

Notice of Public Hearing to Enact New Article XIIIIA entitled "Land Disturbance Ordinance" to Southampton Town Code Chapter 330, Zoning

BE IT HEREBY RESOLVED, that the Town Board hereby directs that a public hearing shall be held on **March 24, 2026** at **6:00 PM** both in-person, at Southampton Town Hall, 116 Hampton Road, Southampton, New York, and via videoconferencing, to hear any and all persons either for or against a local law entitled: "A LOCAL LAW adding, Article XIIIIA entitled "Land Disturbance Ordinance" to Chapter 330, entitled "Zoning", as it relates to regulating land disturbance within the Town of Southampton", which provides as follows:

LOCAL LAW NO. OF 2026

A LOCAL LAW adding, Article XIIIIA entitled "Land Disturbance Ordinance" to Chapter 330, entitled "Zoning", as it relates to regulating land disturbance within the Town of Southampton.

BE IT ENACTED by the Town Board of the Town of Southampton as follows:

SECTION 1. Legislative Intent.

The Town Board is creating this law to clearly explain when a permit is required for land disturbance, including the removal of natural vegetation and changes to the natural ground level. The law applies to residential properties larger than 20,000 square feet where more than 800 square feet of land is disturbed, and to commercial properties larger than 40,000 square feet where more than 1,000 square feet of land is disturbed.

The purpose of this law is to protect the Town of Southampton by managing how forests, trees, and natural land areas are altered. It is intended to protect public health and safety and to reduce environmental harm, including soil erosion, flooding, water pollution, and damage to drinking water supplies. This law also aims to manage the development of previously undisturbed areas of the Town by regulating the removal of healthy forests, important trees, and conserving these resources for future generations.

SECTION 2. Amendment.

Chapter 330 of the Southampton Town Code is hereby amended by adding a new Article XIIIIA by inserting the underlined words as follows:

ARTICLE XIIIIA

Land Disturbance Ordinance

§330-69.5 Findings.

- A. The purpose of the Article is to define the permitting process required for the removal of trees and topographic changes to lands within the Town of Southampton.
- B. It is the further purpose of this chapter to promote the health, safety, and welfare of the public by creating a process that oversees tree clearing and grading to avoid significant consequences such as soil erosion, loss of habitat, geologic instability and sedimentation in water bodies. Indiscriminate grade changes have the potential to flood adjacent properties, increase the use of berms and retaining walls that change natural drainage patterns and change the character of a neighborhood by denuding vegetation and building new structures that are out of scale with existing homes.
- C. Removal of trees and native vegetation results in diminished wildlife habitat and increased greenhouse gas emissions. (Removal of trees and native vegetation reduces the quality and quantity of living space for animals, weakens the overall health and stability of forests, and increases greenhouse gas levels in the atmosphere.) Woods and natural features are an integral and irreplaceable part of the Town's character, adding value to property owners and defining streets and neighborhoods.
- D. This Land Disturbance Ordinance establishes procedures that enable property owners to achieve their development objectives while recognizing that preservation of the environment is the responsibility of the entire community. Requiring a permit for land disturbance will ensure the orderly and balanced allocation of our shared natural heritage to meet the needs of our residents while not compromising the quality and quantity of the existing forest and the contours of naturally occurring terrain.

§330-69.6 Applicability.

- A. The provisions of this Article shall apply to land disturbance that results in the removal of trees and/or topographic changes in accordance with the following:
 - (1) Land disturbance of an area, or sum total of areas, greater than 800 square feet (sq. ft.), on residential zoned lots or tracts greater than ½ acre (20,000 sq. ft.).
 - (a) Residential properties with a lot size of 20,000 sq. ft. or less are exempt from these provisions.
 - (2) Land disturbance of an area, or sum total of areas greater than 1,000 sq. ft., on commercial zoned lands greater than 1 acre (40,000 sq. ft.).
 - (a) Commercial properties with a lot size of 40,000 sq. ft. or less are exempt from these provisions.

B. EXEMPT ACTIVITIES – The following activities are permitted without prior authorization or permit:

(1) Hazardous, Dead, Dying, or Catastrophic Event:

(a) In the event that the Land Management Administrator receives a land disturbance permit application with appropriate proof related to the condition of a tree or trees, and makes a determination that a tree of significance or a vegetated area in excess of §330-69.6 is hazardous, dead or diseased tree(s) as defined herein, the Land Management Administrator may make a determination that a regulated tree or trees pose a hazard to life or property, and grant the right to immediate removal of said tree or trees and to waive all notifications as required under this chapter.

(b) If there is a catastrophic event where significant tree damage has occurred, the Town Supervisor may declare a suspension of the land disturbance permit application, notice and other requirements, as set forth herein, for a specified period of duration and within specific neighborhoods.

(2) Customary use, maintenance and management of existing cleared area in agricultural use or horticulturally improved on the effective date of this Article.

(3) Prescribed clearing, thinning, pruning for the purpose of forestry management conducted by municipal, county, state, federal agencies, or public utilities with jurisdiction over vegetated areas, including but not limited to the following:

(a) The New York State Department of Environmental Conservation shall be permitted to trim, prune or remove trees pursuant to the New York Environmental Conservation Law without the necessity of obtaining a permit pursuant to this chapter.

(b) Any person doing business as a public utility subject to the jurisdiction of the New York State Public Service Commission and any duly constituted public agency authorized to provide utility services shall be permitted to excavate/ trench, or trim/ prune any tree which may otherwise be lawfully altered by such person, to the minimum extent necessary to enable such person to repair existing utility services, without having first obtained a permit issued therefor pursuant to § 330-69.9 of this chapter.

(4) Clearing related to emergency septic system installations including septic tanks, septic lines, and drainage/ leeching fields unless included in an overall land disturbance application related to the construction of a building to be served by the septic tank system. Such emergency septic system installations shall only be exempt where installation of the system is permitted by the Suffolk County Department of Health, and/or The Town of Southampton.

- (5) The clearing of vegetation close to a business or house to provide adequate separation for wildfire safety.
- (6) Minor land-disturbing activities such as home gardens and individual home landscaping, repairs, and maintenance work.
- (7) Clearing of agricultural reserve areas, and farmland areas in accordance with recorded covenants and restrictions applicable to a specific property.
- (8) The clearing of vegetation for the purposes of installing a water quality monitoring well.
- (9) Removal of invasive species, a defined term.

§330-69.7 Definitions.

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

APPLICANT- Any person, corporation, partnership, firm or any other entity making an application pursuant to this chapter.

CANOPY- The leafy upper layer of a tree or group of trees.

CERTIFICATE OF COMPLIANCE for LAND DISTURBANCE or REVEGETATION- A certificate that must be applied for and obtained from the Department of Land Management, upon completion of permitted land disturbance/ clearing/ revegetation, to ensure compliance with approvals.

CONSTRUCTION ZONE (also Work Zone)- Areas depicted on a survey that are directly impacted by the development of a site and depict reasonable clearing to effectively perform the necessary work. The construction zone shall at a minimum account for the angle of repose at grade for excavation or a ten (10) foot minimum for items placed beneath grade, a twenty (20) foot envelope for all one-story structures and a thirty (30) foot envelope for structures over one-story. Staging, parking, vehicular transit, and safety areas are to be accounted for given the terrain and scope of the work.

DIAMETER AT BREAST HEIGHT (DBH)- The diameter of the tree trunk or sum of the trunks, measured at 4.5 feet above natural grade level. The diameter may be calculated by using the following formula: DBH = circumference at 4.5 feet divided by 3.142.

EXEMPT LAND- Areas within the Town, within which this Part does not apply, as certified in writing by the Land Management Administrator or designee, acknowledging the property was lawfully cleared of 85% or more natural vegetation, as of the effective date of this Article and/or was lawfully cleared of natural vegetation after the effective date of this Part. Undeveloped Forested Property, a defined term land, without an established use shall not be considered as exempt.

EXEMPTION MEMORANDUM- Application to the Chief Building Inspector for exemption from land disturbance requirements promulgated by this article (and in accordance with §123-9).

HAZARDOUS TREE- A tree identified as structurally compromised which posed or poses a threat and/or imminent risk of personal injury, death or property damage in the fall zone.

INVASIVE SPECIES- A non-native species whose introduction does or is likely to cause economic or environmental harm, or harm to human, animal, or plant health. See New York State Department of Environmental Conservation 6 NYCRR 617.575 Prohibited and Regulated Invasive Species.

LAND DISTURBANCE- Clearing, cutting, felling, topping, uprooting, killing, destroying, removing, major pruning, ring-barking, girdling, poisoning or otherwise damaging live and/or dead native vegetation, including trees, understory and groundcover filling, and any activity that disrupts the natural topography in woodland areas such as, grubbing, burying, excavating, trenching, uprooting, or altering drainage flows.

REGULATED ACTIVITIES- Land disturbance activities on residential, commercial, and industrial zoned lots, for both development and non-development purposes, except for those activities or lands, which are specifically exempt under this Article.

REVEGETATION CERTIFICATE- A certificate issued by the Planning Division verifying that mitigative measures have been accomplished to the satisfaction of the Town.

SIGNIFICANT TREE- All healthy trees with a height of at least 25 feet, or with a diameter at breast height (DBH) of at least 18 inches, or trees 10 feet in height or greater that form a continuous canopy.

UNDEVELOPED FORESTED PROPERTY- A forested property that has not been cleared or otherwise developed pursuant to a permit issued by the Southampton Town, within the last 20 years prior to the submission of a land disturbance permit application.

WOODLANDS- Forested areas, vacant land, or areas that are predominantly naturally occurring or indigenous vegetation or native vegetation planted, and/or areas which were subject to a requirement by the Town, to undertake remedial action to restore or protect natural vegetation, by preservation of existing native vegetation, by self-heal or discontinuance of disturbance, followed by allowance for natural vegetative succession and recovery, and/or by active native planting and/or by a combination of the above, and/or which are subject to a covenant, easement or conservation management plan requiring same. Ornamental plants that are non- native, irrigated, and or species that are reliant on fertilizers shall not be eligible for consideration as components of woodland areas.

§330-69.8 Construal with other statutes.

- A. A land disturbance permit, consistent with the parameters herein, shall be required throughout the Town and is applicable to properties within the boundaries of the Aquifer Protection Overlay District and Central Pine Barrens Compatible Growth Area Overlay Districts, unless the parcel is exempt, as defined herein.
- B. A building permit shall not be authorized unless a land disturbance permit has been approved. Nothing shall preclude the issuance of a land disturbance permit in coordination with a building permit. A certificate of occupancy shall not be issued, however, until such time that the land disturbance certificate of compliance is issued.
- C. A land disturbance permit shall not be construed as authorizing land disturbance in contravention of NYS State Department of Environmental Conservation regulations (6 NYCRR 617 Sec. 1-10), or other applicable State or Federal Law including, but not limited to the Endangered Species Act (16 U.S.C. §1531), and Clean Water Act (33 U.S.C. §1251-1387).
- D. Where there are recorded covenants and restrictions, buffers, easements, Planning Board decisions, or other restrictions on land disturbance that were previously filed on a lot or tract, specific terms of the covenants and restrictions shall prevail. Where covenants and restrictions fail to address clearing and/or disturbances, this chapter shall prevail.

§330-69.9 Land disturbance permit required.

- A. Land disturbance shall be a regulated activity consistent with the following parameters:

- (1) Removal of trees and/or any topographic changes pursuant to §330-69.6A shall not commence until such time that a land disturbance permit has been issued by the Department of Land Management.
- (2) Where a lot or tract is previously disturbed and allowed to revert to natural vegetation over a period of twenty (20) years from the effective date of this Article, a land disturbance permit shall be based on the current extent of clearing for the lot or tract.
- (3) Undeveloped forested properties or tracts shall not be cleared or otherwise disturbed, without a valid land disturbance permit.
- (4) Nothing in this article shall be construed to prevent the ordinary maintenance and repair of any permitted structures on a lot or tract.

§ 330-69.10 Application requirements.

- A. The request to the Department of Land Management for a land disturbance permit shall be made with the purpose and need for the proposed disturbance.
- B. A general description of the location and extent, as expressed in square footage, of the extent of existing woods and naturally vegetated areas proposed to be disturbed and purpose for the disturbance. A recent aerial photograph, at the same scale, may be substituted, provided that the property boundaries and the areas proposed to be disturbed are superimposed. Recent site photographs of the existing vegetation, which is proposed to be disturbed, shall be provided as part of the application.
- C. Applications for a land disturbance permit shall include a site plan depicting the area(s) proposed for disturbance, areas with slopes greater than 15 degrees, the location of significant trees, and a characterization of the vegetation found at the periphery of the site (i.e. landscaped or developed/ open space or undisturbed)
- D. Details of retaining walls and any cut/fill plans for topographic changes shall also be submitted.
- E. Requests to disturb land in excess of 50% of the natural vegetation on any given site shall include landscape plans stamped by a registered landscape architect or certified arborist and shall indicate areas necessary for the construction zone as defined in §330-69.7. Said requests shall be submitted to the Planning Board.

§ 330-69.11 Standards for issuing a permit.

A. Permits shall delineate specific areas for development or reason for land disturbance. Considerations shall include, but are not limited to:

(1) The preservation of native habitat vegetation and topography for land development activities is required to the furthest extent practicable; where previously disturbed areas of a property or tract can reasonably accommodate the proposed site improvements those areas shall be developed/ repurposed in place of disturbing additional areas.

(2) Tree of Significance, as defined herein, shall be preserved and protected to the furthest extent practicable.

(3) Habitat assemblages shall be linked to the furthest extent practicable between adjacent properties and open space to maintain natural processes and conserve contiguous forested areas and the canopy.

(4) Gradual topography changes over time that result in major grade changes are prohibited; the full extent of any grading shall be submitted at the time of a land disturbance application for review by the Town Engineer or designee to ensure that natural drainage patterns are not disrupted.

B. For sites found by a court or competent jurisdiction to be non-compliant with the standards enumerated in this section, the Land Management Administrator or designee shall require and may approve a revegetation plan as an alternative to compliance, provided all other efforts have proven impractical.

(1) A Revegetation Certificate shall be obtained within one (1) year of completion where a revegetation is required. An extension of time may be granted, for up to two (2) additional years provided good cause.

(2) A corrective land disturbance permit may be issued that takes into account mitigative measures for site restoration while engaging in planned clearing that is deemed conforming. In such instance, a revegetation certificate shall be re-issued for the entire site, and a performance bond may be required prior to the issuance of a Certificate of Occupancy.

C. The Department of Land Management shall employ the following studies and issue within thirty (30) days one of the following decisions upon receipt of the complete land disturbance permit application:

(1) The Department of Land Management shall utilize GIS mapping and may conduct a field inspection if necessary to assess the approximate location and extent of forested areas and natural vegetation at the site, inclusive of the identification of rare and vulnerable ecological communities.

- (2) The GIS inventory shall be based upon the most current available information, including aerial interpretation and/or a field survey and shall be accompanied by a brief written assessment of the vegetative cover type, the presence of significant trees and significant slopes or grade changes.
 - (3) The Department of Land Management shall determine, based on the intensity and breadth of land disturbance if the applicant shall be required to submit additional information pertaining to the square footage of construction zones/work zone areas, as defined herein, or any pertinent information for good cause shown.
 - (4) Any history of land disturbance, prior to the effective date of this article, as well as the cumulative impacts of clearing, landscaping, and permitted improvements on individual lots, shall be considered, as part of the review of permit applications.
 - (5) Where a lot or tract contains woodlands or natural vegetation that connects to, or is contiguous to, off-site areas of native forest, or community preservation properties, additional restrictions may be imposed based upon good cause. The proposed disturbance shall preserve such connections or contiguity, to the maximum extent practicable, in order to allow for continued ecological function and sustainability. Breaks or gaps in forested areas should be minimized and, when possible, re-established by planting town approved native vegetation.
 - (6) The Land Management Administrator or Chief Building Inspector may issue an Exemption Memorandum for activities that are exempt from this ordinance.
 - (7) The Land Management Administrator or designee may approve the proposed land disturbance, by issuing an approval memorandum to the Building Division to issue a land disturbance permit, with modifications as deemed necessary.
 - (8) If the proposed land disturbance is not consistent with the intent of the provisions of this Article, or if the purpose of the land disturbance is for future development of the property, which has not been approved by the Town, the land disturbance application may be denied. An applicant may appeal said denial to the Planning Board pursuant to §330-69.15.
- D. Land disturbance applications in excess of 50% clearing or disturbance of the natural vegetation on any given site, pursuant to §330-69-10E, shall be submitted to the Planning Board. In their assessment the Planning Board shall consider the following:
- (1) Any practicable alternative that may achieve the objectives;

- (2) An analysis and an assessment of the impacts of the proposed land disturbance on: woodland occurrence and size; presence of rare or vulnerable fauna, flora, and ecological communities/successional stage; ecological quality and degree to which the woodlands or native vegetation have been altered;
 - (3) The overall landscape context to include wildlife movement corridors, presence of steep slopes or highly erodible land; watershed values and adjacency to wetlands, ponds, creeks, bays and/or other watercourses;
 - (4) Impact to neighboring properties and any related impacts to endangered species such as the Northern Long Eared Bat.
 - (5) Determinations made by the Planning Board pursuant to this subsection shall be considered final determinations of the Town.
- E. Permitted land disturbance, shall be limited to the minimum amount necessary. Applications for clearing or land disturbance likely to have serious and irreversible impacts on the Town's natural resources inventory and ecological functions may be denied or approved with site specific conditions.
- F. A continuous line of project limiting fence shall be installed around the areas to be cleared or disturbed, as authorized by permit, prior to the commencement of any clearing or land disturbance. The fence shall be maintained, repaired and replaced as often as necessary to contain and ensure clear visual demarcation of the area to be cleared, until the authorized clearing is complete, and until all disturbed areas are permanently vegetated and/or otherwise suitably stabilized.
- G. As a condition of the land disturbance permit, the Town may require that a trenched in silt fence be installed, prior to the commencement of work, at the downslope edge of the area to be cleared or disturbed, to prevent erosion, siltation and encroachment within required protected areas. The screen shall be maintained, repaired and replaced as often as necessary to ensure proper function, until all disturbed areas are permanently vegetated and/or otherwise suitably stabilized. Sediments trapped by the screen shall be removed away from the screen to an approved upland location before the screen is removed.
- H. Prior to any clearing or land disturbance, the applicant shall prominently display the Land Disturbance Permit on the premises facing each public-street on which the property abuts. The permit sign shall not be set back more than ten (10) feet from the street line and shall not be less than two (2) or more than six (6) feet above the grade at the street line. The permit sign shall be displayed until all permitted work is complete and a Land Disturbance Certificate of Compliance has been issued.

- I. A Land Disturbance and/or Revegetation Certificate of Compliance shall be obtained, upon completion of authorized activities, in order to certify that the terms and conditions of this Article and the land disturbance permit are met.
- J. Where a Notice of Violation has been issued for non-compliance with the provisions of this Article, the property owner may file a revised land disturbance application subject to an "In-violation" fee, which shall be double the application fee. Payment of such fee does not exempt a permit applicant from any section of the Southampton Town Code.

§330-69.12 Term of permit.

- A. The term of any land disturbance permit issued under this article shall be set for a period of one (1) year. Permits may be renewed two (2) times. Each renewal period shall be one (1) year. The expiration date shall be clearly stated on the face of the permit.

§330-69.13. Fees.

- A. Land disturbance permit application fees, and renewal fees shall be established and amended by resolution of the Town Board from time to time by fee schedule.

§330-69.14 Violations and penalties.

- A. Clearing and/or Land Disturbance in the absence of permit or approval (Where such permit is required) is prohibited within the Town of Southampton and the standards and requirements of this Article.
 - (1) Any person who has been determined to have violated this chapter by a court of competent jurisdiction shall be subject to a penalty no greater than \$3,000 per offense, per day such offense continues. In lieu of a fine, a judge may allow for community service not to exceed 24 hours per offense. Any violation of this section shall be an unclassified misdemeanor level offense. For purposes of plea bargaining, this section may be reduced and amended to a charge of violation of section 261.1(b)4, and shall be considered a lesser, sealed violation level offense.
 - (2) Anyone convicted pursuant to this section shall be required to pay a mandatory blight mitigation surcharge of \$100. The blight mitigation surcharge shall be paid to the clerk of the court or administrative tribunal that rendered the conviction.

- (3) Each day or part of a day on which a violation continues shall constitute a separate violation.
- (4) When authorized by a duly adopted resolution of the Town Board, the Town Attorney may pursue any and all actions in law or equity, including but not limited to actions for compensatory damages; civil penalties; to compel compliance, or to restrain by injunction violations of the standards enumerated herein.

§ 330-69.15 Appeals.

- A. In the instance that a land disturbance permit is denied, an applicant shall have the right to appeal to the Planning Board. Where the Planning Board has rendered a determination, such determination shall be rendered a final determination of the Town.
- B. The Planning Board shall have the power, upon an appeal from a decision or determination of the administrative official charged with the enforcement of this chapter, to grant conditions, including specific covenants or easements to mitigate the impacts of the proposed land disturbance.

SECTION 3. Authority.

This local law is adopted pursuant to NYS Town Law Article XVI, as well as Municipal Home Rule Law §§10(1)(ii)(a)(11) and (12), as well as §10(1)(ii)(d)(3).

SECTION 4. Severability.

If any section or subsection, paragraph, clause, phrase or provision of this law shall be adjudged invalid or held unconstitutional by any court of competent jurisdiction, any judgment made thereby shall not affect the validity of this law as a whole or any part thereof other than the part or provisions so adjudged to be invalid or unconstitutional.

SECTION 5. Effective Date.

This local law shall take effect upon filing with the Secretary of State pursuant to Municipal Home Rule Law.

AND BE IT FURTHER RESOLVED, that the Town Clerk shall forward a copy of this local law to the Suffolk County Planning Commission, as well as the Southampton Town Planning Board, for its review and comments;

AND BE IT FURTHER RESOLVED, that the Town Clerk is hereby authorized to publish the following Notice of Public Hearing:

NOTICE OF PUBLIC HEARING

TAKE NOTICE that the Town Board of the Town of Southampton hereby directs that a public hearing shall be held on **Tuesday, March 24, 2026** at **6:00 PM** both in-person, at Southampton Town Hall, 116 Hampton Road, Southampton, New York, and via videoconferencing, to hear any and all persons either for or against a proposed local law entitled, "A LOCAL LAW adding, Article XIIIIA entitled "Land Disturbance Ordinance" to Chapter 330, entitled "Zoning", and take

FURTHER NOTICE that, pursuant to Local Law No. 14 of 2022, the public will have an opportunity to see and hear the meeting live both in-person as well as via videoconferencing, and to provide comments in either format, with a transcript provided upon request.

If participating via videoconferencing, the public can watch the live meeting online from either the Town of Southampton website on the Town Clerk's Meeting Portal or through the Zoom App. If any interested members of the public would like to provide comments on the public hearing, comments can be called in during the meeting via telephone or the Zoom App. Comments can also be emailed up until one hour before the start of the meeting to the Town Clerk at: townclerk@southamptontownny.gov.

Please continue to check the Town Clerk's website and Meeting Portal as the hearing date approaches for any updated information, including the specific meeting Zoom link, and/or more detailed instructions on how to access the meeting virtually.

Summary of Proposed Law

It is the intent of this local law to add a new Article XIIIIA, entitled "Land Disturbance Ordinance", to the Southampton Town Code Section 330, entitled "Zoning" to provide appropriate zoning and permitting standards for regulating both residential and commercial land disturbance town-wide.

Copies of the proposed local law, sponsored by Michael A. Iasilli are on file in the Town Clerk's Office, Monday through Friday, from 8:30 a.m. to 4:00 p.m.

BY ORDER OF THE TOWN BOARD
TOWN OF SOUTHAMPTON, NEW YORK
SUNDY A. SCHERMEYER, TOWN CLERK