made to protect the integrity and quality of all continuously flowing streams. For maximum stream protection the following practices should be adhered to:

1. Obtain Stream Protection Permit - as required by NYS DEC under Article 15, ECL - whenever a protected stream must be crossed. A copy of the permit(s) shall be submitted to the Town Clerk prior to the building of any crossing of a protected stream.
2. Cross streams by the most direct route and avoid crossing at bends or pools.
3. Choose crossing sites that have low, stable banks, a firm stream bottom, and gentle slopes along the approaches.
4. Cross at a few carefully chosen places rather than any place that seemed convenient.
5. Use temporary culverts, bridges or other erosion control devices where stream bottoms or banks would otherwise be damaged, and remove structures after use.
6. Skidding logs up or down a flowing stream channel is prohibited: however skidding in temporarily dry or frozen but normally intermittent stream may be permitted when there is provision of controls to prevent subsequent erosion.

B. Harvesting Timber Adjacent to Streams or Water Bodies

1. Avoid cutting trees and destroying understory vegetation growing within 10 feet of a streambank.
2. Keep skidders back at least 50 feet from a streambank and winch off any logs that lie closer to the bank to prevent soil disturbance which could start erosion. For slopes over 10%, keep skidders back at least 100 feet; except when doing so will cause greater erosion problems.
3. Directionally fell trees so the tops land away from streams, where possible.
4. Remove any logging debris that gets into a flowing stream so stream flow is not affected.
4. When using a silvacultural system requiring removal of most or all of the trees on the site, leave a 50 foot wide uncut or partially cut strip along both sides of flowing streams, ponds and marshes to keep the water shaded and prevent its heating up by direct exposure to sunlight.

C. Truck Roads and Skid Trails

1. Whenever possible, main truck and skid trails should be located on benches or ridges to minimize erosion.
2. Keep roads and skid trails out of wet and poorly drained spots whenever possible.
3. Keep truck roads back from streams, ponds or marshes at least 100 feet on slopes less than 30%, and at least 150 feet on steeper slopes.
4. Whenever possible, the use of old or existing roads which have proven generally stable and have established drainage patterns should be given preference over new construction. Except for general road location, modification and improvement of such existing roads may be

necessary to meet the general and specific requirements set forth in this section.

5. Winch logs off steep slopes where possible. Minimize the number of skid trails and amount of skidder traffic on steep slopes.
6. Provide ways to divert running water off roads and primary skid trails by using water bars, broad based dips, outsloping, culverts or other drainage devices as needed to prevent erosion.
7. Drainage structures should divert water into the woods and not directly into streams.
8. After harvesting, roads and primary skid trails should be regraded and water diversion devices installed as necessary to stabilize the road system and prevent erosion and sedimentation.

D. Landings

1. Landings should be kept out of low spots and poorly drained places.
2. Locate landings on gently sloping ground that will give good drainage.
3. No landings should be closer than 200 feet from any stream, pond or marsh.
4. After harvest is completed landings shall be smoothed so they are free of ruts, and seeded if necessary to re-establish cover. Water diversion devices shall be installed where necessary to prevent erosion and sedimentation.
5. Roadside ditches shall be cleaned and regraded as necessary to restore them to their condition prior to the harvest.

E. Aesthetics

The following practices shall be required by the Town to protect the aesthetic qualities where logging operations occur along travel corridors or near property boundaries, and are not screened by topography:

1. Maintain a 100 foot scenic buffer strip along travel corridor roadsides. Keep at least 50 square feet of basal area in residual trees, including some trees over 12" diameter breast height (DBH), where present.
2. Directionally fell trees within the scenic buffer so the tops land away from the road.
3. Pull down hung-up or partly fallen trees.
4. Keep skidders back in the woods and off the highway right-of-way.
5. Keep stumps low, that is, no higher on the uphill side than the diameter of the trees at the cut.
6. Where possible, locate landings behind a hill, bank or land form that hides them from the road, or set landings back in the woods as far as possible.
7. Build access roads to landings somewhat curved, and keep entrances narrow to make them less visible from the road.
8. Lay out landings so the long access lies perpendicular to the road, where possible, along major travel corridors (to make them less visible).
9. Remove all trash, such as lunch wrappers, oil cans and miscellaneous junk during and after the harvest.
10. Keep all logging debris off the right-of-way of public roads and out of the ditches, and keep it back at least 20 feet from the edge of the highway right-of-way.

Section 9. Timber Harvesting Plan

- A. A commercial forest management plan shall be submitted that shows the following information and that adheres to the provisions in Section 8., the Timber Harvesting Guidelines as

enumerated above:

1. Land area of the site to be logged.
2. Location of the site on a recent tax map, a USGS topographic map and a USDA soils survey map.
3. Approximate existing number of trees.
4. Approximate number of trees to be harvested.
5. Location of streams, bodies of water and wetlands on the site and the impact of logging operations on these features.
6. Identification of specific soil types and slopes present on the site and of erosion and sediment control measures to be implemented.
7. Clearly defined and marked property lines.
8. Clean up and reclamation plans.
9. the location of major skid roads and loading areas.
10. A time schedule for all of the above activities.

B. The Planning Board may engage a forestry consultant if necessary to advise them on adherence to these guidelines, at the applicant's expense.

Section 10. Necessary Agreements

Prior to final approval of the Logging Permit the applicant shall present to the Planning Board a copy of a signed contract between the logger and the property owner(s) which shall include a performance bond or other form of surety to insure proper clean up and implementation of the Forest Management Plan and to insure consistency with the above enumerated Timber Harvesting Standards. However, any financial arrangements between the logger and the property owner(s) may be deleted from the copy of the signed contract submitted.

Section 11. State Regulations

All regulations promulgated by the NYS DEC shall be strictly adhered to, and all required stream or wetland disturbance permits shall be secured and in effect before the commencement of logging.

Section 12. Access

- A. Where a proposed commercial logging operation is to use or develop an access onto a Town highway, such proposal shall be referred to the Town Highway Superintendent, who shall approve such access, subject to the following conditions:
1. Proper posting of site entrance and exit signs and all intersections along the truck route through the Town warning motorists of the presence of logging trucks.
 2. No skidding of timber shall be permitted across Town highways as part of the logging operation at any time, nor shall metal track or metal cleated vehicles be allowed on Town or County roads.
 3. The Town highways and ditches shall be cleared of dirt, mud and vegetation debris on a daily basis to the satisfaction of the highway Superintendent.
 4. The Logger shall be held responsible for any damage to the pavement shoulder or

drainage facilities of a Town highway, and the Town Highway Superintendent shall inspect the logging operations on a frequent basis to determine if such damage has occurred.

5. A cash bond, letter of credit, certified check or other form of financial surety in an amount recommended by the Planning Board (but not less than \$1,500) shall be provided, payable to the Town for each logging operation or loading area. The loading area shall consist of not more than 100 linear feet adjacent to one side of a Town highway, where possible. The requirement that financial surety be provided may be waived only upon a written determination by the Town Highway Superintendent that such surety is not necessary.
6. The Highway Superintendent may issue any appropriate directive to prevent or repair damage to any Town road or Town bridge caused by the logging operation.
7. An off-street parking area for logging equipment and other vehicles should be located on the logging site no closer than 50 feet to any street line.

Section 13. Hours of Operation

- A. The transportation of logs on Town highways should be scheduled so as not to conflict with school bus operations.
- B.. No harvesting operation shall take place between the hours of 7pm and 6am.
- C. Because of narrow roads and potential conflicts with road maintenance, the Superintendent of Highways may recommend alternate hours during which logs may be transported over the Town highway system.

Section 14. Site Clean Up

- A.. Within 50 feet of the highway tops shall be lopped to within 3 feet of the ground and hung up or partly fallen trees shall be pulled down.
- B. No equipment shall be abandoned, nor shall any liquid or solid waste be dumped or otherwise deposited on the site or in the Town under penalty of forfeiture of surety.

Section 15. Insurance and Liability

The applicant for any logging operation shall file a certificate of insurance with the Town Clerk, naming the Town as the co-insured or additional insured party. The insurance shall hold the Town harmless in any logging operation and shall be in an amount no less than one million dollars and shall include attorney's and other legal fees.

Section 16. Enforcement

This Law shall be enforced by the Code Enforcement Officer. Said officer shall be authorized and have the right in the performance of duties to enter upon any property proposed to be harvested, in the process of being harvested, or in the process of being reclaimed after harvesting to make

such inspections as are necessary to determine satisfactory compliance with the provisions of this Law. Such entrance and inspection shall be initiated at reasonable times and in emergencies whenever necessary to protect the public interest. Owners, agents, foresters and harvesters on a property being harvested shall be responsible for allowing walking access to appropriate parts of the premises within their control to the Town Code Enforcement Officer or his inspectors, acting in accordance with the requirements of this provision. It shall be the duty of the Town Code Enforcement Officer to investigate all complaints made under this Law and to take appropriate legal action on all violations of this Law.

Section 17. Violations

Violations of NY DEC rules and regulations will be dealt with by those agencies. Upon determination by the Town Code Enforcement Officer that there has been a violation of any provision of this Law the Officer shall serve upon the property owner an initial order to cease and desist commission of the violation immediately and directing that conditions therein specified be brought into compliance within five (5) working days after the serving of such an order. Work that is in compliance shall be permitted to continue while violations are brought into compliance.

Where violations cannot reasonably be corrected within five (5) working days and where violator has demonstrated good faith efforts to comply, said time period may be extended by the Town Code Enforcement Officer for not more than 30 days. For an extension of more than 30 days applicant must apply to the Planning Board..

If, after the expiration of such period, conditions are not corrected, the Town Code Enforcement Officer shall serve written notice upon the owner requiring him to appear before the Town Justice of the Town of Denning at a time to be specified in such notice which shall be the next scheduled Court session after service of notice.

The Town Justice may, after a hearing at which the testimony and witnesses of the Town Code Enforcement Officer and the violator shall be heard, call for compliance within a time period left to the discretion of the Town Justice. If compliance is not achieved, a fine of not less than \$100.00 or more than \$250.00 per violation may be imposed.

Section 18. Variances

There may be situations where strict adherence to certain provisions in this Law are impossible or impractical. The Zoning Board of Appeals has the authority to grant variations for necessary and reasonable violations of the standards prescribed under this Law.

Section 19. Appeals

Any person aggrieved by any decision of the Town Code Enforcement Officer may take an appeal to the Town Board or the Zoning Board of Appeals. Any determination by the Town Board or the Zoning Board of Appeals under this ordinance may be appealed to the State Supreme Court under Article 78 of the Civil Practice Law and Rules.

Section 20. Validity

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

Section 21. Effective Date

This Law shall take effect 10 days following filing in the Office of The Secretary of State of New York to allow for notification and publicity.