

# Chapter 129

## TREE HARVESTING

### GENERAL REFERENCES

Brush, grass and weeds — See Ch. 58.

Land management — See Ch. 92.

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#### **§ 129-1. Purpose.**

This chapter is intended to advance East Amwell's adopted policies and regulations to preserve, protect and enhance the sensitive forested areas of the Township by ensuring that tree removal practices comply with best management practices. The Township recognizes the necessity of conserving forest resources in order to protect its water supply and that maintaining trees in a natural state is an important element of promoting an adequate, high-quality water supply in this sensitive area.

#### **§ 129-2. Intent and findings.**

- A. The intent of a Tree Harvesting Ordinance using the Best Management Practices Manual prepared by the New Jersey Division of Parks and Forestry (BMP Manual) is to provide a means by which harvesting of trees:
- (1) Is properly planned and executed.
  - (2) Creates conditions favorable for reproduction/regrowth without loss of soil/nutrients.
  - (3) Minimizes adverse natural environmental impact.
  - (4) Is conducted according to best management practices for forestry.
  - (5) Protects surface- and groundwater quality and quantity in the forest ecosystem.
  - (6) Protects and/or enhances species diversity.
- B. The Township Committee of East Amwell Township finds that improper techniques/practices could result in environmental degradation and a reduction in the ecological and economic value of the forest as well as damage to roads and road rights-of-way, and streams within the Township. The Township Committee further finds that all tree harvesters should follow the recommended tree harvesting practices prescribed in the BMP Manual.

#### **§ 129-3. Title.**

This chapter shall be known as the "East Amwell Tree Harvesting Ordinance."

**§ 129-4. Definitions.**

As used in this chapter, the following terms shall have the meanings indicated:

TREE — A woody perennial plant, with well-defined stem or stems, and a crown where any stem has a minimum diameter of four inches measured at four feet.

TREE HARVEST — The cutting of trees in excess of five trees in any six-month period and classified based on the following criteria:

- A. Tier A tree harvest — The removal of up to 20 trees per tax lot where fewer than seven trees are removed from any one acre.
- B. Tier B tree harvest — The removal of over 20 trees per tax lot or over six trees in any one acre.

**§ 129-5. Compliance with state BMP Manual required.**

- A. All tree harvests shall comply with the BMP Manual, a copy of which is on file in the Municipal Clerk's office.
- B. The BMP Manual shall be used as a guide to identify relevant information to be provided with an application to obtain a permit. Only relevant sections of the BMP need be addressed.

**§ 129-6. Permit required.**

- A. Any tree harvest unless exempted herein requires a permit. The person or entity seeking a permit shall obtain and complete a tree harvesting permit application from the Municipal Clerk's office for Tier A and Tier B tree harvests. The application must be signed by the property owner and any commercial entity performing the harvest. The fee for a Tier A tree harvest permit shall be \$20 and the fee for a Tier B tree harvest permit shall be \$100. A copy of the BMP Manual will be provided to the applicant. The permit application for either a Tier A or Tier B tree harvest shall include the location, block and lot, acreage, type and number of trees to be harvested.
- B. A Tier A permit shall be issued by the Municipal Clerk upon submission of a completed application and payment of the permit fee.
- C. Tree identification and removal plan.
  - (1) Prior to issuance of a Tier B tree harvest permit, the applicant shall provide a detailed tree identification and removal plan to the Zoning Officer or his designee for review and approval, which plan shall include:
    - (a) Location of tree canopy within the property boundaries.

- (b) Location of individual trees with a caliper equal to or greater than four inches, identified by size and species within the area of development/limit of disturbance.
  - (c) Clear labeling of the area intended for tree removal.
  - (d) Tree protection details and limit of disturbance line.
  - (e) Reference to applicable sections of the BMP Manual.
  - (f) Remediation consistent with § 129-8.
- (2) The Zoning Officer or his designee shall notify the applicant and the Municipal Clerk of the approval or disapproval of the plan.
- D. A Tier B permit shall be issued by the Municipal Clerk upon submission of a completed application, receipt of approval from the Zoning Officer or his designee as set forth in Subsection C above and payment of the permit fee.
- E. The permit shall be prominently posted during the tree removal operation and be visible from the road at the entrance to the property.
- F. The permit holder shall give five business days' notice to the Municipal Clerk when the work is to begin and also give notice to the Municipal Clerk when work has been completed.
- G. The Zoning Officer or his designee may monitor and conduct site inspections during regular business hours of all tree harvesting conducted pursuant to a Tier A or Tier B permit. The application for a permit constitutes the grant of permission by the property owner to the Zoning Officer or his designee to enter the property for inspection for compliance with this chapter.
- H. Permits shall expire two years after the date of issuance.

**§ 129-7. Activities not requiring permits.**

Permits are not required for the following activities, which shall not be considered tree harvests:

- A. Removal of trees that present a hazard to the safety of persons or property.
- B. Removal of trees that are diseased, dead or storm damaged.
- C. Removal of trees to eliminate invasive species including, but not limited to, thorn apple, autumn olive, honey locust, poison sumac, and multiflora rose.
- D. Providing that a building permit has been obtained, clearing or clear-cutting of not more than a total of two acres of a residential lot for the construction of a dwelling/outbuilding/drive, except in the Sourland Mountain District, where clearing shall adhere to § 92-89I.

- E. Removal of any tree growing on property used as a nursery, garden center, Christmas tree farm or orchard, only if such use complies with zoning laws.
- F. Any cutting of trees performed as part of ongoing timber stand improvement work in compliance with a state-approved woodland or forest management plan.
- G. Removal of any trees on a farm property with documented protection under the Right to Farm Act, N.J.S.A. 4:1C-1 et seq. and a state-approved woodland or forest management plan.

**§ 129-8. Tree replacement.**

- A. The replacement of trees removed from a property, either pursuant to a Tier B tree harvest permit or in violation of this chapter, shall comply with the following provisions:
  - (1) If a tree harvest is conducted in compliance with a permit, the total caliper of trees planted shall equal the total caliper of trees harvested. If a tree harvest is conducted without a permit required by this chapter or otherwise in violation of this chapter, the total caliper of trees planted shall equal up to three times the total caliper of trees harvested.
  - (2) All replacement trees shall be of nursery grade quality, balled and burlapped and not less than a caliper of 2 1/2 inches.
  - (3) Replacement trees shall be consistent with the type and species removed from the site and shall be planted in accordance with accepted nursery practice.
  - (4) Replacement trees that die within the first three years after planting shall be replaced.
- B. Township Tree Fund. Should the Township create a Tree Fund pursuant to § 129-9 below, the Township, at the request of the applicant and in its sole discretion, may permit the applicant to make a monetary contribution to be deposited in said Township Tree Fund in lieu of the planting of replacement trees. The contribution shall be based on a current quote from a local nursery, including the cost of planting, and shall be deposited in the Township Tree Fund prior to the Township issuing any building permits.

**§ 129-9. Tree Fund.**

- A. The Township may establish a Township Tree Fund. If the Township does not establish a tree fund, all sections of this chapter providing for contributions or the payment of penalties to such a fund shall not apply.
- B. All funds collected from an applicant as a contribution in lieu of replanting trees shall be deposited in a dedicated account clearly

designated as the East Amwell Township Tree Fund. All funds so deposited shall be used exclusively for the planting and maintenance of trees. This fund may be used to plant trees on public property and rights-of-way, including but not limited to public parks, public schools and public buildings.

- C. The Tree Fund shall be administered by a designee of the Township Committee, who shall report to the Township Committee on a quarterly basis detailing the amount of money in the fund and the total cost, location and size of all plantings to be paid for from the fund proposed for the next quarter.

**§ 129-10. Violations and penalties.**

- A. Any landowner, lessee, logger, agent or other person violating this chapter shall be subject to one or more of the following: a fine not to exceed \$1,250, a term of imprisonment of not to exceed 90 days, remediation as set forth in § 129-9 of up to three times the total caliper inches illegally removed, or a period of community service not to exceed 90 days and will not be issued a new permit or license in the Township of East Amwell for said property or any property owned/leased by same entity or principal, until all violations are remediated.
- B. Each day tree harvesting continues in violation of this chapter after written notice has been served on the property owner shall be considered a separate, distinct violation.
- C. Penalties shall reflect the extent of the violation and the associated environmental damage so as not to unduly penalize one-time, minor infractions.

**§ 129-11. Enforcement by Zoning Officer.**

- A. The Zoning Officer's responsibilities shall include, but are not limited to:
  - (1) Review and approve all Tier B permit applications.
  - (2) Monitor all tree harvest permits.
  - (3) Visit the site prior to and at completion of the tree harvest.
  - (4) Verify that an appropriate permit application has been filed and that harvesting has been conducted in conformity with the BMP Manual.
  - (5) Inspect site for road damage, road right-of-way damage or obvious environmental degradation.
- B. If a professional opinion is needed, the Zoning Officer may retain the services of the Township Engineer, a professional forester who is on the New Jersey Department of Environmental Protection list of state-approved foresters, or appropriately credentialed environmental

experts. The cost of the professional's time will be paid for by the permittee; provided that the Zoning Officer will not retain the services of a professional without establishing an escrow fund into which the applicant has deposited an amount reasonably necessary to cover any professional fees as determined by the Zoning Officer.