

Filed 3-11-05

## NOTICE OF ENACTMENT

PLEASE TAKE NOTICE that after a public hearing held pursuant to the requirements of law on February 17, 2005 and at a meeting held by the Town board of the Town of East Hampton, New York on March 4, 2005, the following Local Law was adopted:

LOCAL LAW NO. 9 OF 2005  
INTRODUCTORY NO. 6 OF 2005

### **SECTION I. - FINDINGS AND OBJECTIVES:**

By Local Law No. 15 of 2005, the East Hampton Town Board adopted the Vegetation Protection Ordinance to limit clearing on all residential parcels in order to prevent overclearing on residential properties.

The Town Board now seeks to make a correction to the Vegetation Protection Ordinance that clarifies when an individual must obtain a building permit for clearing or grading property. Section 255-1-30 B, as amended, provides that an applicant obtain a building permit to clear or grade (a) more than a 10 foot wide access path in addition to a 400 square foot area for the purposes of obtaining approval from the Suffolk County Department of Health Services on unimproved residential properties located in residential districts, (b) more than 50% of the total area of any lot or more than one acre of land, whichever shall be the lesser, on improved residential properties, and (c) any lot area on all other properties.

The Board also seeks to reduce the lot area requirement for clearing in excess of 80,000 square feet from 300,000 to 280,000 square feet.

The Board has also determined that the Planning Board should be vested with authority to approve clearing in excess of allowable limits on residential lots when approving applications for subdivisions and subwaivers under certain circumstances.

When a residential property owner has legally cleared a residential property (i.e. the owner cleared prior to the enactment of the Vegetation Protection Ordinance or the clearing presently complies with the maximum allowable limits) and proposes to subdivide the parcel into two (2) or more lots, where one or more of the subdivided lots will be rendered non-conforming with respect to the clearing restrictions as a result of the subdivision, the Town Board believes the Planning Board should be given the authority to approve the subdivision if the Board determines that the subdivision has been designed to minimize the degree of non-conformity with respect to clearing while taking into account general subdivision design polices and standards.

If the residential property owner did not legally clear the parcel (i.e. the owner cleared prior to the enactment of the Vegetation Protection Ordinance but without the necessary permits or approvals or the owner cleared after the effective date of the Vegetation Protection Ordinance but in excess of the allowable limit), the owner may apply for variance relief from the Zoning Board of Appeals and/or agree to revegetate in order to obtain subwaiver or subdivision approval.

### **SECTION II. – TOWN CODE AMENDED:**

Chapter 102 (“Building Construction”) of the East Hampton Town Code is hereby amended as follows:

Chapter 255 ("Zoning") of the East Hampton Town Code is hereby amended to read as follows:

## CHAPTER 255 ZONING

**255-1-30. Building permits required.**

A building permit duly issued by the Building Inspector pursuant to the provisions of Chapter 102, Building Construction, of this Code and Article X of this chapter shall be required for:

- A. (No change)
- B. Clearing. On unimproved residential properties located in residential districts, the clearing or grading of any more than a 10 foot wide access path in addition to a 400 square foot area for the purposes of obtaining approval from the Suffolk County Department of Health Services. **On improved residential properties, clearing or grading of any more than 50% of lot area or more than one acre of land, whichever shall be the lesser; on all other properties any clearing or grading.**
- B. (No change)
- C. (No change)
- D. (No change)

**255-2-60. Residential District Provisions.**

- A. (No change)

(1) (No change)

(2) (No change)

(3) Clearing in excess of 80,000 square feet on any lot in a residence district is prohibited unless the following requirements are met:

- (a) The area of the lot, excluding the area of any flag strip but otherwise determined as set forth in § 255-1-20 hereof, exceeds **280,000** square feet; and
- (b) Site plan approval and a special permit have been obtained first from the Planning Board.

(4) Notwithstanding anything in § 255-2-60A(1) and (3), the Planning Board may approve clearing of total lot area on a lot larger than 80,000 square feet in a residential district as part of a site plan for a special permit use. In the event that the use on such a lot ceases, a condition of any other use shall be revegetation and/or reversion to natural, native vegetation of cleared areas exceeding the applicable limits in §255-2-60A(1), to the extent feasible without removing buildings, in accordance with a plan approved by the Natural Resources Department.

**(5) Notwithstanding the clearing restrictions set forth in Section 255-2-60 (A) (1), the Planning Board may approve clearing in excess of the allowable limits when granting subwaiver or subdivision approval pursuant to Chapter 220 where (i) the clearing legally pre-existed the proposed subdivision or subwaiver; (ii) the proposed subdivision would create one or more lots that do not conform to the clearing restrictions; and (iii) the Board determines that the subdivision or subwaiver has been designed to minimize the degree of non-conformity with respect to clearing on the proposed lots taking into account subdivision or subwaiver policies, standards, principles, and requirements, all as more fully set forth in Chapter 220 and Chapter 193.**

(6) (No change)

(7) (No change)

(8) (No change).

(9) (No change).

**SECTION III. - SEVERABILITY:**

Should any part or provision of this Local Law be decided by the courts to be unconstitutional or invalid, such decision shall not affect the validity of this Local Law as a whole nor any part thereof other than the part so decided to be unconstitutional or invalid.

**SECTION IV. - EFFECTIVE DATE:**

This Local Law shall take effect immediately upon filing with the Secretary of State as provided by law.