

## Chapter 176: TREES

### GENERAL REFERENCES

Zoning — See Ch. 235.

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## ARTICLE I Tree Harvesting

### § 176-1. Intent.

The intent of this article is to promote the general welfare of the residents of the Village of South Blooming Grove by protecting the natural environment and public safety as may be affected by timber harvesting. The Village recognizes that the timber resource is of value to the landowner and may be harvested in appropriate circumstances. The Village also recognizes that if timber harvesting practices are improperly carried out, they can result in significant damage to the forest environment and to neighboring lands and waters. This article is not intended to hinder the removal of trees by landowners for the purpose of maintaining and/or improving their property within any area less than one acre during a single twelve-month period. This article is intended to regulate timber harvesting, require land reclamation and utilize professional forest management expertise in the preparation and evaluation of timber harvest planning and work within an area larger than one acre.

### § 176-2. Definitions;

**DEFINITIONS:** The words and phrases used in this chapter are defined as follows:

- 1) **CLEARING OF LAND:** the cutting or removal of all trees, vegetation, shrubs and brush in an area larger than one acre.
- 2) **CLEARCUTTING** - a technique in which all of the trees having a diameter of two inches or more measured four feet above the ground are cut and /or removed at the same time in an area larger than one acre during a single twelve-month period.
- 3) **TIMBER HARVESTING:** the cutting of trees having a twelve-inch or greater diameter measured four feet above the ground in an area larger than one acre during a single twelve-month period by any landowner for the purpose of collecting wood, and / or the sale of harvested trees to another.
- 4) **COMMERCIAL TIMBER HARVESTING:** the cutting of trees having a twelve-inch or greater diameter measured four feet above the ground in an area larger than one acre by a any landowner for the purpose of collecting wood for resale and /or by a contractor to remove trees for the purpose of resale to another.
- 5) **HARVESTING:** The act or process of gathering / removing trees.
- 6) **COMMERCIAL:** Of or relating to commerce.
- 7) **CONTRACTOR:** A person or firm that is contracted to remove trees.

### § 176-3. Permit required; fee; public hearing.

- A. No timber harvesting or Commercial Timber Harvesting shall be permitted unless the landowner has first obtained a permit from the Village of South Blooming Grove Zoning Board of Appeals (ZBA).
- B. An application fee shall be established and amended from time to time by the Village Board. In addition to paying the application fee, the landowner shall be responsible for paying all of

the Village's review costs, including the cost of any consultant retained by the ZBA to review the application and/or monitor harvesting and reclamation activities.

- C. No permit shall be issued until the ZBA holds a public hearing on the application. Notice of said hearing shall be published and posted at least five days prior to the hearing and shall be mailed by the applicant, by certified mail, return receipt requested, at least 10 days prior to the hearing to all owners of property located within 1000 feet of the outside boundaries of the applicant's contiguous lands.

#### **§ 176-4. Applicability.**

This article shall not be construed to prohibit timber harvesting or to require a timber harvesting permit for:

- A. Clearing of land for rights-of-way for approved public utilities, except that said clearing shall comply with accepted forest management practices.
- B. Harvesting of trees by the landowner for his or her personal and noncommercial use within any area less than one acre during a single twelve-month period.
- C. Removal of trees to the extent required or necessary for site preparation for construction or land development pursuant to a building permit or approval granted by the Planning Board or Zoning Board of Appeals. Removal of trees in excess of that required or necessary to carry out the construction or land development authorized by such permit or approval is not exempt from the requirements of this article.
- D. Permitted commercial timber harvesting under direct supervision of the State Department of Environmental Conservation, including lands managed and timbered pursuant to and in compliance with the New York State Real Property Tax Law § 480-a program.
- E. Harvesting of Christmas trees, on agricultural/farm lands.
- F. Harvesting of fence posts and firewood within any area less than one acre during a single twelve-month period.

#### **§ 176-5. Clear-cutting; Clearing of Land.**

Clear-cutting and/or clearing of land may be permitted by the ZBA only if specified clear-cutting and/or clearing of land are recommended by a professional forester.

#### **§ 176-6. Application information required.**

The landowner shall submit the following information to the ZBA before the ZBA may issue a permit:

- A. Written narrative, including:
  - (1) The 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 including all vegetation, shrubs and brush.
  - (6) The average number of trees per acre to be removed.

- (7) The average number of board feet per acre to be cut.
- (8) The purpose and extent of earth moving, storage and reclamation.
- B.** Plan certified by a professional forester, showing:
  - (1) Boundaries of property and all neighboring lands (and owners thereof) within 300 feet of property boundaries.
  - (2) Access roads to property.
  - (3) Haul roads or other internal roads, trails or ways.
  - (4) Area within the property where harvesting will occur.
  - (5) Location of product loading areas.
  - (6) Erosion control and storm water management measures.
  - (7) Streams, wetlands, ponds and other water bodies.
- C.** Landowner's statement. The landowner shall be the applicant and shall provide a signed statement that each tree to be cut has been designated by a professional forester, with paint or other distinctive means, at two points so as to be readily visible. One point shall be low enough on the tree so as to be visible on the stump after the tree is cut.
- D.** Name of logger(s) and or contractor(s). If a logger(s) / contractor(s) changes at any time prior to completion of work, the landowner must immediately notify the ZBA in writing of the name of the replacement logger(s) / contractor(s).
- E.** Property maintenance plan.
- F.** Copy of a Village-issued driveway permit, if access to property is from a Village road.
- G.** The ZBA may require submission of a report prepared by a qualified forester and may retain, at the applicant's expense, its own forester and/or other consultant(s) to review the application.
- H.** Copy of Village issued permit for overweight vehicle for use on Village roads.
- I.** Any other information deemed reasonably necessary by a professional forester.

**§ 176-7. Standards.**

- A.** Approved erosion control and storm water management measures shall be implemented at all times.
- B.** The proposed operation shall not adversely affect drainage or growth of vegetation, contribute to soil erosion or adversely affect lands or waters of the applicant's or other properties.
- C.** Only designated trees shall be cut within 50 feet of any property line or public right-of-way. Trees falling on an adjacent property shall immediately be removed to the permittee's property.
- D.** The access road from the public right-of-way shall be located not closer than 100 feet from any adjacent property. If the access road is located within 200 feet of adjacent property, the access road shall have a dustless surface. For purposes of this subsection only, adjacent property shall not include property located on the opposite side of the public right-of-way.
- E.** Loading areas shall be located on the applicant's property only and shall be smoothed to remove all ruts and debris. Nonorganic waste materials shall be properly removed and disposed. Organic waste materials within 50 feet of any property line or public right-of-way shall be cut and slashed into smaller pieces so as to settle close to the ground.

- F. The landowner shall be responsible to keep all public roads clear and clean at all times and to repair any damage caused, directly or indirectly, by the logging operation. If the landowner fails to clean, clear or repair any Village highway after due notice, the Village may cause such cleaning, clearing or repair and bill the landowner for all costs. If such bill is not paid within 30 days, then the costs may be assessed and levied against the landowner's property and collected in the same manner as real property taxes.
- G. No harvesting, cutting, milling or removal of products or any other activity related to harvesting shall take place between the hours of 7:00 p.m. and 7:00 a.m. or at any time on Sundays or legal holidays.
- H. Appropriate screening, access, dust and noise controls as determined by the ZBA shall be implemented.
- I. Property maintenance plan. The property maintenance plan shall be prepared by a professional forester and shall provide, at a minimum, for adequate erosion and stormwater management control, after harvesting operations are completed.
- J. The ZBA may impose additional requirements and permit conditions governing harvesting operations and post-harvesting conditions if recommended by a professional forester.
- K. The ZBA may waive or reduce any of the standards or requirements of this article. Any such waiver or reduction shall be affirmatively made and supported by a reason stated in the record.
- L. The term of a permit shall be for one year. One one-year extension may be granted by the ZBA upon written request made prior to expiration of the initial term. The ZBA may impose additional or revised requirements as conditions of a permit extension.

**§ 176-8. Performance/maintenance bond.**

Prior to permit issuance, the ZBA may require the applicant or its agent to provide a bond in an amount determined by the ZBA and in a form approved by the ZBA and its attorney, sufficient to secure the performance of the forestry plan, requirements of this article, permit conditions and the maintenance plan. The bond shall remain in effect until formally released by the ZBA, except that the bond shall remain in effect no longer than one year after completion of the tree harvesting operation unless the applicant consents to a longer period of time. In the event that the applicant or agent does not fulfill the conditions of the bond or fails to comply with any requirement or permit condition, the Village may, after due notice to the applicant, agent or surety, proceed to perform the work necessary to cause compliance with the bond, requirements or permit conditions and shall charge the cost to the owner, agent and/or surety.

**§ 176-9. Right of entry.**

Village officials, employees and agents shall be authorized to enter upon the landowner's property for purposes of reviewing an application and of determining compliance with any permit issued pursuant to this chapter. Such entrance and inspection shall be initiated at reasonable times, but at any time whenever deemed necessary to protect the public interest. Owners, agents and operators shall be responsible for allowing access to the entire property.

**§ 176-10. Monitoring of operation.**

The ZBA or the Village Board may retain a forester and other consultants, at the applicant's expense, to monitor harvesting and reclamation activities, make recommendations and advise regarding permit compliance. Such Board may require the applicant to deposit a specified sum of money with the Village to pay for the consultant(s).

**§ 176-11. Limitation on number of permits issued.**

The Village Board is authorized to limit the number of permits that may be issued and/or in effect during any period of time specified by the Village Board. The Village Board may establish such limitation and amend same from time to time, by resolution.

**§ 176-12. Enforcement.**

This article shall be enforced by the Building Inspector or Highway Superintendent. Enforcement officers are authorized to issue violation notices, orders to remedy, appearance tickets and stop-work orders.

**§ 176-13. Penalties.**

- A.** Every person who violates any provision of this article, any permit condition, any provision of an approved plan or any order made pursuant to this article shall be guilty of a violation punishable by imprisonment for not more than 15 days, or by a fine not exceeding \$2,500, or both. In addition to and not in lieu of the foregoing, any such violation may be punishable pursuant to the zoning code.
- B.** In addition to and not in lieu of the above, the ZBA may require any permittee to appear before the ZBA at any meeting to address any matter related to the permit, and the ZBA is authorized to revoke, suspend or modify such permit.

**§ 176-14. Super session of other laws; authority.**

This chapter supersedes, and is in derogation of, Chapter 219 of the Code of the Town of Blooming Grove, County of Orange, and State of New York.

**§ 176-15. Authority.**

This chapter is enacted by authority of § 20, Subdivision 5, of the Municipal Home Rule Law and any other law referenced herein as authority herefor.

**§ 176-16. Repeal.**

All ordinances, local laws and parts thereof inconsistent with this local law are hereby repealed.

**§ 176-17. Effective Date.**

This local law shall take effect immediately when it is filed in the Office of the New York State Secretary of State in accordance with section 27 of the Municipal Home Rule Law.