

L.L. No. 2-2021

Section one. Chapter 53 is hereby amended by providing for the existing provisions, section 53-1 through section 53-12, to be known as “**Article I: General Provisions**”.

Section two. Chapter 53 is hereby amended by adding a new article, to be known as “**Article II: Landscape and Lighting Plans**”, to read as follows:

ARTICLE II. Landscape and Lighting Plans.

§53-13. Standards and Requirements.

A. The standards and requirements set forth in this section and §53-14 are intended to enhance the appearance and natural beauty of the Village of Hewlett Bay Park and protect property values through preservation of planting of vegetation and landscaping, avoid unsafe or unpleasant conditions resulting from poorly designed or installed lighting, and discourage excessive lighting.

B. In all instances where (i) a building permit is required (a) for a new residence, or (b) any building renovation or site improvement that disturbs landscaping on a premises, or (ii) where exterior lighting is proposed at a premises in accordance with a building permit application, the following requirements shall apply:

1. Where a building permit is sought for a new residence, a landscape plan and lighting plan shall be submitted to the Building Department for review in accordance with this article. The landscape and lighting plans shall include the entire site.

2. Where a building permit is sought for any renovation or site improvement that disturbs any landscaping on the premises, excavates, fills, or grades any land, a landscape plan shall be submitted for review in accordance with this article. The landscape plan shall include any part of the site where the landscaping is to be, or anticipated to be, disturbed, and shall detail the restoration of any disturbed area.

3. Where a building permit is sought for any renovation or site improvement where new exterior lighting is proposed, a lighting plan shall be submitted to the Village for review in accordance with this article.

§53-14. Terms.

The following terms have the following meanings for the purpose of this article:

A. “New residence” – shall include any construction involving a new residence or renovated residence involving (1) 50 percent or more of the pre-existing floor area of the main building or (2) an enlargement or alteration increasing the square footage of the main building by at least 1,000 square feet.

B. “Landscaping” – shall include grass, plantings, trees, bushes, hedges, vegetation, gardens, and any natural or artificial ground cover.

C. “Exterior lighting” – means temporary or permanent lighting that is installed, located or used in such a manner to cause light rays to shine outside. Fixtures that are installed indoors that are intended to light something outside are considered exterior lighting.

D. "Security" - a performance bond issued by a bonding or surety company authorized to do business in the State of New York, the deposit of funds with the Village, a certificate of deposit issued by a bank or trust company authorized to do business in New York and located in Nassau County, or an irrevocable letter of credit from a bank authorized to do business in the State of New York and located in Nassau County. Any security required herein shall be in a form required or approved by the Village Attorney as to form, sufficiency and manner of execution.

§53-15. Landscape Plan Details.

A landscape plan shall show all elements of proposed landscaping, for the portion of property as required by this article, including:

- A. Site grading and landscape design.
- B. Topography changes.
- C. Location, quantity, size and type of existing and proposed on-site vegetation and landscaping, and if applicable, to be removed.
- D. Proposed plant materials shall be drawn to scale using symbols.
- E. A table listing the species, size, and quantity of plants and trees.
- F. Proposed lighting of any landscape features.
- G. Retaining walls or fences.
- H. Landscape maintenance and irrigation plan.
- I. Any other information that may be needed to show compliance with this article.

§53-16. A lighting plan shall include:

- A. The location, type, intensity, and height of all exterior lighting.
- B. A description of the luminaires and any proposed shielding devices.
- C. Photometric data showing the angle of light emission and foot-candles on the ground.
- D. Additional information as may be required by the Building Department.

§53-17. Planting Standards and Criteria.

The planting and installation of landscaping and vegetation shall be subject to the following standards and criteria:

- A. Standards.

1. The landscaping and vegetation shall be planted in a growing condition according to accepted horticultural practices, and shall be maintained in a healthy, growing condition. Any landscaping or vegetation that is in a condition that does not fulfill the provisions or intent of this chapter shall be replaced by the property owner during the next planting season for the particular planting material.

2. All landscaping shall be planted not later than the expiration of an original or extended building permit, whichever occurs later, and except as provided herein, before issuance of a certificate of occupancy or completion for the building permit work. Any building permit extension granted in accordance with section 53-6(J) may include conditions related to the timing of the planting of the landscaping and vegetation. If landscaping and vegetation cannot be installed timely, the Building Inspector may issue a temporary certificate of occupancy or completion upon filing with, and acceptance by, the Village, of security to guarantee the installation of landscaping and vegetation in accordance with this article, in a sum equal to two hundred (200%) percent of the estimated cost for the landscaping improvements. Security shall run for a term as provided in this article or otherwise fixed by the Building Department or Board of Trustees, as the case may be, and the term of any such security may be extended by the Board of Trustees, with the consent of the parties thereto.

3. Once a landscape plan has been approved and a building permit issued, the Building Inspector may authorize minor revisions to the approved landscape plan, including the substitution of equivalent plantings and ground cover where such revisions do not diminish the benefits of the approved plan. A revision shall be considered minor where there is no reduction in the quantity of plant material, no significant increase in size or location of plant material, and new plants are of the same general category (i.e., ornamental, evergreen) and have the same general design characteristics (i.e., mature size, spread, density) as the materials being replaced.

4. Exclusive of any proposed grass areas, the landscape areas should use plants that can survive with the area's natural rainfall and do not require irrigation. The plan shall provide the reasoning, if unable to provide such plantings.

B. Criteria.

The following criteria shall be used to evaluate proposed landscape plans:

1. As an architectural feature, landscaping should soften the mass of the buildings, driveways, parking areas, and structures on the premises.

2. Landscaping should be designed to control erosion and allow groundwater discharge.

3. Landscaping shall utilize Best Management Practices (BMP) and Low Impact Design (LID) principles.

4. Landscaping shall not hinder visibility at intersections, roadways or driveways.

5. Landscaping shall preserve existing natural vegetation and other natural features of a premises so as to enhance overall site design and protect ecological systems.

6. Landscaping may provide screening in a manner that does not adversely or negatively impact the visual appearance of the Village as an open residential community.

7. Landscaping should be suitable to existing site topography and drainage conditions.

8. Landscape design should be functional, aesthetically pleasing, provide definition to the streetscape, complement site and building design, enhance the premises, and not impact neighboring properties or the public right of way in a detrimental manner.

9. Landscape materials should be durable and chosen for long-term growth and retention.
10. Invasive plant species are prohibited.
11. Landscape areas that are difficult to maintain grass or sod may incorporate ground cover.
12. Landscape design should enhance accessibility and not conflict with it.
13. Landscape design may incorporate boulders, stones or other hardscape features that are otherwise compliant with any other provision of the Village Code.

§53-18. Lighting Standards and Criteria.

The installation of exterior lighting shall be subject to the following standards and criteria:

- A. Site lighting trespass onto an adjacent property or the public right of way shall be minimized.
- B. Site lighting shall minimize light spill into the dark night sky.
- C. Lighting fixtures mounted under soffits or otherwise recessed shall be aimed downward and installed such that the bottom of the light fixtures is recessed and mounted flush with the bottom of the light housing.
- D. Illumination levels shall be in accordance with current recommended practices of the Illuminating Engineering Society.
- E. All exterior lighting shall be designed and operated so that the area 20 feet beyond the property line of the premises receives no more than one-half of a foot-candle of light from the premises' exterior lighting.
- F. Lighting that presents a clear hazard to motorists, cyclists or pedestrians is prohibited.

§53-19. Security.

- A. Default.

If the Building Inspector determines that the condition of any security is in default, or that any required improvements have not been installed as required, the Building Inspector may recommend that the security be declared in default. No such recommendation shall be made without prior notice to the principal and surety upon such security. Upon such recommendation and upon notice to the principals and surety on such security, the Board of Trustees may thereupon declare said security to be in default and take all appropriate proceedings to collect the sum payable thereunder. Upon receipt of the proceeds of any security, the Village shall apply such proceeds to reimbursement of the expenses of collection and enforcement of said security and apply the balance of such proceeds, if any, to the installation of such improvements as may be feasible with such funds, commensurate with the extent of landscape work that has been performed. Upon completion of such improvements, any remaining balance shall be deposited in the Village general funds.

- B. Release.

No bond shall be released except upon written application and determination by the Building Inspector. All landscape improvements shall be inspected by the Building Inspector upon an application

for release of security. The Building Inspector shall make a written report to the Board of Trustees, stating the results of that inspection and making a recommendation whether the application should be approved.

§53-20. Landscape and Lighting Plans Review Procedure.

A. Upon submission to the Building Department of a landscape plan, as required in this article, the landscape plan shall be subject to review, as follows:

1. If the application for a building permit does not require a variance or other approval from the Zoning Board of Appeals or the Board of Trustees, the Building Inspector shall review the plan in accordance with the criteria set forth herein, and the Building Inspector may recommend, to the Board of Trustees, approval, denial, or approval with modifications. The Village Clerk shall forward a copy of the landscape plan together with the Building Inspector's recommendation, to the Board of Trustees, for its review. At a meeting, without a public hearing, the Board of Trustees shall consider the landscape plan in accordance with the criteria set forth in section 53-17, and shall approve, deny, or approve with modifications, and impose relevant conditions. Such approval or approval with modifications shall be incorporated as a condition of the building permit. If the landscape plan is denied, the applicant may appeal to the Zoning Board of Appeals in the same manner as an appeal of a determination by the Building Department.

2. If the application for a building permit requires approval of the Zoning Board of Appeals or the Board of Trustees, as the case may be, the Zoning Board of Appeals or the Board of Trustees, as the case may be, shall have authority to approve, deny, or approve with modifications, in accordance with the criteria, the landscape plan, as part of its underlying review authority. Such approval or approval with modifications shall be incorporated as a condition of the building permit. If the landscape plan is denied by the Zoning Board of Appeals, an applicant shall have the same rights as any other determination by the Zoning Board of Appeals, and if the application is denied by the Board of Trustees, an applicant may appeal to the Zoning Board of Appeals in the same manner as an appeal of a determination by the Building Department.

B. Upon submission to the Building Department of a lighting plan, as required in this article, the lighting plan shall be subject to review, as follows:

1. If the application for a building permit does not require a variance or other approval from the Zoning Board of Appeals or the Board of Trustees, the Building Inspector shall review the plan in accordance with the criteria set forth in this article, and shall approve, deny, or approve with modifications. Any such approval or approval with modifications shall be incorporated as a condition of the building permit. If the lighting plan is denied, the applicant may appeal to the Zoning Board of Appeals in the same manner as an appeal of any determination by the Building Department.

2. If the application for a building permit requires approval of the Zoning Board of Appeals or the Board of Trustees, as the case may be, the Zoning Board of Appeals or the Board of Trustees, as the case may be, shall have authority to approve, deny, or approve with modifications, in accordance with the criteria, the lighting plan, as part of its underlying review authority. Such approval or approval with modifications shall be incorporated as a condition of the building permit. If the lighting plan is denied, the applicant shall have the same rights as any other determination by the Zoning Board of Appeals, and if the application is denied by the Board of Trustees, an applicant may appeal to the Zoning Board of Appeals in the same manner as an appeal of a determination by the Building Department.

§53-21. Amendments.

Except as otherwise provided in this article, final approved landscape or lighting plans, materials and specifications may not be altered without obtaining approval in the same manner as set forth in this article for approval of the original landscape or lighting plan.

§53-22. Penalties.

- A. The Building Inspector may revoke or suspend any building permit or certificate of occupancy or completion for non-compliance with this article or any conditions of a building permit relating to landscaping or lighting. The Building Inspector also may issue a stop work