

**RESOLUTION SETTING PUBLIC HEARING TO CONSIDER LOCAL LAW  
ESTABLISHING CLEARING REGULATIONS IN CHAPTER 300 SECTION 300-9.11  
LAND CLEARING REGULATIONS**

**WHEREAS**, the Village Board of the Village of Sag Harbor seeks to enact a local law establishing land clearing regulations; and

**WHEREAS**, in furtherance of this goal, the Board of Trustees is considering enacting a local law creating Village Code §300-9.11, Land Clearing Regulations; and

**WHEREAS**, public hearings were held on this local law on Tuesday, March 14, 2023, and continued on Tuesday, April 11, 2023, with new amendments being proposed to this local law; and now, therefore be it

**RESOLVED**, that a continued public hearing on this amended local law shall be held on **Tuesday, May 9 at 6:00 P.M.** or as soon thereafter as the matter may be heard, at the Sag Harbor Village Municipal Building located at 55 Main Street, Sag Harbor New York, 11963 and via videoconferencing, to consider a Local Law creating Village Code §300-9.11, Land Clearing Regulations; and be it further

**RESOLVED**, that the Village Clerk is hereby directed to refer this amended local law to the Suffolk County Planning Commission and the Village of Sag Harbor Planning Consultant, Nelson Pope & Voorhis to conduct the necessary SEQRA review.

INTRODUCTORY LAW NO.

LOCAL LAW NO.    OF 2022

Be it enacted by the Village Board of Trustees of the Village of Sag Harbor as follows:

**A LOCAL LAW** to create Village Code §300-9.11, Land Clearing Regulations

**SECTION 1.** Legislative Intent.

The Village of Sag Harbor is a unique village whose character is defined by the natural and historic environment. In addition to its rich architectural history and harbor setting, the mature tree canopy, abundance of trees and vegetation are of foundational importance to the Village. Established street trees throughout the village, specimen and mature trees, vegetation on developed and undeveloped lands and along the waterfront, all add to the character of the Village. As supported by the Village of Sag Harbor Vegetation Clearing Limit Code Environmental Planning Study prepared by Nelson, Pope & Voorhis, LLC dated December 10, 2019, native and natural vegetation offer the social benefit of screening and softening the built environment and are of environmental significance, providing wildlife habitat, erosion control, stormwater management, cooling effects and improved air quality.

In keeping with nationally recognized best practices for preserving a natural setting and the environmental benefits that vegetation provides, it is the intent of the Village Trustees to protect this important attribute of the Village. The purpose of this Section is to regulate clearing and the unlimited removal and destruction of trees and excessive removal of vegetation, and to do so in a manner which maximally protects this resource while balancing the rights of property owners in enjoyment of their land.

**SECTION 2. Amendment.** Please see the following and amend Village Code §300-9.11 Supplemental use and dimensional regulations, by deleting those words that are stricken and adding those words that are underlined:

§ 300-9.11 ~~Supplemental use and dimensional regulations.~~ Land Clearing Regulations  
[Added 3-9-2021 by L.L. No. 1-2021]

**A. Definitions.**

As used in this code section, the following terms shall have meanings as indicated:

**CLEARING**

Any activity that changes or removes established vegetation in its natural state within a vacant lot or previously undeveloped area of a lot, including trees and understory. The removal and/or maintenance of dangerous dead wood and non-native, invasive species shall not qualify as “clearing”.

**DISTURB**

Any action to change, interfere with or otherwise destroy natural vegetation beyond reasonable management purposes.

**FERTILIZED VEGETATION**

Areas of vegetation cultivated by man which require irrigation or the application of fertilizers, pesticides, herbicides or other substances in order to grow or maintain its existence.

**FERTILIZER**

Any substance containing one or more recognized plant nutrients which is used for its plant nutrient content and which is designed for use or claimed to have value in promoting plant growth.

**LOT**

A single piece of land or building plot which is incapable of further subdivision

**NATURAL VEGETATION**

Existing and naturally occurring indigenous vegetation which grows and is maintained without need of irrigation or applications of fertilizers, pesticides, herbicides or other substances.

**PESTICIDE**

Any substance used to destroy or inhibit pests such as rodents and insects.

**TRACT**

Any parcel of real property capable of subdivision pursuant to all applicable requirements.

**REVEGETATION** The restoration of the floral component of an ecological community where some or all of the natural vegetation has been removed. Typically, this process consists of planting indigenous species of trees, shrubs and/or grasses at a sufficient size and density to mimic an adjoining or nearby plant community in appearance and/or function. Most ecological communities are characterized by woody vegetation but some (i.e. grasslands, tidal marshes, etc.) may be characterized by herbaceous vegetation.

~~A. B.~~ Clearing. No clearing of any lot or parcel of land for an activity which requires a building permit shall occur except incidental to and after the issuance of such a building permit. See § 300-17.2H for building permit application requirements related to clearing.

**B. C.** Clearing regulations and process in conjunction with a building permit application.

(1) The building permit application shall be accompanied by a survey, at a scale of not less than one inch equals 40 feet, which clearly delineates the edges of the existing and proposed limits of clearing, along with calculations of the areas to be cleared to demonstrate conformance to the requirements of § 300-9.11D, or to the property's legally preexisting clearing limits. The survey shall also illustrate the location of all easements, buffer zones and restricted areas contained on the lot proposed for clearing.

(2) Where the application proposes more than 35% clearing, the Building Inspector shall refer the application to the Board of Historic Preservation and Architectural Review for approval.

(3) The building permit application shall be accompanied by a statement signed by the property owner that no vegetation outside of the areas delineated on the survey shall be disturbed, cleared, trimmed, or thinned without further review and approval by the Building Inspector or the Board of Historic Preservation and Architectural Review when Board of Historic Preservation and Architectural Review approval is required.

(4) Where deemed necessary or appropriate, the Building Inspector or Board of Historic Preservation and Architectural Review may attach reasonable conditions to the building permit to ensure compliance with the clearing limitations established herein (for example, installation of project limiting temporary fencing, surveying and staking of clearing limit, etc.).

(5) When the planned work specified by the building permit requires new clearing and revegetation in excess of the areas permitted herein, approval for a clearing and revegetation plan shall be required by the Building Inspector or Board of Historic Preservation and Architectural Review. A detailed revegetation plan showing plant species

and location is required prior to the issuance of a building permit. A certificate of compliance or certificate of occupancy will not be issued until an updated survey indicating the limit of clearing is provided to the Building Department and confirmed in the field by the Building Inspector or his designee.

(6) When clearing is proposed on a lot which already contains preexisting nonconforming clearing, the Building Inspector or Board of Historic Preservation and Architectural Review shall have the power to review and approve plans for additional clearing where, as a condition of said clearing, a revegetation plan is submitted and approved demonstrating how the lot shall be revegetated to its preexisting nonconforming condition by revegetating existing cleared areas with plant materials consistent with the intent of 300-9.11.

D. The Building Inspector and Board of Historic Preservation and Architectural Review shall apply or where necessary, be guided by the following standards in their determinations:

1. Residential lots and tracts.
  - a. For residential lots, the amount of disturbance of natural vegetation shall not exceed the following percentages:

**Table 1  
Lot Clearing Limits**

<b><u>Lot Area (square feet)<sup>1</sup></u></b>	<b><u>Maximum Lot Clearing (% of Lot Area)<sup>1</sup></u></b>
<b><u>Up to 10,000</u></b>	<b><u>100%</u></b>
<b><u>10,000 to 15,000</u></b>	<b><u>75%</u></b>
<b><u>15,001 to 20,000</u></b>	<b><u>65%</u></b>
<b><u>Over 20,000</u></b>	<b><u>60%</u></b>

2. Lot area for the purposes of this code provision shall be the total area of the property minus any excluded areas as set forth herein. The following areas shall be excluded:
  - a. Flag lots. The lot area calculation for flag lots in identifying maximum clearing limits and buffers provided in Table 1 should exclude the area of the flagpole.
  - b. For houses with I/A OWTS waste treatment systems using pressurized shallow drain fields, the area of the drain field shall be excluded from lot area for the purpose of calculating allowable clearing.

3. For corner lots, conformance with §300-9.5 is required, which mandates visual clearance at intersections.
4. In calculating the percentage of land areas proposed to be cleared, the preserved areas on the lot should be prioritized to maintain areas of good-quality native and natural vegetation to the maximum extent practicable.

**E. Non-residential lots.**

For nonresidential lots or tracts proposed for development, the minimum natural or fertilized vegetation as set forth in Village Code §300 Attachment 2, Table of Dimensional Regulations shall apply.

**F. The provisions of this section do not apply where the natural vegetation on a lot or tract was entirely cleared or disturbed as a result of previous land uses prior to the effective date of this code provision. However, previously disturbed lands which are left to revert to natural vegetation for a period of 10 years shall be subject to these regulations. The burden is on the applicant to prove preexisting clearing. The applicant should consult with the Village about acceptable proof of preexisting clearing.**

**G. Article XVII shall apply with respect to enforcement and penalties for this code provision.**

**SECTION 3. Amendment.** Please see the following and amend Village Code §300, Attachment 2, Village of Sag Harbor Table of Dimensional Regulations by deleting those words that are stricken and adding those words that are underlined:

	<b>R-20 Residence</b>	<b>RM Resort Motel</b>	<b>VB Village Business</b>	<b>OD Office District</b>	<b>WF Waterfront</b>
Minimum natural or fertilized vegetation <sup>5</sup>	<u>50% As set forth in §300-9.11(D)(1)(a).</u>	25%	20%	30%	30%

**SECTION 4. Amendment.** Please see the following and amend Village Code §300-13.6(C) by deleting those words that are stricken and adding those words that are underlined:

(C) Any consideration of any application shall include an evaluation of the appropriateness of preserving existing trees at the site, any changes thereto and, in a historic district, any trees to be planted thereat. The BHPAR shall also have the authority to review applications referred by the Building Inspector pursuant to Village Code §300-9.11, Clearing.

**SECTION 5. Authority.**

<sup>5</sup> Excluding all buildings and structures.

The Village of Sag Harbor hereby enacts this legislation pursuant to NYS Village Law Article 7 and NYS Municipal Home Rule Law.

**SECTION 6. Severability.**

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

**SECTION 7. Effective Date.**

This chapter shall take effect immediately upon filing in the office of the Secretary of State pursuant to the Municipal Home Rule Law.