

WHEREAS, a public hearing was held by the Town Board of the Town of East Hampton on May 18, 2006 regarding the amendment of Chapter 255 ("Zoning") of the East Hampton Town Code in order to regulate residential and commercial outdoor lighting, all as more fully set forth in the text of the Local Law, all as more fully set forth in the text of the Local Law; and

WHEREAS, the Town Board has considered the comments of all persons regarding this Local Law, both as submitted in writing and as presented orally at the public hearing; and

WHEREAS, the adoption of this local law is an unlisted action pursuant to the State Environmental Quality State Environmental Quality Review Act (SEQRA); and

WHEREAS, the Town Board has prepared and considered an Environmental Assessment Form which evaluates the potential environmental impacts of the proposed amendment; and

WHEREAS, the Board has determined that the adoption of this Local Law will not have a significant negative impact upon the environment;

NOW, THEREFORE, BE IT RESOLVED, that a negative declaration is hereby made pursuant to the State Environmental Quality Review Act (SEQRA); and

NOW, THEREFORE, BE IT RESOLVED, that the said Local Law is hereby enacted to read as follows:

LOCAL LAW NO. 27 OF 2006

INTRODUCTORY NO. 15 OF 2006

A Local Law providing for the amendment of Chapter 255 ("Zoning") of the East Hampton Town Code in order to regulate residential and commercial outdoor lighting, said Local Law to read as follows:

BE IT ENACTED by the Town Board of the Town of East Hampton as follows:

SECTION I. - FINDINGS AND OBJECTIVES:

The following provisions are intended to control and regulate exterior lighting throughout the Town to promote public safety on the Town's roads and highways, protect residential land owners from the intrusive effects of improper lighting, preserve the rural character of the Town, and maintain and restore the beauty of the night sky. Excessive, unshielded, and poorly-directed exterior lighting has many adverse effects. It detracts from the rural qualities of East Hampton and makes the Town appear increasingly suburban and over-developed. Glare associated with such lighting is dangerous for drivers and pedestrians on the Town's roads at night. Furthermore, such lighting interferes with the privacy of residents, wastes energy resources, and creates sky glow, which makes the night sky less visible and diminishes the natural nocturnal environment for flora and fauna. The regulations set forth in this part take proper account of the legitimate uses of exterior lighting, while providing guidance and direction for landowners and businesses.

Since the public hearing, the Town Board has made some minor changes to the proposal that do not substantially change the originally intended content, and in some

instances make the original proposal less restrictive than it was as noticed for public hearing. First, definitions for Kelvin and lumen were added to Section 255-1-20 because the technical term for a unit of light needs to be reflected throughout the code in order to provide accurate limitations. Second, definitions of landscape lighting, marina power pedestal, and tree uplighting were added to Section 255-1-20 so that those types of lighting are exempt from certain provisions as long as the lighting itself meets those specifications contained in the definitions. Third, a provision was added to Section 255-1-84G so that in the administrative processing of a minor lighting change on a commercial parcel, final approval of that change is contingent upon a final inspection of the light installation. Fourth, a clause was added to Section 255-6-30B (7) to clarify that a comprehensive review of the lighting plan on a commercial property is only necessary when a change of use triggers site plan review because some changes of use do not require full site plan review. Finally, the remainder of the changes to the proposal are: the addition of lumens limitations in addition to the corresponding watts limitations; clarifications in the definitions of: light fixture; light fixture, unshielded; light source; temporary lighting and utility pole mounted light; the addition of references to the definitions in Section 255-1-83 and the addition of landscape lighting to the exemptions contained in that section; the separation of exemptions for temporary lighting and lighting in connection with a mass gathering permit in Section 255-1-83E for clarification and the addition of landscape lighting, marina power pedestals and tree uplighting as exemptions to that section; and all other modifications were typographical errors or re-wording of the original proposal in which the content was not changed and the meaning clarified.

All of the changes made to the original proposal are indicated with bold italics.

SECTION II. - TOWN CODE AMENDED:

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

§ 255-1-20. Definitions.

HORIZONTAL PLANE - See Appendix L-1 Figure A.

HOUSE LIGHT - An unshielded light bulb or fixture mounted on a residence, within five feet of a doorway or on any residential building within five feet of a doorway which produces a maximum of **900 initial lumens (approximately 60 watts incandescent or 13 watts fluorescent)** or a light mounted on a residence within five feet of any doorway or on any residential building within five feet of a doorway which is fully shielded. A "PAR" bulb light, spotlight or floodlight shall not be considered a house light.

KELVIN - (K) *A unit of measurement of the redness or blueness of white light. The lower the Kelvin number the more yellow and red will be seen, the higher the Kelvin number the bluer the light will look.*

LANDSCAPE LIGHTING - *Standard and low voltage lighting that is designed to illuminate foliage, pathways and landscape features that do not exceed 550 initial lumens (approximately 40 watts incandescent) per fixture on a residential lot. Driveway stanchions located within 5 feet of the property line must not exceed 200 lumens (approximately 25 watts incandescent) each.*

LIGHT - Radiant energy in the visible spectrum, artificially generated by electricity or gas flame.

LIGHT BULB - The origin of light and its housing, such as an electric filament in a glass bulb.

LIGHT FIXTURE - A complete lighting unit consisting of one or more light bulbs together with the parts designed to distribute light, position and protect the lamp, and connect the lamp *to the power supply*. A light fixture *may* include a ballast, *the mounting apparatus*, and photocells or sensors, if any. Also known as a "luminaire."

LIGHT FIXTURE, FULL CUTOFF - A classification for a light fixture designed and installed so that no light is emitted at or above a horizontal plane running through the lowest point of the fixture. No more than 10% of the light output can be emitted within the first 10° below the same horizontal plane as determined by a photometric test or certified by a manufacturer. See Appendix L-1, Figure A.

LIGHT FIXTURE, FULLY-SHIELDED - A light fixture with an opaque shield above the light source so that, as designed and installed, the light fixture projects all its light below the horizontal plane. Full cutoff fixtures are considered fully-shielded. See Appendix L-1, Figure B.

LIGHT FIXTURE, UNSHIELDED (or UNSHIELDED LIGHT) - A light fixture which is not fully-shielded and, as installed, emits at least some light above the horizontal plane. Also *classified* as a cut-off, semi-cut-off or non-cutoff light fixture. See Appendix L-2.

LIGHT SOURCE - The light-emitting parts of a light fixture, consisting of the bulb, filament and any transparent, translucent or frosted *elements* (covering over the light bulb) as well as any refractors, reflectors, prismatic lenses, mirrors, or diffusers which emit or transmit light.

LIGHTING - As used in this Chapter, and unless otherwise specified, shall mean exterior lighting produced by artificial means.

LUMEN - *A measure of light energy generated by a light source. The initial lumen rating of a lamp or light bulb is provided by the lamp manufacturer.*

MARINA POWER PEDESTALS - *A unit that is mounted to a dock to provide multiple services such as electrical power, television, water, telephone services, and lighting to a docked boat at a marina or recreational marina as defined in Section 255-1-20. Any new marina power pedestal light fixture must be louvered or low brightness option and may not exceed 900 initial lumens (approximately two seven watts or one 13 watts florescent).*

"PAR" BULB LIGHT- Parabolic Aluminized Reflector. Commonly referred to as a "spotlight" or "floodlight." See Appendix L-2.

SIGN, EXTERIOR INTERNALLY ILLUMINATED - An exterior sign illuminated by a light source or light sources enclosed within the sign cabinet.

TEMPORARY LIGHTING - Lighting which is used for a specified purpose and for a limited time and is removed thereafter. The length of time that temporary lighting is to be used is not longer than ninety (90) *consecutive* days in any calendar year. "PAR" bulbs, spotlights and floodlights are not considered temporary lighting.

TREE UPLIGHTING - *Lighting which is used specifically to illuminate trees on a residential lot. Tree Uplighting has a fixture as close to the tree as possible and does not exceed 1,000 initial lumens per tree. The light fixture as designed and installed must project all its light above the horizontal plane and be aimed directly at the tree. The light source must not be visible across the property line and must be extinguished by 12 a.m.*

UPLIGHTING - Lighting which is directed above the horizontal plane.

UTILITY POLE MOUNTED LIGHT - A lighting fixture which is installed on a pole owned or maintained by a public utility, but which is designed or intended to illuminate private property.

§ 255-1-80. Light.

[THIS SECTION REPEALED IN ITS ENTIRETY AND REPLACED WITH THE FOLLOWING.]

§ 255-1-80. Lighting.

§ 255-1-81. Purpose.

The following provisions are intended to control and regulate exterior lighting throughout the Town to promote public safety on the Town's roads and highways, protect residential land owners from the intrusive effects of glare and light trespass, preserve the rural character of the Town, and maintain and restore the beauty of the night sky. Excessive, unshielded, and poorly-directed exterior lighting has many adverse effects. It detracts from the rural qualities of East Hampton and makes the Town appear increasingly suburban and over-developed. Glare associated with such lighting is dangerous for drivers and pedestrians on the Town's roads at night. Furthermore, such lighting interferes with the privacy of residents, wastes energy resources, and creates skyglow, which makes the night sky less visible and diminishes the natural nocturnal environment for flora and fauna. The regulations set forth in this part take proper account of the legitimate uses of exterior lighting, while providing guidance and direction for landowners and businesses.

§ 255-1-82. Applicability.

All exterior lighting shall comply with the regulations set forth in this local law.

§ 255-1-83. General lighting standards.

The following shall apply to all exterior lighting within the Town:

- A. Exterior lighting shall be designed, installed, and maintained to minimize glare.
- B. Irrespective of any other provision herein, all lighting on new construction for which a building permit is issued after the adoption of this Local Law must be fully shielded.
- C. No light source **as defined in Section 255-1-20**, shall be visible beyond the boundary of the property on which the light source is located including **from a body of water** or roadway. House lights, as defined in Section 255-1-20, temporary lighting, as defined in Section 255-1-20, **and landscape lighting, as defined in Section 255-1-20** shall be exempt from this provision. All lighting not specifically exempted herein shall be fully shielded.

D. Prohibited lighting. The following types of lighting are prohibited:

- (1) Uplighting, except as specifically permitted herein;
- (2) Searchlights, including those that are transportable, except those used for governmental or emergency purposes;
- (3) Strobe lights, laser lights or revolving lighting, including those that are transportable;
- (4) Neon lights, except lawfully pre-existing neon signs;
- (5) Blinking, pulsating, tracing, or flashing lights, unless otherwise permitted herein, including those that are transportable;
- (6) Utility pole mounted lights, as defined herein;
- (7) Lighting which is used to outline a building, structure or window; and
- (8) Any light fixture that may be construed as or confused with a traffic signal or traffic control device.

E. Prohibited light fixtures. The types of light fixtures depicted in Appendix L-2 to this Chapter are prohibited unless otherwise specifically exempted herein (e.g., house lights).

F. Exceptions. The following types of lighting are exempt from the foregoing provisions:

(1) Temporary lighting, as defined in Section 255-1-20;

(2) Lighting which the Town Board has expressly allowed in connection with a special event for which a mass gathering permit has been issued;

- (2) Flag uplighting, provided any such flag is not used for advertising purposes, and has a fixture as close to the pole as possible and has a light source that emits a narrow beam of light. The light source must be recessed within a fixture with an opaque shield so that as designed and installed, the light fixture projects all its light above the horizontal plane and is aimed directly at the flag. **The light source must not be visible across the property line;**
- (3) U. S. Coast Guard approved maritime navigational lighting, and all temporary emergency lighting needed by Fire, Ambulance, or Police departments, or other emergency services;
- (4) **Municipal** street lighting;
- (5) All essential lighting for emergency facilities;
- (6) Airport lighting that is specifically regulated by federal law;

(7) Landscape lighting, as defined in Section 255-1-20;

(8) Tree Uplighting, as defined in Section 255-1-20; and

(9) Marina power pedestal lighting, as defined in Section 255-1-20.

G. Non-Residential Lighting Procedures. All other nonresidential uses shall comply with the following standards and regulations:

- (1) General requirements. All nonresidential exterior lighting shall be governed by the specific standards and requirements for lighting which are set forth in Section 255-1-83(A) through (F) hereof.
- (2) Replacement of existing lighting fixtures in place does not require any Town approval if the replacement conforms to Section 255-1-83 (A) and (C), **and is not otherwise prohibited.**
- (3) Procedure; adding new lighting. An administrative approval from the Planning Department pursuant to Section 255-1-84 shall be required for the installation of any additional light fixtures if those light fixtures are being installed in conjunction with alterations to an existing site which do not exceed the threshold set forth in Section 255-6-30B. Additional lighting to be located on Town-owned sites is required to receive approval by this method. Public schools, County, State and Federal buildings are encouraged to comply with this procedure for all lighting.
- (4) Procedure; new construction and review of pre-existing lighting. A comprehensive lighting plan for the site shall be reviewed and approved by the Planning Board for lighting which is associated with new non-residential construction, alterations to an existing site which exceed 25% of the gross floor area of the existing buildings, any modification to on site parking or change of use, pursuant to Article XI hereof.
- (5) Non-compliant lighting that **legally** pre-exists the adoption of this local law must comply with Section 255-6-61 (A) through (D) herein four (4) years after the adoption date of this local law to allow time for education and compliance.
- (6) Exceptions. Notwithstanding any other provision of this Section, the following types of lighting may continue to be used for non-residential uses:
 - (a) Lawfully pre-existing neon signs; and
 - (b) Lawfully pre-existing movie marquees which are internally illuminated.

H. Methods for Lighting Compliance. Nonconforming lighting in all zones may be altered to comply with the requirements of this Chapter by the following means as appropriate:

- (1) Re-directing, **re-positioning, re-lamping,** or re-aiming light fixtures; and

(2) Shielding light sources.

§ 255-1-84. Administrative lighting permit.

- A. Administrative permit. The Planning Department of the Town of East Hampton shall have the power to process and review applications and to approve, conditionally approve, modify or deny such permits for new lighting on a non-residential site that is proposed to be installed in which site plan approval is not required pursuant to Section 255-6-30B.
- B. Jurisdiction. Except as provided for herein, the Planning Department shall exercise sole jurisdiction over administrative lighting permits and the review of applications received by the Town for the same. Such authority shall be exercised by the Department for and on behalf of the Planning Board and, except as otherwise specified herein, the determinations of the Planning Department with regard to administrative lighting permit applications, which it processes and decides under this Section, shall have the same force and effect as if such applications had been reviewed and acted upon by the Planning Board. All applications must comply with the Section 255-6-61 herein and the *Town of East Hampton Planning Board Guidelines for Lighting*. Grant of any such administrative permit shall constitute an action as defined in the Environmental Conservation Law and in the regulations promulgated by the State Department of Environmental Conservation under that law.
- C. Informal procedures. Unless specifically provided otherwise herein, review of applications for administrative lighting permits conducted by the Planning Department shall not include **Architectural Review Board approval**, involve the holding of formal public hearings, the taking of sworn or unsworn testimony, the making of transcripts or the keeping of minutes or other formal records of proceedings. The issuance or conditional issuance of an administrative lighting permit authorized herein by the Planning Department shall not require the making of formal findings or determinations by the Planning Department or by any other Town department or agency, except as may be required by the Environmental Conservation Law or Chapter 75 of the Town Code.
- D. Receipt of applications. All applications for administrative lighting permits shall be accepted for the Town by the Building Inspector, who shall accept only applications which he finds to be facially complete and for which the appropriate fee has been received. One copy of each application accepted shall be forwarded immediately to the Planning Department. An application pursuant to this Section must include the following:
 - (1) Elevation drawing(s) depicting proposed light fixture;
 - (2) Site Plan or portion of Site Plan drawn to scale that depicts the location of the existing and proposed fixtures in relation to the property lines; and
 - (3) Lighting manufacturer supplied product information sheets that include photographs of the fixture, "full cut-off" indication, and photometric data for the fixture, **type of light source and initial lumen output**.
- E. Initial staff review. The Planning Department shall review every application forwarded to the Department by the Building Inspector for completeness. Within 10 days after receipt of the application by the Town, the Planning Department shall

issue a notice of complete application as specified below or a request to the applicant for additional information.

- F. Further staff review. The Department shall collect and compile all information necessary for an informed and thorough review of the application, shall conduct a site inspection and shall formulate its analysis and recommendations regarding proper disposition of the application. The Planning Department shall make a decision either to issue an administrative lighting permit or to refer the matter to the Planning Board for public hearing and decision because one or more of the conditions listed in Section 255-6-30B are determined to exist. If for any such reason it is determined that a particular application cannot be further processed administratively by the Planning Department, the Planning Board shall be so informed by the Department and the Board shall process the application in accordance with site plan procedures.
- G. Final administrative processing. If all conditions listed in Section 255-6-30B are found not to exist, an administrative lighting permit may be prepared by the Department. This permit shall be mailed by the Planning Department with a cover letter informing the applicant that, unless a written request for modification of the draft permit or an objection to one or more conditions of the draft permit is made to the Planning Department within 10 days, the final permit will issue as originally drafted. Any objection or modification request so submitted shall be considered by the Planning Department, which may elect to modify the final permit accordingly. If such a modification is made, the final permit issued by the Planning Department shall reflect the modification; otherwise, it shall be identical to the originally issued draft. ***Final approval by the Planning Department of the installation is required and is contingent upon an inspection verifying that the installation is in compliance with the permit.***
- H. Appeals; hearing de novo. An applicant may appeal the denial of an administrative permit application by the Planning Department or the imposition in any permit issued by the Department of one or more particular conditions. Any such appeal shall be deemed, procedurally and for all other purposes, an entirely new application to the Planning Board for a non-administrative lighting permit and the Planning Board shall hear and decide the matter on that basis. The Board may make use of documents and materials already submitted by the applicant or produced by the Planning Department. No new fee shall be charged an applicant for the further processing of the application.

ARTICLE VI
Site Plan Review

§ 255-6-30. Applicability.

The Following shall be subject to site plan review and require site plan approval by the Planning Board:

- A. [No change].
- B. All other districts:
 - (1) [No change].
 - (2) [No change].

(3) [No change].

(4) [No change].

(5) [No change].

(6) [No change].

(7) [No change].

(8)A comprehensive lighting plan shall be reviewed and approved on any non-residential site plan application that proposes alterations to an existing site which exceed 25% of the gross floor area of the existing buildings, any modification to on-site parking or a change of use *that triggers site plan review.*

C. [No change].

D. [No change].

E. [No change].

F. [No change].

§ 255-6-50. Necessary elements of site plans.

[NO CHANGE EXCEPT TO SUBSECTION G]

G. Existing lighting and proposed location of signs, fences, screen plantings and exterior lighting. As to lighting, such information shall be provided as required by the *Town of East Hampton Planning Board Guidelines for Lighting* as adopted by the Planning Board.

§ 255-6-61. Lighting specific standards and requirements.

Exterior lighting which is improperly designed, insufficiently shielded or unnecessarily intense can have a detrimental effect on many of the qualities which the Town seeks to foster and protect. Therefore, in reviewing site plans the Planning Board shall consider the impacts of any proposed exterior lighting on public safety, adjacent property (especially residential property), the natural environment and the general appearance of the Town. To this end, the Planning Board is directed to apply the specific standards and requirements of this section to any proposed exterior lighting. The Planning Board shall have the power to vary or modify any standards or requirements, where appropriate, provided the Board finds that doing so will not negate the purposes of this section.

A. Location of light fixtures. All exterior light fixtures shall be located so as to minimize or avoid glare and the adverse effects of exterior lighting on nearby properties, especially residential property.

B. Mounting Height. Light fixtures shall be mounted at the lowest practical height, taking in to account the area to be illuminated and the relationship between the mounting height and the number of fixtures required to illuminate that area. The

following additional standards shall govern the mounting height of fixtures:

(1) Unless a greater mounting height is required by the nature of the use or the size of the structure (e.g. boat storage buildings, multiple dwelling units and commercial garages), light fixtures shall not be mounted at a height greater than twelve (12) feet above natural grade.

(2) (Reserved).

C. Type of lamp. The following types of lamps shall not be permitted:

(1) Mercury Vapor;

(2) Neon, unless legally pre-existing;

(3) Laser; **and**

(4) Any light source with a color temperature greater than 3000 Kelvin (K).

D. Shielding of light source. Full cut-off light fixtures shall be used for all light sources.

ARTICLE XI Uses and Dimensions

§ 255-11-52. General standards.

A. Certain signs prohibited. The following types of signs shall be prohibited in the Town of East Hampton:

(1) Billboards, including sandwich board and other sidewalk signs.

(2) Flashing, **blinking, tracing, flickering**, or neon signs.

(3) Any sign more than three feet higher than the average ceiling height of the building on which the sign is located.

(4) Any sign more than 10 feet higher than the natural grade of the land on which it is located.

(5) Illuminated vending machines.

(6) **Exterior internally illuminated signs.**

B. [No change].

C. [No change].

D. [No change].

E. Lighting of signs. Lighting shall be mounted on the top of or above the sign, directed downward, and positioned or shielded so that the light source is not visible beyond the boundary of the property on which the sign is located.

[The attached appendices L1 and L2 are to be added to the Appendix of the Town Code]

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.