

May 20, 2015

**BY PERSONAL DELIVERY**

Office of the Chief Counsel  
Attention: FAA Part 16 (Airport Proceedings Docket)  
AGC-610  
Federal Aviation Administration  
800 Independence Ave. S.W.  
Washington, D.C. 20591

**Re: Part 16 Complaint: National Business Aviation Association, Inc., Shoreline Aviation, Inc. (Connecticut); PlaneSense, Inc.; Fly the Whale, Inc.; Eastern Air Express, Inc.; FL Aviation Corporation; Tuckaire, Inc.; Autonomic Controls, Inc.; Shoreline Aviation, Inc. (Massachusetts); Wes Rac Contracting Corporation; Eagle Air, Inc.; and JETAS, Inc. v. Town of East Hampton, New York**

Dear Sirs:

Pursuant to 14 C.F.R. § 16.23, the National Business Aviation Association, Inc. ("NBAA"), on behalf of its members generally and as the specifically authorized representative of eleven members – Shoreline Aviation, Inc. (Connecticut); PlaneSense, Inc.; Fly the Whale, Inc.; Eastern Air Express, Inc.; FL Aviation Corporation; Tuckaire, Inc.; Autonomic Controls, Inc.; Shoreline Aviation, Inc. (Massachusetts); Wes Rac Contracting Corporation; Eagle Air, Inc.; and JETAS, Inc. – (together, "Complainants") files this complaint against the Town of East Hampton, New York ("the Town" or "East Hampton"), as the owner, operator and sponsor of East Hampton Airport ("the Airport" or "HTO"). All communications with respect to this complaint should be addressed to: Steve Brown, Chief Operating Officer, NBAA, 1200 G Street, N.W., Suite 1100, Washington, DC 20005, [sbrown@nbaa.org](mailto:sbrown@nbaa.org), (202) 783-9000.

This complaint centers on resolutions adopted by the Town on April 16, 2015, which amend § 75.38 of the Town Code to impose: (1) an 11pm-7am curfew on operations at HTO, (2) an extended 8pm-9am curfew for aircraft deemed to be "noisy,"<sup>1</sup> and (3) a prohibition on aircraft deemed to be "noisy" from conducting more than one take-off and one landing per week during the summer. See Exhibits 1-3. There are multiple reasons why the adoption of these resolutions by the Town is impermissible.<sup>2</sup>

<sup>1</sup> Generally defined by the Town as an aircraft for which the FAA has published an Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater. The Town has published what purports to be a list of such aircraft, see Exhibit 4, but it does not appear to be accurate. For example, it includes the Bombardier Challenger 604, even though according to FAA Advisory Circular 36-1H (November 15, 2011) that aircraft has an AP level of 90.3 EPNdB. The Town's list also includes a multitude of aircraft highly unlikely to operate at HTO, ranging from the Airbus A380 to the Sud Caravelle.

<sup>2</sup> Although not within the scope of 14 C.F.R. Part 16, the Airport Noise and Capacity Act of 1990, 49 U.S.C. § 47521 et seq. ("ANCA"), also appears to prohibit the Town's actions, absent the completion by the Town of a study pursuant to 14 C.F.R. Part 161, because the "noisy" aircraft include Stage 2 and (*continued...*)

This complaint specifically requests a ruling by the FAA that the extended curfew and take-off/landing restrictions are forbidden based on the prohibitions on “exclusive rights” that appear in 49 U.S.C. § 40103(e) and grant assurance #23,<sup>3</sup> as well as that the Town’s declared intent to fund its defense of the restrictions with airport revenue is incompatible with grant assurance #25.

### Complainants

1. NBAA is a not-for-profit corporation incorporated under the laws of the District of Columbia and headquartered at 1200 G Street, N.W., Suite 1100, Washington, DC 20005. NBAA represents over 10,000 member companies which own and operate over 11,000 general aviation aircraft to facilitate the conduct of their businesses or which are otherwise involved with business aviation. NBAA members comprise a substantial segment of the general aviation community. NBAA acts as a spokesperson for business aviation before government agencies and the U.S. Congress and, in selected cases of importance, such as this one, represents its members’ interests by initiating or participating in court actions and/or proceedings before regulatory agencies such as the FAA.

2. At least three NBAA members utilize the Airport as their home base. Additionally, NBAA members throughout the nation operate aircraft to and from the Airport and would be directly and substantially affected by the resolutions adopted by the Town. NBAA represents those affected members in this matter, both in general and specifically on behalf of those members named below, consistent with FAA precedent. See, e.g., Bombardier Aerospace Corp. v. City of Santa Monica, no. 16-03-11, Director’s Determination, at 1 n.1 and 22 (January 3, 2004) (permitting NBAA to serve as the representative of its members in a Part 16 proceeding).

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Stage 3 aircraft (and for the latter, affirmative FAA approval of the study also is required). While a letter apparently was sent by the FAA to a then-member of Congress in 2012 informally asserting that ANCA was not applicable to HTO after December 31, 2014, that letter is of no general authority – and the asserted position is clearly contrary to City of Naples Airport Authority v. FAA, 409 F.3d 431 (D.C. Cir. 2005), in which the United States Court of Appeals for the District of Columbia Circuit stated that § 47524(c)’s “requirement of FAA approval is not tied to grants; grants or not, no airport operator can impose a Stage 3 restriction unless the FAA gives its approval.” Id. at 434.

Likewise, although this complaint invokes only the statutory and grant-based prohibitions on exclusive rights, as a general principle of law, any local restrictions – even if not preempted by the comprehensive federal regulatory scheme for aviation – must be reasonable, nonarbitrary, and nondiscriminatory, or they will be vulnerable to a court challenge. See, e.g., British Airways Board v. Port Authority of New York and New Jersey, 558 F.2d 75, 84 (2d Cir. 1977), aff’d, as modified, 564 F.2d 1002 (2d Cir. 1977) and Aviation Noise Abatement Policy 2000, 65 Fed. Reg. 43802, 43816 (July 14, 2000).

<sup>3</sup> Although an April 2005 settlement agreement between the FAA and a third party purports to waive the enforcement of certain grant assurances at HTO (including #22(a) and #22(h)) after December 31, 2014, see Exhibit 4, the Town most recently accepted an Airport Improvement Program (“AIP”) grant in 2001, which means that the remainder of its grant-based obligations should be effective through 2021. Moreover, the prohibition on exclusive rights remains effective so long as an airport continues to be operated. See, e.g., FAA Order 5190.6B, § 4.6(h)(1).

3. Shoreline Aviation, Inc., (Connecticut) a member of NBAA, is a charter management company based in Bridgeport, Connecticut that conducted approximately 700 operations at HTO in 2014, and operates aircraft now deemed "noisy" at HTO, such as the Gulfstream G-III.
4. PlaneSense, Inc., a member of NBAA, is a fractional aircraft company based in Portsmouth, New Hampshire that conducted approximately 250 operations at HTO in 2014.
5. Fly the Whale, Inc., a member of NBAA, is a charter management company based in White Plains, New York, with one or more aircraft based at HTO, that conducted approximately 200 operations at HTO in 2014.
6. Eastern Air Express, Inc., a member of NBAA, is a charter management company based in Fort Lauderdale, Florida that conducted approximately 40 operations at HTO in 2014.
7. FL Aviation Corporation, a member of NBAA, is a charter management company based in Morristown, New Jersey that conducted approximately 30 operations at HTO in 2014, and operates aircraft now deemed "noisy" at HTO, such as the Dassault Falcon 2000, the Gulfstream G-IV, and the Gulfstream G-V.
8. Tuckaire, Inc., a member of NBAA, is a charter management company based in Trenton, New Jersey that conducted approximately 30 operations at HTO in 2014, and operates aircraft now deemed "noisy" at HTO, such as the Bombardier Challenger 601.
9. Autonomic Controls, Inc., a member of NBAA, is a technology company based in Armonk, New York that conducted approximately 30 operations at HTO in 2014.
10. Shoreline Aviation, Inc. (Massachusetts), a member of NBAA, is a charter management company based in Marshfield, Massachusetts that conducted approximately 25 operations at HTO in 2014, and operates aircraft now deemed "noisy" at HTO, such as the Cessna Citation 560.
11. Wes Rac Contracting Corporation, a member of NBAA, is a construction company based in Hauppauge, New York, with one or more aircraft based at HTO, that conducted approximately 25 operations at HTO in 2014.
12. Eagle Air, Inc., a member of NBAA, is a charter management company based in Danbury Connecticut that conducted approximately 15 operations at HTO in 2014.
13. JETAS, Inc., a member of NBAA, is a charter management company based in White Plains, New York that conducted approximately 10 operations at HTO in 2014, and operates aircraft now deemed "noisy" at HTO, such as the Dassault Falcon 2000.
14. As Airport tenants, users, and/or a representative of tenants and users, each of the Complainants is "directly and substantially affected" by the Town's actions, as that phrase is used in 14 C.F.R. § 16.23(a).

## Subject of the Complaint

15. The Airport is owned, operated, and sponsored by the Town.

16. The pertinent names and addresses for the responsible persons at the Town of East Hampton are: Larry Cantwell, Supervisor, 159 Pantigo Road, East Hampton, NY 19937, [lcantwell@ehamptonny.gov](mailto:lcantwell@ehamptonny.gov); Elizabeth Vail, Town Attorney, 159 Pantigo Road, East Hampton, NY 19937, [evail@ehamptonny.gov](mailto:evail@ehamptonny.gov); Jemille Charlton, Airport Manager, 200 Daniels Hole Rd, Wainscott, NY 11975, [jcharlton@ehamptonny.gov](mailto:jcharlton@ehamptonny.gov).

17. As set forth below in greater detail, the newly-adopted restrictions on "noisy" aircraft violate the prohibitions on "exclusive rights" that appear in 49 U.S.C. § 40103(e) and grant assurance #23 (which is based on 49 U.S.C. § 47107(a)(4)).

18. In addition, the recent declaration by the Town that it will use airport revenue to fund its legal defense to challenges to the resolutions implicates its compliance with grant assurance #25 (which is based on 49 U.S.C. § 47107(b)).

## Facts

19. The Airport is a public-use facility at which approximately 100 general aviation aircraft are based and approximately 25,000 operations are conducted each year. The Airport has received substantial federal funding, including \$1.4 million in federal AIP assistance in FY2001 for terminal apron rehabilitation.

20. In April 2005, the FAA entered into a settlement agreement to conclude litigation with a third party that was related to the Airport; the agreement purported to waive enforcement of certain grant assurances after December 31, 2014. See Exhibit 5.

21. The settlement agreement did not purport to modify any of the Town's other grant-based obligations, or statutory obligations. The FAA generally understands that most grant-based obligations endure for 20 years; moreover, the prohibitions on exclusive rights remain effective so long as an airport continues to be operated. See, e.g., FAA Order 5190.6B, § 4.6(h)(1).

22. For at least several years, the Town has been planning to impose restrictions on certain types of aeronautical activities at HTO, predicated on an assumption (which Complainants believe is in error) that such restrictions would be allowable subsequent to December 31, 2014, based on the settlement agreement. See, e.g., Exhibit 6.

23. On March 12, 2015, the Town held a hearing at which it solicited public comments on four proposals (which had been publicly announced on February 10, 2015) to restrict certain types of aeronautical activities at HTO.

24. On April 16, 2015, the Town adopted resolutions implementing three of those proposals. In particular, they impose: (1) an 11pm-7am curfew on operations at HTO, (2) an extended 8pm-9am curfew for aircraft deemed to be "noisy," and (3) a prohibition

on aircraft deemed to be “noisy” from conducting more than one take-off and one landing per week during the summer. See Exhibits 1-3.

25. The Complainants understand that the resolutions became effective upon their filing with the New York Secretary of State, which occurred on April 29, 2015.

26. The Town adopted an additional resolution on May 7, 2015 which clarified the penalties and effective date of the restrictions, but which did not affect their substance. See Exhibit 7. This resolution does not appear to yet have been filed with the New York Secretary of State.

27. On May 18, 2015, a hearing was held on pending litigation in federal court that also challenges the validity of the restrictions, but on different grounds.<sup>4</sup> Judge Joanna Seybert indicated that she would rule on a pending injunction request by June 8, 2015, and in the meantime the Town agreed not to enforce the restrictions.

### **Efforts at Pre-Complaint Resolution**

28. NBAA and other parties actively have opposed the Town's proposals. For example, on February 2, 2015, NBAA – along with the Aircraft Owners and Pilots Association (“AOPA”) and the National Air Transportation Association (“NATA”) – sent a letter to the Town, expressing concerns about anticipated restrictions and seeking a meeting with Town representatives. See Exhibit 8.

29. Representatives of NBAA, AOPA, and NATA subsequently met with Town Supervisor Larry Cantwell and Councilwoman Kathee Burke-Gonzalez on February 27, 2015, to discuss their concerns and ask that the Town refrain from imposing restrictions.

30. In advance of the Town's hearing on March 12, 2015, NBAA, AOPA, and NATA sent a further letter to the Town, expressing additional concerns about the proposed restrictions, as well as revenue diversion. See Exhibit 9.

31. A representative of NBAA also appeared at the hearing, and was one of many speakers to express concern about the proposed restrictions. See [http://75.ltveh.org:2000/cablecastapi/embed?show\\_id=2325](http://75.ltveh.org:2000/cablecastapi/embed?show_id=2325) (including the remarks of Jeff Gilley, NBAA's Director of Airports and Ground Infrastructure, at 3:12-3:14).

32. The FAA has recognized that similarly-positioned complainants are not required by 14 C.F.R. § 16.21(b) to engage in further one-sided efforts to resolve a dispute with officials who have “for all practical purposes enacted the ordinance” that the complainants had opposed. See *Bombardier*, no. 16-03-11, at 23.

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<sup>4</sup> See E.D.N.Y. no. 15-CV-2246. An additional case also seeks to resolve the validity of the waivers that appeared in the April 2005 settlement agreement. See E.D.N.Y. no. 15-CV-0441.

### Applicable Law – Exclusive Rights

33. The FAA long has understood the prohibition on economic discrimination that appears in grant assurance #22(a) to be the “mirror image” of the prohibition on exclusive rights that appears in 49 U.S.C. § 40103(e) and grant assurance #23.

34. As a result, if an airport imposes restrictions on one type of aeronautical activity that it does not impose on others, those discriminatory rules amount to the constructive grant of an impermissible exclusive right to the unrestricted operations.

35. That is exactly what has occurred in this case; i.e., non-“noisy” aircraft<sup>5</sup> now have an exclusive right to conduct operations between 7-9am and 8-11pm, and to conduct more than one take-off and landing per week between May and September.

36. This is not a novel issue. For decades, FAA guidance has recognized that the concepts of economic discrimination and exclusive rights overlap. See, e.g., Exclusive Rights at Airports, 30 Fed. Reg. 13661, 13662 (October 27, 1965) (“[t]he application of any unreasonable requirement or standard ... or any requirement or standard which is applied in a discriminatory manner, shall be considered to be a constructive grant of an exclusive right” ).

37. The principle that economic discrimination and exclusive rights are mirror images recently was restated in the FAA’s revised airport compliance handbook:

An exclusive right may be conferred either by express agreement, by imposition of unreasonable standards or requirements or by another means. Such a right conferred on one or more parties, but excluding others from enjoying or exercising a similar right or right, would be an exclusive right.

Airport Compliance Manual, FAA Order 5190.6B, § 8.2 (September 30, 2009).

38. Likewise, in prior Part 16 proceedings the FAA specifically has found that the imposition of restrictions on a specific type of aeronautical activities amounts to an exclusive right and is prohibited. See, e.g., Bardin v. County of Sacramento, California, no. 16-00-11, Director’s Determination, at 12 (August 9, 2001) (“the County’s [ultralight] ban creates an unlawful exclusive right at Franklin Field. As a result of the ban, other aeronautical uses have been granted a special privilege in the use of the public use airport facilities while ultralight activities do not enjoy those rights”).<sup>6</sup>

<sup>5</sup> Non-noisy aircraft may include aircraft with an AP level of 91 EPNdB or greater but that are not within the scope of 14 C.F.R. Part 36 or for which there otherwise is no “published” data.

<sup>6</sup> See also Self Serve Pumps, Inc. v. Chicago Executive Airport, no. 16-07-02, Director’s Determination, at 19, n.16 (March 17, 2008) (“the Director declines to re-analyze the allegation of a constructive granting of an exclusive right after having analyzed the allegation under its component parts of unreasonable denial of access and/or unjust economic discrimination, since the analysis is identical”).

39. The FAA recently confirmed that its standards have not changed. See Hinshaw v. State of Hawaii, no. 16-12-04, Director's Preliminary Determination, at 46 (August 18, 2014) ("[t]he Respondent has granted an exclusive right for one aeronautical activity (commercial helicopter operations) to take place in the absence of State-approved operating rules and standards, while denying another aeronautical activity (commercial skydiving operations) the same privilege").<sup>7</sup>

40. Accordingly, the terms of the recently passed resolutions that establish a selective, extended curfew for and limit operations by "noisy" aircraft on their face are incompatible with the Town's federal obligation not to grant exclusive rights at HTO, which – irrespective of the FAA's purported waiver of the enforcement of other grant assurances – unquestionably remains in effect so long as HTO is operated as an airport (which is an obligation that itself endures until at least 2021).

### **Applicable Law – Revenue Diversion**

41. Additionally, in response to pending litigation in federal court, the Town and its counsel have asserted that as a consequence they are being required "to spend scarce airport funds to defend these restrictions." See Exhibit 10.

42. FAA guidance establishes that airport revenue may be used for "attorney fees to the extent these fees are for services *in support of* airport capital or operating costs that are *otherwise allowable*." FAA Order 5190.6B, §15.9(d) (emphasis added). East Hampton has asserted that it will use airport revenue to support an *unallowable* purpose – *i.e.*, imposing restrictions at HTO that are contrary to federal law.

43. Likewise, if the Town were to use airport revenue to procure legal services to respond to this complaint, it would be using airport revenue for an unallowable purpose.

44. The Town is obligated to draw upon general funds and its tax base – and not airport funds – if it is to pursue an anti-airport agenda. Federal law should not and does not allow the costs of restricting access to an airport to be borne by airport users. See, e.g., In the Matter of Compliance with Federal Obligations by the City of Chicago, Illinois, docket no. 16-04-09, Notice of Investigation, at 2 (October 1, 2004) ("costs related to the deactivation of Meigs as an airport ... were not incurred for airport purposes and are not capital or operating costs of an airport").<sup>8</sup>

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<sup>7</sup> See also 41 North 73 West, Inc. v. County of Westchester, New York, no. 16-07-13, Final Agency Decision, at 37 (September 18, 2009), aff'd 408 Fed. Appx. 393 (2d Cir. 2010) ("FAA has taken the position that the application of any unreasonable requirement or any standard that is applied in an unjustly discriminatory manner may constitute the constructive grant of an exclusive right").

<sup>8</sup> See also Boca Airport, Inc. d/b/a Boca Aviation v. Boca Raton Airport Authority, docket no. 16-00-10, Director's Determination, at 42 (April 26, 2001) ("[a] payment of airport revenue to a private firm can be considered unlawful revenue diversion if it is not for an airport purpose (i.e. for general economic development)"). The FAA subsequently took the same position in its Final Agency Decision and Order (March 20, 2003). An unrelated section of that decision was affirmed at 389 F.3d 185 (D.C. Cir. 2004).

45. Accordingly, the FAA should both investigate the Town's current compliance with the prohibition on revenue diversion that is embodied in grant assurance #25 – given its public declaration that in pending litigation it will use airport revenue for an unallowable purpose – and further warn the Town of its obligation not to engage in revenue diversion in connection with the pending litigation, this complaint, or any other matter that does not advance the interests of the Airport.<sup>9</sup>

### Relief Sought

46. As an initial matter, Complainants request that the FAA on an expedited basis enter an interim cease-and-desist order to maintain the status quo at the Airport. The restrictions that the Town has adopted, by its own calculations, would prohibit a significant share of all airport operations (up to 23% of operations at HTO according to a study performed for the Town, see Exhibit 11), and are likely to permanently cripple the airport – i.e., by driving existing tenants out of business and undercutting the airport budget. Absent such an order, there is a significant risk that an ultimate ruling by the FAA in favor of the Complainants regarding exclusive rights would be a pyrrhic victory. Although a federal injunction of the enforcement of the restrictions has been requested in litigation, the matter has not yet been ruled upon and it is premised on different grounds than those raised in this complaint.

47. Complainants further request that the FAA issue an order: finding that the resolutions adopted by the Town are incompatible with the exclusive rights-related statute and grant assurance (#23) applicable to the Town; finding that the Town's proposal to use airport revenue to support the resolutions in legal proceedings is incompatible with the grant assurance (#25) applicable to the Town; and directing the Town to take corrective action subject to the suspension of further AIP grants and other appropriate enforcement measures; and granting all other relief that is necessary and proper.

Respectfully submitted,



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Steve Brown  
Chief Operating Officer, NBAA

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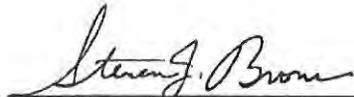
<sup>9</sup> It is well established that the FAA, in a Part 16 proceeding, may address not only current compliance issues but current practices that are likely to result in future violations. See, e.g., JetAway Aviation LLC v. Board of Commissioners, Montrose County, Colorado, docket no. 16-06-01, Director's Determination, at 34 (November 6, 2006); Town of Fairview, Texas v. City of McKinney, Texas, docket no. 16-99-04, Director's Determination, at 17 (July 26, 2000).

**Certificate of Service**

I hereby certify that I have this day I caused the foregoing complaint to be served on the following persons at the following addresses by first class mail, postage prepaid, with courtesy copies by electronic mail:

- Larry Cantwell, Supervisor, 159 Pantigo Road, East Hampton, NY 19937, [lcantwell@ehamptonny.gov](mailto:lcantwell@ehamptonny.gov);
- Elizabeth Vail, Town Attorney, 159 Pantigo Road, East Hampton, NY 19937, [evail@ehamptonny.gov](mailto:evail@ehamptonny.gov); and
- Jemille Charlton, Airport Manager, 200 Daniels Hole Rd, Wainscott, NY 11975, [jcharlton@ehamptonny.gov](mailto:jcharlton@ehamptonny.gov).

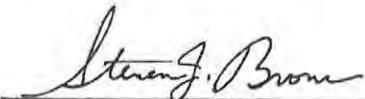
Dated this 20th day of May 2015.

  
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Steve Brown

**Section 16.13(e) and Section 16.21(b) Certification**

I hereby certify, pursuant to 14 C.F.R. § 16.13(e), that this filing is based on my knowledge and information and belief; that this filing is consistent with 14 C.F.R. Part 16; that the Complaint is warranted by existing law; that this filing is not imposed for any improper purpose such as to harass or delay. I also hereby certify, pursuant to 14 C.F.R. § 16.21(b), that substantial and reasonable good faith efforts were made to resolve the disputed matter informally prior to this filing (as discussed in the body thereof) and there appears to be no reasonable prospect for timely resolution of the dispute.

Dated this 20th day of May 2015.

  
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Steve Brown



East Hampton Town Board  
159 Pantigo Road  
East Hampton, NY 11937

Meeting: 04/16/15 06:30 PM  
Department: Town Attorney  
Category: Local Law  
Prepared By: Elizabeth Vail  
Initiator: Elizabeth Vail  
Sponsors: Councilwoman Kathee Burke-Gonzalez  
DOC ID: 15229 B

ADOPTED

RESOLUTION 2015-411

## **Adopt Local Law- Amending Chapter 75 (Airport) of the Town Code Regulating Nighttime Operation of Aircraft at East Hampton Airport**

WHEREAS, the Town of East Hampton is an established resort community that is renowned for its peaceful, quiet beaches and outdoor areas; and

WHEREAS, the economy of the Town of East Hampton is tied intrinsically to the use and enjoyment of its natural and scenic environment, including its world-renowned ocean beaches, wetlands, shorelines, harbors, bays, woodlands, and historic hamlets; and

WHEREAS, residents and visitors are attracted to the Town and the East End of Long Island to enjoy the area's unique scenic beauty, its outdoor spaces, and the peaceful and restful atmosphere they provide; and

WHEREAS, peace, quiet, repose, outdoor recreation, sea, air, and a beautiful and unique natural environment are the essential characteristics that make East Hampton and the East End, as a whole, such an attractive and desirable area; and

WHEREAS, the Town and its residents have invested heavily in preserving the rural, quiet pace of life by preserving land and adopting land use policies that are designed to protect the unique quality of life in East Hampton; and

WHEREAS, in the busy season of May - September, residents and visitors spend a significant portion of time outdoors engaged in recreational activities, entertaining, dining with family and friends, and otherwise enjoying the peaceful, restful atmosphere of the area; and

WHEREAS, the unique quality of life in the Town and entire East End means that residents are particularly susceptible to disturbances to their pastoral lifestyle, especially when those disturbances interfere with the qualities which make this Town a highly desirable place to live and visit; and

WHEREAS, the area surrounding the East Hampton Airport is notably quiet because of the lack of industrial noises, relatively low population density and rural roadway network, which, taken together, accentuates the perception of noise, both in terms of peak levels and also in terms of the duration of the noise events themselves; and

WHEREAS, in the past three decades, noise from aircraft overflights has disrupted outdoor activities and diminished the quality of life in the Town and the entire of the East End; and

WHEREAS, the aircraft noise problem has increased dramatically in recent years, as overall operations increased by 23 percent from 2013 to 2014 and helicopter operations alone increased by 47 percent from 2013 to 2014; and

WHEREAS, noise from loud aircraft and helicopters is particularly disruptive because it interrupts conversations and other ordinary activities and makes it very difficult to enjoy

outdoor activities; and

WHEREAS, the sheer frequency of overflights also poses a significant problem because there are extended periods of repeated loud noise events that make it very difficult to enjoy outdoor activities and that destroy the peaceful quiet of this rural area; and

WHEREAS, aircraft noise has been a major source of controversy and community strife for many years, with increasingly strong demands by the public that the Town take action to reduce the disruptive and harmful effects of aircraft noise; and

WHEREAS, the controversy has resulted in a number of lawsuits, and additional threatened lawsuits, aimed at compelling the Town or the federal government to take action to address the problem of aircraft noise; and

WHEREAS, in its capacity as proprietor of the East Hampton Airport, the Town Board has a responsibility to protect residents from the adverse effects of aircraft noise; and

WHEREAS, aircraft noise is not merely annoying and disturbing but threatens the economic vitality of the Town and its brand as a place where people can escape the noise and stresses of urban life in favor of tranquility and rural quiet; and

WHEREAS, that threat could result in lower rates of visitation, reduction in property values, and, more generally, a loss in the attractiveness of the Town; and

WHEREAS, in addition to formal noise complaints, residents and visitors have expressed their anger and frustration about aircraft noise at numerous public meetings, Town Board meetings, in letters to local papers, and in communications with Town officials; and

WHEREAS, the problem of aircraft noise was a major topic of discussion and debate in the recent Town election; and

WHEREAS, the Town has received numerous communications from residents and officials of neighboring and nearby jurisdictions demanding that the Town take action to reduce the effect of noise from aircraft flying to and from East Hampton Airport; and

WHEREAS, the Town of Southampton, the Town Shelter Island, the Town of Southold, the Village of North Haven, the Village of East Hampton, and the Village of Sag Harbor all have adopted resolutions requesting that the Town Board of the Town of East Hampton adopt a comprehensive aircraft noise limitation policy; and

WHEREAS these other towns and villages, and all residents and visitors to the East End, depend upon the Town to address the aircraft noise problem since the Town operates the East Hampton Airport, which is the destination of many of the noisy aircraft flights; and  
WHEREAS, for over two decades, the Town has diligently identified and promoted voluntary measures, including helicopter noise abatement procedures and a nighttime curfew, in order to secure relief from the disturbance of aircraft noise; and

WHEREAS, Town officials have met repeatedly with the New York Congressional delegation, to discuss this issue in the hope of finding a federal legislative solution to the problem of aircraft noise; and

WHEREAS, Town officials have met repeatedly with the Federal Aviation Administration (FAA) officials at the local, regional and headquarters level and with the FAA's Air Traffic Organization, to discuss proposed measures and use restrictions, including the use of voluntary measures; and

WHEREAS, the Town worked with the New York Congressional delegation and all levels of the FAA in the implementation of a mandatory North Shore Helicopter Route, which was initially implemented in August 2012 and recently extended through August 2016; and

WHEREAS, the Town has repeatedly tried, unsuccessfully, to convince the FAA to adopt a mandatory helicopter route along the south shore of Long Island or to adopt mandatory transition routes for helicopters transitioning from the mandatory routes to the East Hampton Airport; and

WHEREAS, the Town has spent the last several summer seasons studying various voluntary measures or measures in cooperation with the FAA to address the noise problem but the level of resident concern has actually increased over that time; and

WHEREAS, the Town's past several years of efforts to address the problem of aircraft noise through voluntary measures promoted by the Town combined with mandatory flight tracks for helicopters imposed by FAA have provided some limited relief in certain neighborhoods, but those measures alone have not reduced to an acceptable level the overall intensity of community disturbance from noise associated with aircraft flying to and from East Hampton Airport; and

WHEREAS, the Town's ability to address the problem of aircraft noise has been constrained legally by obligations under certain of its federal grants that the FAA has stated will no longer be enforced after December 31, 2014; and

WHEREAS, the Town first announced its intent to pursue use restrictions on operations at East Hampton Airport to address the problem of aircraft noise by the adoption of Resolution 2012-832 on August 2, 2012; and

WHEREAS, Town officials and staff have met repeatedly with airport stakeholders, including Eastern Region Helicopter Council, Friends of the East Hampton Airport, the National Business Aviation Association, the Aircraft Owners and Pilots Association, the National Air Transportation Association, and other informal local groups of users and service providers to discuss their respective concerns; and

WHEREAS, the Town held a special public meeting on August 27, 2014, provide the public an opportunity to comment on the problem of aircraft noise and to share views on potential solutions and the meeting was attended by almost 400 people, including 22 elected officials, all of whom expressed support for finding a solution to the noise problem; and

WHEREAS, the Town announced its commitment to finding a solution to disturbance resulting from noise associated with Airport operations; announced its intent to adopt lawful measures to ensure the peace, quiet, tranquility and health of communities affected by Airport noise; resolved to consider the most serious disturbances, the causes of the disturbances, and reasonable and practical solutions tailored to address the source of those disturbances before making a decision; and announced its intent to identify and adopt

regulations to address noise and disturbance from Operations at East Hampton Airport before the 2015 season by the adoption of Resolution 2014-1180 on September 18, 2014; and

WHEREAS, FAA's traditional Day/Night Average Sound Level (DNL) noise metric has proved, after considerable study, not to be a useful tool for measuring the impact of noise from operations at East Hampton Airport because it averages noise data over 24 hours, and does not capture the demonstrated community annoyance and disruption from individual aircraft noise events (especially noise events associated with helicopters); and

WHEREAS, beginning in 2014, the Town commissioned a series of comprehensive analyses of the noise and related complaints, including the following:

- Henry Young of Young Environmental Sciences and Les Blomberg of Noise Pollution Clearinghouse: (1) analyzed 2013 operational data collected by the AirScene system, (2) converted that data for use in the Integrated Noise Model (INM), (3) used the INM to develop Day-Night Average Sound Level (DNL) noise contours for 2013 operations (for total annual operations, annual helicopter operations, busiest day total operations, and busiest day helicopter operations), (4) used the INM to calculate the maximum sound level (Lmax) for each modeled flight in 2013 at each property parcel in a 10-mile radius from the airport, (5) applied the Town Code noise standards to determine the number of "exceedances" (i.e., the number of times each parcel experienced a noise impact above the Town's limits) by aircraft type and type of operation; and
- Peter Wadsworth analyzed 2014 complaint data collected by the PlaneNoise system; and
- Ted Baldwin of Harris Miller Miller & Hanson Inc. (HMMH) led HMMH analyses of November 1, 2013 - October 31, 2014 data, including: (1) analysis of PlaneNoise complaint data to identify temporal and geographic complaint patterns for different aircraft types (e.g., jet, turboprop, piston prop, seaplane, and helicopter), (2) analysis of Vector operations data to identify patterns of activity by day of year, day of week, hour of day (for each day of the week and for the average annual day), and season; (3) correlated PlaneNoise complaint data and Vector operations data to identify patterns; (4) used the independent and correlated data analyses to develop a refined problem definition and promising alternatives for addressing that definition; (5) analyzed the effect of those alternatives in terms of the historical operations that each would have affected and of the associated noise complaints; and (6) identified and reviewed technical studies in the literature that have attempted to identify the most effective noise metric for understanding response to helicopter noise, whether the metric should include a special "adjustment" for helicopters, and otherwise provide useful information on the best means of assessing helicopter noise and predicting human response; and

WHEREAS, the Town also commissioned several advisory groups to assist in identifying the

noise problem with specificity and identifying meaningful, practical and carefully tailored measures that the Town could adopt which would help reduce or eliminate the noise problem; and

WHEREAS, these advisory groups have held many, many public meetings, discussions and debates about how best to address the Town's noise problem; and

WHEREAS, the Town held meetings on October 30, 2014; December 2, 2014; and February 4, 2015; to review the findings of each phase of the recent noise analyses; and

WHEREAS, the Town Board announced four proposed use restrictions for East Hampton Airport on February 10, 2015; and

WHEREAS, the Town Board held public hearings on March 12, 2015, to consider the following four local laws amending Chapter 75 (Airport) of the Town Code: (1) a local law to regulate nighttime operation of aircraft; (2) a local law to regulate nighttime and early morning operation of noisy aircraft; (3) a local law to regulate the operation of helicopters; and (4) a local law to regulate the operation of noisy aircraft; and

WHEREAS, the Town has been soliciting public comment through encouraging comments at Town Board meetings, and emailed comments through a dedicated email address; and

WHEREAS, the Town Board has reviewed all of those comments plus written comments and comments appearing in several local newspapers over the course of the last year; and

WHEREAS, there is no single or simple measure which is certain to solve the Town's noise problem; and

WHEREAS, the Town is committed to testing measures for their practical, real-world effectiveness but needs to have at least one summer season to collect adequate data on real world effects; and

WHEREAS, the Town is committed to collecting data during the summer 2015 season and to assessing all noise control measures in October 2015 for their effectiveness; and

WHEREAS, the Town will modify any restrictions to improve their effectiveness based upon the results of these restrictions during the summer 2015 season; and

WHEREAS, the Town encourages residents, visitors, airport stakeholders, users and all other interested parties to provide the Town with input on the effectiveness of particular measures in addressing, mitigating or eliminating the noise problem; and

WHEREAS, after considering the history of noise disturbance caused by operations at the Airport, reviewing the data provided by the Town's consultants and the comments of the public, and after holding public hearings, the Town Board believes that the enactment of a local law to implement a nighttime curfew at the East Hampton Airport is in the best interests of the Town of East Hampton for the following reasons:

- Disturbance by all types of aircraft is most significant in the evening, nighttime, and early morning hours; and

- Professional studies confirm that nighttime aircraft noise is highly disturbing, that it can disrupt normal sleep patterns, and that it has a particularly serious adverse effect on people's lives; and
- The Town's voluntary curfew has not proven to be sufficiently effective at reducing nighttime noise from aircraft and nighttime operations still generate a significant number of complaints; and

WHEREAS, the proposed local law is an Unlisted Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and Chapter 128 of the Town Code; 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; and now, therefore be it

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

RESOLVED, that said local law is hereby adopted to read as follows:

LOCAL LAW NO. 3 OF 2015  
INTRODUCTORY NO. 2 OF 2015

A Local Law providing for the amendment of Chapter 75 ("AIRPORT") of the East Hampton Town Code to read as follows:

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

### **SECTION 1. Legislative Intent**

In the past three decades, the residents of the Town of East Hampton have experienced a significant increase in noisy aircraft traffic at the East Hampton Airport. By its extensive complaints to the Town Board and to other governmental entities, the public has made clear, and this Town Board recognizes, the negative impact that this aircraft noise has made to the health and welfare of its citizenry, to wildlife and their habitat, as well as to the peace, quiet, and repose of the region. Aircraft noise has substantially diminished the quiet enjoyment of homes and properties and compromised the pleasures of the woodlands, beaches, fields, and preserved lands that define our community and sense of place.

East Hampton is an established resort community whose entire economy is intrinsically tied to the use and enjoyment of its natural and scenic environment, including its world renowned ocean beaches, wetlands, shorelines, harbors, bays, woodlands, and historic hamlets. Visitors and residents alike enjoy East Hampton's unique scenic beauty and the Town has made significant efforts to preserve the natural environs of the Town, spending a total of \$229,431,502 of Community Preservation Funds to preserve approximately 1,924 acres since 1998.

The Town's Comprehensive Plan has outlined the vital connection between preserving the natural scenic beauty and enjoyment of its community and the Town's economy, stating in its vision statement the goal to

"[t]ake forceful measures to protect and restore the environment, particularly groundwater. Reduce the impacts of human habitation on groundwater, surface water, wetlands, dunes biodiversity, ecosystems, scenic resources, air quality, the night sky, noise and energy consumption."

The 2007 Airport Master Plan Report that then became the basis for the adopted 2010 Airport Master Plan states, at II-73:

"The East Hampton Airport is owned, maintained and operated for the benefit of the Town and its residents. The airport continues to be classified as a General Aviation Airport under federal criteria. Its primary role is the accommodation of light aircraft traffic. Aircraft operating at greater weights will be accommodated on condition [sic] without unjust discrimination. The airport is also managed with the objective of providing emergency access and facilitation of all other public and community responsibilities. The size and operation of the airport takes into consideration the needs of East Hampton and Southampton residents for protection from excessive noise disturbance and adverse environmental impacts."

"Control of noise and adverse environmental impacts at the airport is consistent with current Town goals for improved quality of life and land and water conservation. These goals recognize that protecting the environment is essential for improving the Town's seasonal and year round economy. These controls are achieved through reasonable, non arbitrary and non discriminatory management practices. These may limit the maximum size of aircraft to be accommodated, regulate excessive peak demand during the summer season and otherwise adjust use patterns such as for helicopter access to minimize community disturbances."

In an effort to address the impacts of aircraft noise, the Town Board undertook an extensive analysis of the citizenry's complaints, and of the aircraft traffic itself, by the Town's aviation consultants and noise engineers, the results of which have only confirmed the seriousness of the community's noise disturbance. Of 24,000 airport noise complaints logged last year, the latest noise analysis discloses that they are overwhelmingly attributable to helicopters and jets, the noisiest types. Noise complaints at East Hampton Airport far exceed the level of complaints at major airports around the country. This is surely due, not least, to the incongruity of jet and helicopter noise in what is otherwise a very quiet, exurban and rural environment.

Specifically, noise from aircraft operating at the East Hampton Airport disturbs many

residents of the East End of Long Island. Disturbance by all types of aircraft is most significant in the evening, nighttime, and early morning hours. Myriad professional studies from airports throughout the world have confirmed what the residents of East Hampton know from personal experience: nighttime aircraft noise is more disturbing, more annoying, can disrupt normal sleep patterns, and, generally, has a particularly seriously adverse effect on people's lives.

In its capacity as proprietor of the East Hampton Airport, the Town Board has a public policy responsibility to protect residents from the adverse effects of aircraft noise. It has developed a set of restrictions on the use of East Hampton Airport that are reasonable, non-arbitrary, and non-discriminatory. These restrictions address the problems of aircraft noise that are unique to the Town and neighboring communities while preserving for the community the benefits of aviation.

The Town Board recognizes the value of the East Hampton Airport to the community and does not want to impose any greater restriction than is necessary to achieve the Town's objectives.

To that end, the Town Board recognizes the importance of addressing nighttime noise problems, during sleeping hours when there is a heightened expectation of quiet, by imposing a curfew for nighttime hours. The legislation is intended to restrict aircraft operations during the most sensitive times of the day.

By enacting this legislation, the Town Board seeks to achieve immediate, substantial nighttime noise relief for residents and visitors, maintain the intended and traditional use of the East Hampton Airport by recreational aircraft, and continue sufficient air traffic to maintain a financially self-sustaining Airport.

The Town Board is committed to balancing the need to address the impact of the aircraft noise on the Town's environment with the equally important need to maintain an economically viable and safe airport for East Hampton.

The proposed legislation expressly excludes from its application aircraft operated by any federal, state or local government, any emergency services, evacuation services, public or private, and any operation by an aircraft in an emergency. The airport will remain open to such operations at all times without restriction or charge.

These restrictions are adopted on an interim basis. The effects of the legislation on the operations at the Airport for the period May 1 to October 31, 2015 shall be evaluated to determine whether the restrictions should be made permanent or modified. The Town Board will seek public comment throughout the Season and immediately following the Season to determine the success and/or failure of the use restrictions and whether they function the way they were intended or need to be adjusted.

## **SECTION 2. Amendment**

The Code of the Town of East Hampton is hereby amended by adding the following new section to Chapter 75 (Airport).

### **§ 75-38 AIRPORT USE RESTRICTIONS:**

A. **Definitions.**

(1) - (2) - Reserved

(3) "Individual Aircraft" shall mean an aircraft, of whatever type, with a distinct registration number ("N number" if such registration is issued by the United States Government).

(4) - (5) - Reserved

(6) "Use of the Airport" shall mean either one arrival (landing) at, or one departure (takeoff) from, the Airport, shall not include any repositioning of any aircraft on the Airport or any aborted takeoff or landing, but shall include touch-and-go operations that result in use of an Airport runway.

B. **Nighttime Operations.** Use of the Airport is prohibited between the hours of 11:00 pm and 7:00 am (local time).

C. [Reserved]

D. [Reserved]

E. **Exemptions.** The restrictions of this section 75-38 shall not apply to any aircraft operational emergency, any medical emergency operation, whether by public or private aircraft, or to any operation by a government-owned aircraft, including, without limitation, police, emergency services, and military operations. In the case of an aircraft emergency or medical emergency operation, the operator shall submit a sworn statement to the Airport Manager within 24 hours of such operation attesting to the nature of the emergency and reason for the operation.

**§ 75-39 PENALTIES:**

A. Section 75-34 shall not apply to violations of Section 75-38 and this Section 75-39 shall apply for all violations of Section 75-38. For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of Section 75-38 shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.

B. Any Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall be punishable by a fine assessed against any person, organization, corporation, group or other entity which holds an ownership interest in such aircraft, as follows:

(1) For the first violation by an Individual Aircraft, a fine of not more than \$1,000.

(2) For the second violation by an Individual Aircraft, a fine of not more than \$4,000.

(3) For the third violation by an Individual Aircraft, a fine of not more than \$10,000.

(4) For the fourth violation by an Individual Aircraft, a prohibition on any Use of the Airport by the Individual Aircraft involved in such violation for a period of not more than two years.

C. Each Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall constitute a separate offense.

D. In addition, any entity convicted hereunder of not complying with the requirements of Section 75-38 may be subject to a fine of not less than the amount of the actual costs incurred and owed to the Town and not more than an amount equal to twice said actual costs. Should any person, organization, corporation, group or other entity be found in violation of the provisions of Section 75-38 within five years of a previous violation of this chapter, the minimum additional fine shall be not less than \$2000.

E. In addition to the above penalties, the Town may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation Section 75-38 by any person, organization, corporation, group or other entity which holds an ownership interest in the Individual Aircraft.

(1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted or allowed a violation of Section 75-38, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$10,000.00 for each violation that the defendants or any one of them individually caused, permitted or allowed the violation.

### **SECTION 3. Authority**

The Town Board is authorized to establish and promulgate rules and regulations regarding use of the East Hampton Airport pursuant to Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and Town Law §130 and pursuant to its powers as the proprietor of East Hampton Airport under federal statutory and case law and regulations of the Federal Aviation Administration.

### **SECTION 4. Severability**

If any section or subdivision, paragraph, clause or phrase of this law shall be adjudged invalid, unenforceable, or unconstitutional by any order or judgment of a court of competent jurisdiction, or pursuant to any order of any administrative agency having jurisdiction, whether such judgment or order is temporary or permanent, such judgment or order shall not affect the validity of this law as a whole or any part thereof other than the part or

provision so adjudged to be invalid or unconstitutional.

**SECTION 5. Effective Date**

This local law shall take effect upon filing with the Secretary of State.

Dated: April 16, 2015

BY ORDER OF THE TOWN BOARD  
TOWN OF EAST HAMPTON  
CAROLE BRENNAN, TOWN CLERK

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Kathee Burke-Gonzalez, Councilwoman
<b>SECONDER:</b>	Peter Van Scoyoc, Councilman
<b>AYES:</b>	Burke-Gonzalez, Van Scoyoc, Overby, Overton, Cantwell



East Hampton Town Board  
159 Pantigo Road  
East Hampton, NY 11937

Meeting: 04/16/15 06:30 PM  
Department: Town Attorney  
Category: Local Law  
Prepared By: Elizabeth Vail  
Initiator: Elizabeth Vail  
Sponsors: Councilwoman Kathee Burke-Gonzalez  
DOC ID: 15230 B

ADOPTED

RESOLUTION 2015-412

## **Adopt Local Law- Amending Chapter 75 (Airport) of the Town Code Regulating Evening, Nighttime and Early Morning Operation of Noisy Aircraft at East Hampton Airport**

WHEREAS, the Town of East Hampton is an established resort community that is renowned for its peaceful, quiet beaches and outdoor areas; and

WHEREAS, the economy of the Town of East Hampton is tied intrinsically to the use and enjoyment of its natural and scenic environment, including its world-renowned ocean beaches, wetlands, shorelines, harbors, bays, woodlands, and historic hamlets; and

WHEREAS, residents and visitors are attracted to the Town and the East End of Long Island to enjoy the area's unique scenic beauty, its outdoor spaces, and the peaceful and restful atmosphere they provide; and

WHEREAS, peace, quiet, repose, outdoor recreation, sea, air, and a beautiful and unique natural environment are the essential characteristics that make East Hampton and the East End, as a whole, such an attractive and desirable area; and

WHEREAS, the Town and its residents have invested heavily in preserving the rural, quiet pace of life by preserving land and adopting land use policies that are designed to protect the unique quality of life in East Hampton; and

WHEREAS, in the busy season of May - September, residents and visitors spend a significant portion of time outdoors engaged in recreational activities, entertaining, dining with family and friends, and otherwise enjoying the peaceful, restful atmosphere of the area; and

WHEREAS, the unique quality of life in the Town and entire East End means that residents are particularly susceptible to disturbances to their pastoral lifestyle, especially when those disturbances interfere with the qualities which make this Town a highly desirable place to live and visit; and

WHEREAS, the area surrounding the East Hampton Airport is notably quiet because of the lack of industrial noises, relatively low population density and rural roadway network, which, taken together, accentuates the perception of noise, both in terms of peak levels and also in terms of the duration of the noise events themselves; and

WHEREAS, in the past three decades, noise from aircraft overflights has disrupted outdoor activities and diminished the quality of life in the Town and the entire of the East End; and

WHEREAS, the aircraft noise problem has increased dramatically in recent years, as overall operations increased by 23 percent from 2013 to 2014 and helicopter operations alone increased by 47 percent from 2013 to 2014; and

WHEREAS, noise from loud aircraft and helicopters is particularly disruptive because it interrupts conversations and other ordinary activities and makes it very difficult to enjoy

outdoor activities; and

WHEREAS, the sheer frequency of overflights also poses a significant problem because there are extended periods of repeated loud noise events that make it very difficult to enjoy outdoor activities and that destroy the peaceful quiet of this rural area; and

WHEREAS, aircraft noise has been a major source of controversy and community strife for many years, with increasingly strong demands by the public that the Town take action to reduce the disruptive and harmful effects of aircraft noise; and

WHEREAS, the controversy has resulted in a number of lawsuits, and additional threatened lawsuits, aimed at compelling the Town or the federal government to take action to address the problem of aircraft noise; and

WHEREAS, in its capacity as proprietor of the East Hampton Airport, the Town Board has a responsibility to protect residents from the adverse effects of aircraft noise; and

WHEREAS, aircraft noise is not merely annoying and disturbing but threatens the economic vitality of the Town and its brand as a place where people can escape the noise and stresses of urban life in favor of tranquility and rural quiet; and

WHEREAS, that threat could result in lower rates of visitation, reduction in property values, and, more generally, a loss in the attractiveness of the Town; and

WHEREAS, in addition to formal noise complaints, residents and visitors have expressed their anger and frustration about aircraft noise at numerous public meetings, Town Board meetings, in letters to local papers, and in communications with Town officials; and

WHEREAS, the problem of aircraft noise was a major topic of discussion and debate in the recent Town election; and

WHEREAS, the Town has received numerous communications from residents and officials of neighboring and nearby jurisdictions demanding that the Town take action to reduce the effect of noise from aircraft flying to and from East Hampton Airport; and

WHEREAS, the Town of Southampton, the Town Shelter Island, the Town of Southold, the Village of North Haven, the Village of East Hampton, and the Village of Sag Harbor all have adopted resolutions requesting that the Town Board of the Town of East Hampton adopt a comprehensive aircraft noise limitation policy; and

WHEREAS these other towns and villages, and all residents and visitors to the East End, depend upon the Town to address the aircraft noise problem since the Town operates the East Hampton Airport, which is the destination of many of the noisy aircraft flights; and  
WHEREAS, for over two decades, the Town has diligently identified and promoted voluntary measures, including helicopter noise abatement procedures and a nighttime curfew, in order to secure relief from the disturbance of aircraft noise; and

WHEREAS, Town officials have met repeatedly with the New York Congressional delegation, to discuss this issue in the hope of finding a federal legislative solution to the problem of aircraft noise; and

WHEREAS, Town officials have met repeatedly with the Federal Aviation Administration (FAA) officials at the local, regional and headquarters level and with the FAA's Air Traffic Organization, to discuss proposed measures and use restrictions, including the use of voluntary measures; and

WHEREAS, the Town worked with the New York Congressional delegation and all levels of the FAA in the implementation of a mandatory North Shore Helicopter Route, which was initially implemented in August 2012 and recently extended through August 2016; and

WHEREAS, the Town has repeatedly tried, unsuccessfully, to convince the FAA to adopt a mandatory helicopter route along the south shore of Long Island or to adopt mandatory transition routes for helicopters transitioning from the mandatory routes to the East Hampton Airport; and

WHEREAS, the Town has spent the last several summer seasons studying various voluntary measures or measures in cooperation with the FAA to address the noise problem but the level of resident concern has actually increased over that time; and

WHEREAS, the Town's past several years of efforts to address the problem of aircraft noise through voluntary measures promoted by the Town combined with mandatory flight tracks for helicopters imposed by FAA have provided some limited relief in certain neighborhoods, but those measures alone have not reduced to an acceptable level the overall intensity of community disturbance from noise associated with aircraft flying to and from East Hampton Airport; and

WHEREAS, the Town's ability to address the problem of aircraft noise has been constrained legally by obligations under certain of its federal grants that the FAA has stated will no longer be enforced after December 31, 2014; and

WHEREAS, the Town first announced its intent to pursue use restrictions on operations at East Hampton Airport to address the problem of aircraft noise by the adoption of Resolution 2012-832 on August 2, 2012; and

WHEREAS, Town officials and staff have met repeatedly with airport stakeholders, including Eastern Region Helicopter Council, Friends of the East Hampton Airport, the National Business Aviation Association, the Aircraft Owners and Pilots Association, the National Air Transportation Association, and other informal local groups of users and service providers to discuss their respective concerns; and

WHEREAS, the Town held a special public meeting on August 27, 2014, provide the public an opportunity to comment on the problem of aircraft noise and to share views on potential solutions and the meeting was attended by almost 400 people, including 22 elected officials, all of whom expressed support for finding a solution to the noise problem; and

WHEREAS, the Town announced its commitment to finding a solution to disturbance resulting from noise associated with Airport operations; announced its intent to adopt lawful measures to ensure the peace, quiet, tranquility and health of communities affected by Airport noise; resolved to consider the most serious disturbances, the causes of the disturbances, and reasonable and practical solutions tailored to address the source of those disturbances before making a decision; and announced its intent to identify and adopt

regulations to address noise and disturbance from Operations at East Hampton Airport before the 2015 season by the adoption of Resolution 2014-1180 on September 18, 2014; and

WHEREAS, FAA's traditional Day/Night Average Sound Level (DNL) noise metric has proved, after considerable study, not to be a useful tool for measuring the impact of noise from operations at East Hampton Airport because it averages noise data over 24 hours, and does not capture the demonstrated community annoyance and disruption from individual aircraft noise events (especially noise events associated with helicopters); and

WHEREAS, beginning in 2014, the Town commissioned a series of comprehensive analyses of the noise and related complaints, including the following:

- Henry Young of Young Environmental Sciences and Les Blomberg of Noise Pollution Clearinghouse: (1) analyzed 2013 operational data collected by the AirScene system, (2) converted that data for use in the Integrated Noise Model (INM), (3) used the INM to develop Day-Night Average Sound Level (DNL) noise contours for 2013 operations (for total annual operations, annual helicopter operations, busiest day total operations, and busiest day helicopter operations), (4) used the INM to calculate the maximum sound level (Lmax) for each modeled flight in 2013 at each property parcel in a 10-mile radius from the airport, (5) applied the Town Code noise standards to determine the number of "exceedances" (i.e., the number of times each parcel experienced a noise impact above the Town's limits) by aircraft type and type of operation; and
- Peter Wadsworth analyzed 2014 complaint data collected by the PlaneNoise system; and
- Ted Baldwin of Harris Miller Miller & Hanson Inc. (HMMH) led HMMH analyses of November 1, 2013 - October 31, 2014 data, including: (1) analysis of PlaneNoise complaint data to identify temporal and geographic complaint patterns for different aircraft types (e.g., jet, turboprop, piston prop, seaplane, and helicopter), (2) analysis of Vector operations data to identify patterns of activity by day of year, day of week, hour of day (for each day of the week and for the average annual day), and season; (3) correlated PlaneNoise complaint data and Vector operations data to identify patterns; (4) used the independent and correlated data analyses to develop a refined problem definition and promising alternatives for addressing that definition; (5) analyzed the effect of those alternatives in terms of the historical operations that each would have affected and of the associated noise complaints; and (6) identified and reviewed technical studies in the literature that have attempted to identify the most effective noise metric for understanding response to helicopter noise, whether the metric should include a special "adjustment" for helicopters, and otherwise provide useful information on the best means of assessing helicopter noise and predicting human response; and

WHEREAS, the Town also commissioned several advisory groups to assist in identifying the

noise problem with specificity and identifying meaningful, practical and carefully tailored measures that the Town could adopt which would help reduce or eliminate the noise problem; and

WHEREAS, these advisory groups have held many, many public meetings, discussions and debates about how best to address the Town's noise problem; and

WHEREAS, the Town held meetings on October 30, 2014; December 2, 2014; and February 4, 2015; to review the findings of each phase of the recent noise analyses; and

WHEREAS, the Town Board announced four proposed use restrictions for East Hampton Airport on February 10, 2015; and

WHEREAS, the Town Board held public hearings on March 12, 2015, to consider the following four local laws amending Chapter 75 (Airport) of the Town Code: (1) a local law to regulate nighttime operation of aircraft; (2) a local law to regulate nighttime and early morning operation of noisy aircraft; (3) a local law to regulate the operation of helicopters; and (4) a local law to regulate the operation of noisy aircraft; and

WHEREAS, the Town has been soliciting public comment through encouraging comments at Town Board meetings, and emailed comments through a dedicated email address; and

WHEREAS, the Town Board has reviewed all of those comments plus written comments and comments appearing in several local newspapers over the course of the last year; and

WHEREAS, there is no single or simple measure which is certain to solve the Town's noise problem; and

WHEREAS, the Town is committed to testing measures for their practical, real-world effectiveness but needs to have at least one summer season to collect adequate data on real world effects; and

WHEREAS, the Town is committed to collecting data during the summer 2015 season and to assessing all noise control measures in October 2015 for their effectiveness; and

WHEREAS, the Town will modify any restrictions to improve their effectiveness based upon the results of these restrictions during the summer 2015 season; and

WHEREAS, the Town encourages residents, visitors, airport stakeholders, users and all other interested parties to provide the Town with input on the effectiveness of particular measures in addressing, mitigating or eliminating the noise problem; and

WHEREAS, after considering the history of noise disturbance caused by operations at the Airport, reviewing the data provided by the Town's consultants and the comments of the public, and after holding public hearings, the Town Board believes that the enactment of a local law to regulate evening, nighttime and early morning operation of noisy aircraft at the East Hampton Airport is in the best interests of the Town of East Hampton for the following reasons:

- Of the 24,000 airport noise complaints logged last year, the latest noise analysis

discloses that they are overwhelmingly attributable to helicopters and jets, the noisiest types of aircraft; and

- Disturbance by all types of aircraft is most significant in the evening, nighttime, and early morning hours; and
- During those hours, noisy aircraft are the most annoying; and
- While all aircraft operations during the nighttime hours are disturbing, noisy aircraft can be especially intrusive during the "shoulder" times of the evening and early morning hours, which are times of the day when residents and visitors typically engage in outdoor activities and are therefore are highly sensitive to disruption by loud aircraft; and

WHEREAS, the proposed local law is an Unlisted Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and Chapter 128 of the Town Code; 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; and now, therefore be it

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

RESOLVED, that said local law is hereby adopted to read as follows:

LOCAL LAW NO. 4 OF 2015  
INTRODUCTORY NO. 3 OF 2015

A Local Law providing for the amendment of Chapter 75 ("AIRPORT") of the East Hampton Town Code to read as follows:

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

**SECTION 1. Legislative Intent**

In the past three decades, the residents of the Town of East Hampton have experienced a significant increase in noisy aircraft traffic at the East Hampton Airport, chiefly helicopters, jets, and seaplanes. By its extensive complaints to the Town Board and to other governmental entities, the public has made clear, and this Town Board recognizes, the negative impact that this aircraft noise has made to the health and welfare of its citizenry,

to wildlife and their habitat, as well as to the peace, quiet, and repose of the region. Aircraft noise has substantially diminished the quiet enjoyment of homes and properties and compromised the pleasures of the woodlands, beaches, fields, and preserved lands that define our community and sense of place.

East Hampton is an established resort community whose entire economy is intrinsically tied to the use and enjoyment of its natural and scenic environment, including its world renowned ocean beaches, wetlands, shorelines, harbors, bays, woodlands, and historic hamlets. Visitors and residents alike enjoy East Hampton's unique scenic beauty and the Town has made significant efforts to preserve the natural environs of the Town, spending a total of \$229,431,502 of Community Preservation Funds to preserve approximately 1,924 acres since 1998.

The Town's Comprehensive Plan has outlined the vital connection between preserving the natural scenic beauty and enjoyment of its community and the Town's economy, stating in its vision statement the goal to

"[t]ake forceful measures to protect and restore the environment, particularly groundwater. Reduce the impacts of human habitation on groundwater, surface water, wetlands, dunes biodiversity, ecosystems, scenic resources, air quality, the night sky, noise and energy consumption."

The 2007 Airport Master Plan Report that then became the basis for the adopted 2010 Airport Master Plan states, at II-73:

"The East Hampton Airport is owned, maintained and operated for the benefit of the Town and its residents. The airport continues to be classified as a General Aviation Airport under federal criteria. Its primary role is the accommodation of light aircraft traffic. Aircraft operating at greater weights will be accommodated on condition [sic] without unjust discrimination. The airport is also managed with the objective of providing emergency access and facilitation of all other public and community responsibilities. The size and operation of the airport takes into consideration the needs of East Hampton and Southampton residents for protection from excessive noise disturbance and adverse environmental impacts."

"Control of noise and adverse environmental impacts at the airport is consistent with current Town goals for improved quality of life and land and water conservation. These goals recognize that protecting the environment is essential for improving the Town's seasonal and year round economy. These controls are achieved through reasonable, non arbitrary and non discriminatory management practices. These may limit the maximum size of aircraft to be accommodated, regulate excessive peak demand during the summer season and otherwise adjust use patterns such as for helicopter access to minimize community disturbances."

In an effort to address the impacts of aircraft noise, the Town Board undertook an extensive analysis of the citizenry's complaints, and of the aircraft traffic itself, by the Town's aviation consultants and noise engineers, the results of which have only confirmed the seriousness of the community's noise disturbance. Of 24,000 airport noise complaints logged last year, the latest noise analysis discloses that they are overwhelmingly attributable to helicopters and jets, the noisiest types. Noise complaints at East Hampton Airport far exceed the level of complaints at major airports around the country. This is surely due, not least, to the incongruity of jet and helicopter noise in what is otherwise a very quiet, exurban and rural environment.

Specifically, noise from aircraft operating at the East Hampton Airport disturbs many residents of the East End of Long Island. Disturbance by all types of aircraft is most significant in the evening, nighttime, and early morning hours. During those hours, noisy aircraft are the most disturbing. While all aircraft operations during the nighttime hours are disturbing, noisy aircraft can be especially intrusive during the 'shoulder' times of the evening and early morning hours, when people are doing daily activities around their homes, and there is a need to address the particular impacts of these noisy aircraft during these times of the day.

In its capacity as proprietor of the East Hampton Airport, the Town Board has a public policy responsibility to protect residents from the adverse effects of aircraft noise. It has developed a set of restrictions on the use of East Hampton Airport that are reasonable, non-arbitrary, and non-discriminatory. These restrictions address the problems of aircraft noise that are unique to the Town and neighboring communities while preserving for the community the benefits of aviation.

The Town Board recognizes the value of the East Hampton Airport to the community and does not want to impose any greater restriction than is necessary to achieve the Town's objectives.

To that end, the Town Board recognizes the importance of addressing the impacts of noisy aircraft operations during non-working hours of evenings and early mornings when there is a heightened expectation of quiet, by imposing shorter operating hours for these noisy types of aircraft. The legislation is intended to recognize that noisier aircraft need to be subject to greater restrictions because of the seriousness of their noise contribution to the community disturbance - that is, each aircraft's individual noise generation and the frequency and timing of its airport landings and takeoffs.

By enacting this legislation, the Town Board seeks to achieve immediate, substantial evening and morning noise relief for residents and visitors, maintain the intended and traditional use of the East Hampton Airport by recreational aircraft, and continue sufficient air traffic to maintain a financially self-sustaining Airport.

The Town Board is committed to balancing the need to address the impact of the aircraft noise on the Town's environment with the equally important need to maintain an economically viable and safe airport for East Hampton.

The proposed legislation expressly excludes from its application aircraft operated by any federal, state or local government, any emergency services, evacuation services, public or private, and any operation by an aircraft in an emergency. The airport will remain open to

such operations at all times without restriction or charge.

These restrictions are adopted on an interim basis. The effects of the legislation on the operations at the Airport for the period May 1 to October 31, 2015 shall be evaluated to determine whether the restrictions should be made permanent or modified. The Town Board will seek public comment throughout the Season and immediately following the Season to determine the success and/or failure of the use restrictions and whether they function the way they were intended or need to be adjusted.

## **SECTION 2. Amendment**

The Code of the Town of East Hampton is hereby amended by adding the following new section to Chapter 75 (Airport).

### **§ 75-38 AIRPORT USE RESTRICTIONS:**

#### **A. Definitions.**

(1) - (2) - Reserved

(3) "Individual Aircraft" shall mean an aircraft, of whatever type, with a distinct registration number ("N number" if such registration is issued by the United States Government).

(4) "Noisy Aircraft" shall mean any airplane or rotorcraft type classified as a Noisy Aircraft type pursuant to this Section.

(a) The Airport Director is directed to maintain on the Town website a current list of aircraft based upon the noise characteristics published by the Federal Aviation Administration, or (if data is not available from that agency), the European Aviation Safety Agency. Noisy Aircraft shall be defined as any airplane or rotorcraft for which there is a published Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater

(b) In lieu of being subject to the definition of "Noisy Aircraft" pursuant to subsection (a) on the basis of the Town's list of types of Noisy Aircraft, the owner of an Individual Aircraft may elect to have the noise classification of such Individual Aircraft determined by the sound levels on the basis of the EPNdB level that is published in the airplane or rotorcraft flight manual for such Individual Aircraft pursuant to 14 C.F.R. 36.1581(a). To obtain a noise classification of an Individual Aircraft, the owner of such aircraft shall provide the Airport Director with a true copy of the relevant pages from such manual showing the noise level data. In the event of a conflict between the Town's list of classifications of Noisy Aircraft types and classification based on the data set forth in the Individual Aircraft airplane or rotorcraft flight manual, the data in the Individual Aircraft airplane or rotorcraft flight manual shall prevail. Once the owner of an Individual Aircraft has provided the Airport Director with

such data from the Individual Aircraft airplane or rotorcraft flight manual, and the Airport Director has determined the authenticity thereof, the Airport Director shall keep such data on file so that the owner need not resubmit the data for each Use of the Airport, and compliance by such Individual Aircraft with this Section shall be determined based on such data.

(5) (Reserved)

(6) "Use of the Airport" shall mean either one arrival (landing) at, or one departure (takeoff) from, the Airport, shall not include any repositioning of any aircraft on the Airport or any aborted takeoff or landing, but shall include touch-and-go operations that result in use of an Airport runway.

B. [Reserved]

C. **Noisy Aircraft Operations.** Use of the Airport by Noisy Aircraft is prohibited as follows:

(1) Between the hours of 8:00 pm and 9:00 am (local time).

D. [Reserved]

E. **Exemptions.** The restrictions of this section 75-38 shall not apply to any aircraft operational emergency, any medical emergency operation, whether by public or private aircraft, or to any operation by a government-owned aircraft, including, without limitation, police, emergency services, and military operations. In the case of an aircraft emergency or medical emergency operation, the operator shall submit a sworn statement to the Airport Manager within 24 hours of such operation attesting to the nature of the emergency and reason for the operation.

#### § 75-39 PENALTIES:

A. Section 75-34 shall not apply to violations of Section 75-38 and this Section 75-39 shall apply for all violations of Section 75-38. For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of Section 75-38 shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.

B. Any Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall be punishable by a fine assessed against any person, organization, corporation, group or other entity which holds an ownership interest in such aircraft, as follows:

(1) For the first violation by an Individual Aircraft, a fine of not more than \$1,000.

(2) For the second violation by an Individual Aircraft, a fine of not more than \$4,000.

(3) For the third violation by an Individual Aircraft, a fine of not more than \$10,000.

(4) For the fourth violation by an Individual Aircraft, a prohibition on any Use of the Airport by the Individual Aircraft involved in such violation for a period of not more than two years.

C. Each Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall constitute a separate offense.

D. In addition, any entity convicted hereunder of not complying with the requirements of Section 75-38 may be subject to a fine of not less than the amount of the actual costs incurred and owed to the Town and not more than an amount equal to twice said actual costs. Should any person, organization, corporation, group or other entity be found in violation of the provisions of Section 75-38 within five years of a previous violation of this chapter, the minimum additional fine shall be not less than \$2000.

E. In addition to the above penalties, the Town may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation Section 75-38 by any person, organization, corporation, group or other entity which holds an ownership interest in the Individual Aircraft.

(1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted or allowed a violation of Section 75-38, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$10,000.00 for each violation that the defendants or any one of them individually caused, permitted or allowed the violation.

### **SECTION 3. Authority**

The Town Board is authorized to establish and promulgate rules and regulations regarding use of the East Hampton Airport pursuant to Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and Town Law §130 and pursuant to its powers as the proprietor of East Hampton Airport under federal statutory and case law and regulations of the Federal Aviation Administration.

### **SECTION 4. Severability**

If any section or subdivision, paragraph, clause or phrase of this law shall be adjudged invalid, unenforceable, or unconstitutional by any order or judgment of a court of competent jurisdiction, or pursuant to any order of any administrative agency having jurisdiction, whether such judgment or order is temporary or permanent, such judgment or order shall not affect the validity of this law as a whole or any part thereof other than the part or

provision so adjudged to be invalid or unconstitutional.

**SECTION 5. Effective Date**

This local law shall take effect upon filing with the Secretary of State.

Dated: April 16, 2015

BY ORDER OF THE TOWN BOARD  
TOWN OF EAST HAMPTON  
CAROLE BRENNAN, TOWN CLERK

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Kathee Burke-Gonzalez, Councilwoman
<b>SECONDER:</b>	Peter Van Scoyoc, Councilman
<b>AYES:</b>	Burke-Gonzalez, Van Scoyoc, Overby, Overton, Cantwell



East Hampton Town Board  
159 Pantigo Road  
East Hampton, NY 11937

Meeting: 04/16/15 06:30 PM  
Department: Town Attorney  
Category: Local Law  
Prepared By: Elizabeth Vail  
Initiator: Elizabeth Vail  
Sponsors: Councilwoman Kathee Burke-Gonzalez  
DOC ID: 15231 B

ADOPTED

RESOLUTION 2015-413

## **Adopt Local Law- Amending Chapter 75 (Airport) of the Town Code Regulating Operation of Noisy Aircraft at East Hampton Airport**

WHEREAS, the Town of East Hampton is an established resort community that is renowned for its peaceful, quiet beaches and outdoor areas; and

WHEREAS, the economy of the Town of East Hampton is tied intrinsically to the use and enjoyment of its natural and scenic environment, including its world-renowned ocean beaches, wetlands, shorelines, harbors, bays, woodlands, and historic hamlets; and

WHEREAS, residents and visitors are attracted to the Town and the East End of Long Island to enjoy the area's unique scenic beauty, its outdoor spaces, and the peaceful and restful atmosphere they provide; and

WHEREAS, peace, quiet, repose, outdoor recreation, sea, air, and a beautiful and unique natural environment are the essential characteristics that make East Hampton and the East End, as a whole, such an attractive and desirable area; and

WHEREAS, the Town and its residents have invested heavily in preserving the rural, quiet pace of life by preserving land and adopting land use policies that are designed to protect the unique quality of life in East Hampton; and

WHEREAS, in the busy season of May - September, residents and visitors spend a significant portion of time outdoors engaged in recreational activities, entertaining, dining with family and friends, and otherwise enjoying the peaceful, restful atmosphere of the area; and

WHEREAS, the unique quality of life in the Town and entire East End means that residents are particularly susceptible to disturbances to their pastoral lifestyle, especially when those disturbances interfere with the qualities which make this Town a highly desirable place to live and visit; and

WHEREAS, the area surrounding the East Hampton Airport is notably quiet because of the lack of industrial noises, relatively low population density and rural roadway network, which, taken together, accentuates the perception of noise, both in terms of peak levels and also in terms of the duration of the noise events themselves; and

WHEREAS, in the past three decades, noise from aircraft overflights has disrupted outdoor activities and diminished the quality of life in the Town and the entire of the East End; and

WHEREAS, the aircraft noise problem has increased dramatically in recent years, as overall operations increased by 23 percent from 2013 to 2014 and helicopter operations alone increased by 47 percent from 2013 to 2014; and

WHEREAS, noise from loud aircraft and helicopters is particularly disruptive because it interrupts conversations and other ordinary activities and makes it very difficult to enjoy

outdoor activities; and

WHEREAS, the sheer frequency of overflights also poses a significant problem because there are extended periods of repeated loud noise events that make it very difficult to enjoy outdoor activities and that destroy the peaceful quiet of this rural area; and

WHEREAS, aircraft noise has been a major source of controversy and community strife for many years, with increasingly strong demands by the public that the Town take action to reduce the disruptive and harmful effects of aircraft noise; and

WHEREAS, the controversy has resulted in a number of lawsuits, and additional threatened lawsuits, aimed at compelling the Town or the federal government to take action to address the problem of aircraft noise; and

WHEREAS, in its capacity as proprietor of the East Hampton Airport, the Town Board has a responsibility to protect residents from the adverse effects of aircraft noise; and

WHEREAS, aircraft noise is not merely annoying and disturbing but threatens the economic vitality of the Town and its brand as a place where people can escape the noise and stresses of urban life in favor of tranquility and rural quiet; and

WHEREAS, that threat could result in lower rates of visitation, reduction in property values, and, more generally, a loss in the attractiveness of the Town; and

WHEREAS, in addition to formal noise complaints, residents and visitors have expressed their anger and frustration about aircraft noise at numerous public meetings, Town Board meetings, in letters to local papers, and in communications with Town officials; and

WHEREAS, the problem of aircraft noise was a major topic of discussion and debate in the recent Town election; and

WHEREAS, the Town has received numerous communications from residents and officials of neighboring and nearby jurisdictions demanding that the Town take action to reduce the effect of noise from aircraft flying to and from East Hampton Airport; and

WHEREAS, the Town of Southampton, the Town Shelter Island, the Town of Southold, the Village of North Haven, the Village of East Hampton, and the Village of Sag Harbor all have adopted resolutions requesting that the Town Board of the Town of East Hampton adopt a comprehensive aircraft noise limitation policy; and

WHEREAS these other towns and villages, and all residents and visitors to the East End, depend upon the Town to address the aircraft noise problem since the Town operates the East Hampton Airport, which is the destination of many of the noisy aircraft flights; and  
WHEREAS, for over two decades, the Town has diligently identified and promoted voluntary measures, including helicopter noise abatement procedures and a nighttime curfew, in order to secure relief from the disturbance of aircraft noise; and

WHEREAS, Town officials have met repeatedly with the New York Congressional delegation, to discuss this issue in the hope of finding a federal legislative solution to the problem of aircraft noise; and

WHEREAS, Town officials have met repeatedly with the Federal Aviation Administration (FAA) officials at the local, regional and headquarters level and with the FAA's Air Traffic Organization, to discuss proposed measures and use restrictions, including the use of voluntary measures; and

WHEREAS, the Town worked with the New York Congressional delegation and all levels of the FAA in the implementation of a mandatory North Shore Helicopter Route, which was initially implemented in August 2012 and recently extended through August 2016; and

WHEREAS, the Town has repeatedly tried, unsuccessfully, to convince the FAA to adopt a mandatory helicopter route along the south shore of Long Island or to adopt mandatory transition routes for helicopters transitioning from the mandatory routes to the East Hampton Airport; and

WHEREAS, the Town has spent the last several summer seasons studying various voluntary measures or measures in cooperation with the FAA to address the noise problem but the level of resident concern has actually increased over that time; and

WHEREAS, the Town's past several years of efforts to address the problem of aircraft noise through voluntary measures promoted by the Town combined with mandatory flight tracks for helicopters imposed by FAA have provided some limited relief in certain neighborhoods, but those measures alone have not reduced to an acceptable level the overall intensity of community disturbance from noise associated with aircraft flying to and from East Hampton Airport; and

WHEREAS, the Town's ability to address the problem of aircraft noise has been constrained legally by obligations under certain of its federal grants that the FAA has stated will no longer be enforced after December 31, 2014; and

WHEREAS, the Town first announced its intent to pursue use restrictions on operations at East Hampton Airport to address the problem of aircraft noise by the adoption of Resolution 2012-832 on August 2, 2012; and

WHEREAS, Town officials and staff have met repeatedly with airport stakeholders, including Eastern Region Helicopter Council, Friends of the East Hampton Airport, the National Business Aviation Association, the Aircraft Owners and Pilots Association, the National Air Transportation Association, and other informal local groups of users and service providers to discuss their respective concerns; and

WHEREAS, the Town held a special public meeting on August 27, 2014, provide the public an opportunity to comment on the problem of aircraft noise and to share views on potential solutions and the meeting was attended by almost 400 people, including 22 elected officials, all of whom expressed support for finding a solution to the noise problem; and

WHEREAS, the Town announced its commitment to finding a solution to disturbance resulting from noise associated with Airport operations; announced its intent to adopt lawful measures to ensure the peace, quiet, tranquility and health of communities affected by Airport noise; resolved to consider the most serious disturbances, the causes of the disturbances, and reasonable and practical solutions tailored to address the source of those disturbances before making a decision; and announced its intent to identify and adopt

regulations to address noise and disturbance from Operations at East Hampton Airport before the 2015 season by the adoption of Resolution 2014-1180 on September 18, 2014; and

WHEREAS, FAA's traditional Day/Night Average Sound Level (DNL) noise metric has proved, after considerable study, not to be a useful tool for measuring the impact of noise from operations at East Hampton Airport because it averages noise data over 24 hours, and does not capture the demonstrated community annoyance and disruption from individual aircraft noise events (especially noise events associated with helicopters); and

WHEREAS, beginning in 2014, the Town commissioned a series of comprehensive analyses of the noise and related complaints, including the following:

- Henry Young of Young Environmental Sciences and Les Blomberg of Noise Pollution Clearinghouse: (1) analyzed 2013 operational data collected by the AirScene system, (2) converted that data for use in the Integrated Noise Model (INM), (3) used the INM to develop Day-Night Average Sound Level (DNL) noise contours for 2013 operations (for total annual operations, annual helicopter operations, busiest day total operations, and busiest day helicopter operations), (4) used the INM to calculate the maximum sound level (Lmax) for each modeled flight in 2013 at each property parcel in a 10-mile radius from the airport, (5) applied the Town Code noise standards to determine the number of "exceedances" (i.e., the number of times each parcel experienced a noise impact above the Town's limits) by aircraft type and type of operation; and
- Peter Wadsworth analyzed 2014 complaint data collected by the PlaneNoise system; and
- Ted Baldwin of Harris Miller Miller & Hanson Inc. (HMMH) led HMMH analyses of November 1, 2013 - October 31, 2014 data, including: (1) analysis of PlaneNoise complaint data to identify temporal and geographic complaint patterns for different aircraft types (e.g., jet, turboprop, piston prop, seaplane, and helicopter), (2) analysis of Vector operations data to identify patterns of activity by day of year, day of week, hour of day (for each day of the week and for the average annual day), and season; (3) correlated PlaneNoise complaint data and Vector operations data to identify patterns; (4) used the independent and correlated data analyses to develop a refined problem definition and promising alternatives for addressing that definition; (5) analyzed the effect of those alternatives in terms of the historical operations that each would have affected and of the associated noise complaints; and (6) identified and reviewed technical studies in the literature that have attempted to identify the most effective noise metric for understanding response to helicopter noise, whether the metric should include a special "adjustment" for helicopters, and otherwise provide useful information on the best means of assessing helicopter noise and predicting human response; and

WHEREAS, the Town also commissioned several advisory groups to assist in identifying the

noise problem with specificity and identifying meaningful, practical and carefully tailored measures that the Town could adopt which would help reduce or eliminate the noise problem; and

WHEREAS, these advisory groups have held many, many public meetings, discussions and debates about how best to address the Town's noise problem; and

WHEREAS, the Town held meetings on October 30, 2014; December 2, 2014; and February 4, 2015; to review the findings of each phase of the recent noise analyses; and

WHEREAS, the Town Board announced four proposed use restrictions for East Hampton Airport on February 10, 2015; and

WHEREAS, the Town Board held public hearings on March 12, 2015, to consider the following four local laws amending Chapter 75 (Airport) of the Town Code: (1) a local law to regulate nighttime operation of aircraft; (2) a local law to regulate nighttime and early morning operation of noisy aircraft; (3) a local law to regulate the operation of helicopters; and (4) a local law to regulate the operation of noisy aircraft; and

WHEREAS, the Town has been soliciting public comment through encouraging comments at Town Board meetings, and emailed comments through a dedicated email address; and

WHEREAS, the Town Board has reviewed all of those comments plus written comments and comments appearing in several local newspapers over the course of the last year; and

WHEREAS, there is no single or simple measure which is certain to solve the Town's noise problem; and

WHEREAS, the Town is committed to testing measures for their practical, real-world effectiveness but needs to have at least one summer season to collect adequate data on real world effects; and

WHEREAS, the Town is committed to collecting data during the summer 2015 season and to assessing all noise control measures in October 2015 for their effectiveness; and

WHEREAS, the Town will modify any restrictions to improve their effectiveness based upon the results of these restrictions during the summer 2015 season; and

WHEREAS, the Town encourages residents, visitors, airport stakeholders, users and all other interested parties to provide the Town with input on the effectiveness of particular measures in addressing, mitigating or eliminating the noise problem; and

WHEREAS, after considering the history of noise disturbance caused by operations at the Airport, reviewing the data provided by the Town's consultants and the comments of the public, and after holding public hearings, the Town Board believes that the enactment of a local law to limit the number of operations of noisy aircraft at the East Hampton Airport is in the best interests of the Town of East Hampton for the following reasons:

- Noise from the noisiest aircraft operating at the East Hampton Airport is particularly disruptive of the peace and tranquility in and around the Town because their high

noise levels contrast with the general peace and quiet of the East End to a much greater degree than quieter aircraft; and

- The relatively high volume of operations by the noisiest aircraft has caused widespread community disturbance due to the particularly disruptive effect of those aircraft; and
- The proposed restriction would affect 3,443, or 13.4 percent of the total operations but would address roughly 37.6 of the reported complaints; and
- Limiting the noisiest aircraft is the most important during the summer season when residents and visitors have a heightened expectation that they can enjoy the outdoor environment in peace; and

WHEREAS, the proposed local law is an Unlisted Action pursuant to the New York State Environmental Quality Review Act (SEQRA) and Chapter 128 of the Town Code; 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

RESOLVED, that said local law is hereby adopted to read as follows:

LOCAL LAW NO. 5 OF 2015  
INTRODUCTORY NO. 5 OF 2015

A Local Law providing for the amendment of Chapter 75 ("AIRPORT") of the East Hampton Town Code to read as follows:

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

**SECTION 1. Legislative Intent.**

In the past three decades, the residents of the Town of East Hampton have experienced a significant increase in noisy aircraft traffic at the East Hampton Airport, chiefly helicopters, jets, and seaplanes. By its extensive complaints to the Town Board and to other governmental entities, the public has made clear, and this Town Board recognizes, the negative impact that this aircraft noise has made to the health and welfare of its citizenry, to wildlife and their habitat, as well as to the peace, quiet, and repose of the region. Aircraft noise has substantially diminished the quiet enjoyment of homes and properties and compromised the pleasures of the woodlands, beaches, fields, and preserved lands that define our community and sense of place.

East Hampton is an established resort community whose entire economy is intrinsically tied

to the use and enjoyment of its natural and scenic environment, including its world renowned ocean beaches, wetlands, shorelines, harbors, bays, woodlands, and historic hamlets. Visitors and residents alike enjoy East Hampton's unique scenic beauty and the Town has made significant efforts to preserve the natural environs of the Town, spending a total of \$229,431,502 of Community Preservation Funds to preserve approximately 1,924 acres since 1998.

The Town's Comprehensive Plan has outlined the vital connection between preserving the natural scenic beauty and enjoyment of its community and the Town's economy, stating in its vision statement the goal to

"[t]ake forceful measures to protect and restore the environment, particularly groundwater. Reduce the impacts of human habitation on groundwater, surface water, wetlands, dunes biodiversity, ecosystems, scenic resources, air quality, the night sky, noise and energy consumption."

The 2007 Airport Master Plan Report that then became the basis for the adopted 2010 Airport Master Plan states, at II-73:

"The East Hampton Airport is owned, maintained and operated for the benefit of the Town and its residents. The airport continues to be classified as a General Aviation Airport under federal criteria. Its primary role is the accommodation of light aircraft traffic. Aircraft operating at greater weights will be accommodated on condition [sic] without unjust discrimination. The airport is also managed with the objective of providing emergency access and facilitation of all other public and community responsibilities. The size and operation of the airport takes into consideration the needs of East Hampton and Southampton residents for protection from excessive noise disturbance and adverse environmental impacts."

"Control of noise and adverse environmental impacts at the airport is consistent with current Town goals for improved quality of life and land and water conservation. These goals recognize that protecting the environment is essential for improving the Town's seasonal and year round economy. These controls are achieved through reasonable, non arbitrary and non discriminatory management practices. These may limit the maximum size of aircraft to be accommodated, regulate excessive peak demand during the summer season and otherwise adjust use patterns such as for helicopter access to minimize community disturbances."

In an effort to address the impacts of aircraft noise, the Town Board undertook an extensive analysis of the citizenry's complaints, and of the aircraft traffic itself, by the Town's aviation consultants and noise engineers, the results of which have only confirmed the seriousness of the community's noise disturbance. Of 24,000 airport noise complaints logged last year, the latest noise analysis discloses that they are overwhelmingly attributable to helicopters

and jets, the noisiest types. Noise complaints at East Hampton Airport far exceed the level of complaints at major airports around the country. This is surely due, not least, to the incongruity of jet and helicopter noise in what is otherwise a very quiet, exurban and rural environment.

Specifically, noise from aircraft operating at the East Hampton Airport disturbs many residents of the East End of Long Island. Disturbance by the noisiest aircraft is most significant when aircraft operations are most frequent. The Town examined how best to limit the constant onslaught of air traffic and has determined that an overall limit on operations by the noisiest aircraft is essential to the quality of life to which residents and visitors are entitled.

In its capacity as proprietor of the East Hampton Airport, the Town Board has a public policy responsibility to protect residents from the adverse effects of aircraft noise. It has developed a set of restrictions on the use of East Hampton Airport that are reasonable, non-arbitrary, and non-discriminatory. These restrictions address the problems of aircraft noise that are unique to the Town and neighboring communities while preserving for the community the benefits of aviation.

As the U.S. Court of Appeals for the Second Circuit recognized in the National Helicopter case -- that residents have a justified, heightened expectation of quiet during non-working hours, evenings, nights, and weekends -- both year-round and seasonal residents of East Hampton and the East End have a justified, heightened expectation of quiet, yet suffer greater exposure to disturbance from aircraft noise, during the very periods when the East End is sought as a destination for repose and relief from urban ills. That is the reason why the huge influx of seasonal residents and visitors come to East Hampton. It is the reason why year-round residents struggle to stay in East Hampton despite the difficulty of earning a living in a limited economy on the end of a long, narrow peninsula on the tip of a long island. Peace, quiet, repose, outdoor recreation, sea, air, a beautiful and unique natural environment, these are the primary social and economic goods that East Hampton and the East End as a whole have to offer.

The Town Board recognizes the value of the East Hampton Airport to the community and does not want to impose any greater restriction than is necessary to achieve the Town's objectives.

To that end, the Town Board recognizes that limiting the volume and frequency of airport use by noisy aircraft types during the summer season is essential to restoring the peace and quiet that East Hampton residents and visitors have come to expect in this community. The legislation is intended to restrict aircraft according to the seriousness of their noise contribution to the community disturbance - that is, each aircraft's individual noise generation and the frequency and timing of its airport landings and takeoffs. The proposed restrictions are seasonally based, imposing greater limits during the period May 1 to September 30 each year when residents and visitors have a heightened expectation that they can enjoy our magnificent outdoor environment in peace.

By enacting this legislation, the Town Board seeks to achieve immediate, substantial noise relief for residents and visitors during the summertime, provide an incentive for airport users with noisy types of aircraft to transition to quieter types of aircraft, maintain the intended and traditional use of the East Hampton Airport by recreational aircraft, and

continue sufficient air traffic to maintain a financially self-sustaining Airport.

The Town Board is committed to balancing the need to address the impact of the aircraft noise on the Town's environment with the equally important need to maintain an economically viable and safe airport for East Hampton.

The proposed legislation expressly excludes from its application aircraft operated by any federal, state or local government, any emergency services, evacuation services, public or private, and any operation by an aircraft in an emergency. The airport will remain open to such operations at all times without restriction or charge.

These restrictions are adopted on an interim basis. The effects of the legislation on the operations at the Airport for the period May 1 to October 31, 2015 shall be evaluated to determine whether the restrictions should be made permanent or modified. The Town Board will seek public comment throughout the Season and immediately following the Season to determine the success and/or failure of the use restrictions and whether they function the way they were intended or need to be adjusted.

## **SECTION 2. Amendment**

Section 75-38, Airport Use Restrictions, of the Code of the Town of East Hampton is hereby amended by adding the following provisions:

### CHAPTER 75, AIRPORT.

#### § 75-38 AIRPORT USE RESTRICTIONS:

##### **A. Definitions.**

- (1) "Calendar Week" shall mean the period beginning at 12:00:00 am on Sunday and ending at 11:59:59 pm on the following Saturday.
- (2) - Reserved
- (3) "Individual Aircraft" shall mean an aircraft, of whatever type, with a distinct registration number ("N number" if such registration is issued by the United States Government).
- (4) "Noisy Aircraft" shall mean any airplane or rotorcraft type classified as a Noisy Aircraft type pursuant to this Section.
  - (a) The Airport Director is directed to maintain on the Town website a current list of aircraft based upon the noise characteristics published by the Federal Aviation Administration, or (if data is not available from that agency), the European Aviation Safety Agency. Noisy Aircraft shall be defined as any airplane or rotorcraft for which there is a published Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater
  - (b) In lieu of being subject to the definition of "Noisy Aircraft" pursuant to

subsection (a) on the basis of the Town's list of types of Noisy Aircraft, the owner of an Individual Aircraft may elect to have the noise classification of such Individual Aircraft determined by the sound levels on the basis of the EPNdB level that is published in the airplane or rotorcraft flight manual for such Individual Aircraft pursuant to 14 C.F.R. 36.1581(a). To obtain a noise classification of an Individual Aircraft, the owner of such aircraft shall provide the Airport Director with a true copy of the relevant pages from such manual showing the noise level data. In the event of a conflict between the Town's list of classifications of Noisy Aircraft types and classification based on the data set forth in the Individual Aircraft airplane or rotorcraft flight manual, the data in the Individual Aircraft airplane or rotorcraft flight manual shall prevail. Once the owner of an Individual Aircraft has provided the Airport Director with such data from the Individual Aircraft airplane or rotorcraft flight manual, and the Airport Director has determined the authenticity thereof, the Airport Director shall keep such data on file so that the owner need not resubmit the data for each Use of the Airport, and compliance by such Individual Aircraft with this Section shall be determined based on such data.

(6) "Use of the Airport" shall mean either one arrival (landing) at, or one departure (takeoff) from, the Airport, shall not include any repositioning of any aircraft on the Airport or any aborted takeoff or landing, but shall include touch-and-go operations that result in use of an Airport runway.

B. [Reserved]

C. **Noisy Aircraft Operations.** Use of the Airport by Noisy Aircraft is prohibited as follows:

(1) [Reserved]

(2) More than two Uses of the Airport by an Individual Aircraft during a Calendar Week, or portion of a Calendar Week, that falls within the Season.

D. [Reserved]

E. **Exemptions.** The restrictions of this section 75-38 shall not apply to any aircraft operational emergency, any medical emergency operation, whether by public or private aircraft, or to any operation by a government-owned aircraft, including, without limitation, police, emergency services, and military operations. In the case of an aircraft emergency or medical emergency operation, the operator shall submit a sworn statement to the Airport Manager within 24 hours of such operation attesting to the nature of the emergency and reason for the operation.

**§ 75-39 PENALTIES:**

- A. Section 75-34 shall not apply to violations of Section 75-38 and this Section 75-39 shall apply for all violations of Section 75-38. For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of Section 75-38 shall be deemed misdemeanors, and, for such purpose only, all provisions of law relating to misdemeanors shall apply to such violations.
- B. Any Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall be punishable by a fine assessed against any person, organization, corporation, group or other entity which holds an ownership interest in such aircraft, as follows: (1) For the first violation by an Individual Aircraft, a fine of not more than \$1,000.
- (2) For the second violation by an Individual Aircraft, a fine of not more than \$4,000.
- (3) For the third violation by an Individual Aircraft, a fine of not more than \$10,000.
- (4) For the fourth violation by an Individual Aircraft, a prohibition on any Use of the Airport by the Individual Aircraft involved in such violation for a period of not more than two years.
- C. Each Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall constitute a separate offense.
- D. In addition, any entity convicted hereunder of not complying with the requirements of Section 75-38 may be subject to a fine of not less than the amount of the actual costs incurred and owed to the Town and not more than an amount equal to twice said actual costs. Should any person, organization, corporation, group or other entity be found in violation of the provisions of Section 75-38 within five years of a previous violation of this chapter, the minimum additional fine shall be not less than \$2000.
- E. In addition to the above penalties, the Town may also maintain an action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation Section 75-38 any person, organization, corporation, group or other entity which holds an ownership interest in the Individual Aircraft.
- (1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted or allowed a violation of Section 75-38, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$10,000.00 for each violation that the defendants or any one of them individually caused, permitted or allowed the violation.

### **SECTION 3. Authority**

The Town Board is authorized to establish and promulgate rules and regulations regarding use of the East Hampton Airport pursuant to Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and Town Law §130 and pursuant to its powers as the proprietor of East Hampton Airport under federal statutory and case law and regulations of the Federal Aviation Administration.

**SECTION 4. Severability.**

If any section or subdivision, paragraph, clause or phrase of this law shall be adjudged invalid, unenforceable, or unconstitutional by any order or judgment of a court of competent jurisdiction, or pursuant to any order of any administrative agency having jurisdiction, whether such judgment or order is temporary or permanent, such judgment or order shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

**SECTION 5. Effective Date.**

This local law shall take effect upon filing with the Secretary of State.

Dated: April 16, 2015

BY ORDER OF THE TOWN BOARD  
TOWN OF EAST HAMPTON  
CAROLE BRENNAN, TOWN CLERK

<b>RESULT:</b>	<b>ADOPTED [4 TO 1]</b>
<b>MOVER:</b>	Kathee Burke-Gonzalez, Councilwoman
<b>SECONDER:</b>	Peter Van Scoyoc, Councilman
<b>AYES:</b>	Kathee Burke-Gonzalez, Peter Van Scoyoc, Sylvia Overby, Larry Cantwell
<b>NAYS:</b>	Fred Overton



## List of Noisy Aircraft Types

The following list addresses the requirement of Proposed Town Code §75-38 A.(4)(a) for the Airport Director to maintain on the Town website a current list of “noisy aircraft” defined to be “any airplane or rotorcraft for which there is a published Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater.”<sup>1</sup> The list is presented in terms of International Civil Aviation Organization (ICAO) aircraft type codes and an accompanying commonplace aircraft type description.

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft’s flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
A109	Agusta A-109
AW119	Agusta AW119 MKII
A124	Antonov An-124
A139	Agusta AB-139
A189	AgustaWestland AW189
A306	Airbus A300B4-600/A300C4-600
A30B	Airbus A300B2/A300B4-100/A300B4-200
A310	Airbus A310-200/A310-300
A318	Airbus A318-100
A319	Airbus A319-100
A320	Airbus A320-100/A320-200/A320-200neo
A321	Airbus A321-100/A321-200/A321-200neo
A332	Airbus A330-200
A333	Airbus A330-300
A342	Airbus A340-200
A343	Airbus A340-300
A345	Airbus A340-500
A346	Airbus A340-600
A359	Airbus A350-900
A388	Airbus A380-800
A3ST	Airbus A300-600ST Beluga
A400	Airbus A400M
A748	BAe HS748
AN26	Antonov An-26
AN72	Antonov An-72, An-74

Updated March 3, 2015

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft's flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
AS3B	Eurocopter (Aerosp.) AS-532 Cougar Mk 2
AS50	Eurocopter (Aerosp.) AS-350 Astar/Ecureuil/Squirrel
AS55	Eurocopter (Aerosp.) AS-355 Ecureuil 2/TwinStar/TwinSquirrel
AS65	Eurocopter (Aerosp.) AS-365/565 Dauphin 2, Panther
ASTR	Gulfstream G100/IAI 1125 Astra
AT42	ATR 42
AT43	ATR 42
AT44	ATR 42
AT45	ATR 42
AT72	ATR 72
AT73	ATR-72-210
AT75	ATR 72
ATP	BAe ATP
B105	Eurocopter (MBB) BO-105DB
B222	Bell 222
B230	Bell 230
B412	Bell 412
B427	Bell 427
B429	Bell 429
B430	Bell 430
B461	BAe 146-100
B462	BAe 146-200
B463	BAe 146-300
B701	Boeing 707-100
B703	Boeing 707-300
B712	Boeing 717-200
B720	Boeing 720-100
B721	Boeing 727-100
B722	Boeing 727-200
B732	Boeing 737-200
B733	Boeing 737-300
B734	Boeing 737-400

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft's flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
B735	Boeing 737-500
B736	Boeing 737-600
B737	Boeing 737-700
B738	Boeing 737-800/P-8 Poseidon
B739	Boeing 737-900/737-900ER
B741	Boeing 747-100
B742	Boeing 747-200
B743	Boeing 747-300
B744	Boeing 747-400
B748	Boeing 747-8
B74R	Boeing 747SR
B74S	Boeing 747SP/SUD
B752	Boeing 757-200
B753	Boeing 757-300
B762	Boeing 767-200
B763	Boeing 767-300
B764	Boeing 767-400
B772	Boeing 777-200
B773	Boeing 777-300
B77L	Boeing 777-200LR/777-F
B788	Boeing 787-8 Dreamliner
B789	Boeing 787-9 Dreamliner
BA11	British Aerospace (BAe) - BAC One-Eleven
BE40	Raytheon Hawker 400 (Beechjet 400)
BER2	Beriev Be-200ES
BK17	Eurocopter (MBB/Kawasaki) BK-117
C130	Lockheed C-130A/B/E/F/H/K/M/N/P/Q/R/T/U/L-100-30 Hercules
C212	EADS CASA C-212-100/C-212-200/C-212-300/C-212-500
C25A	Cessna 525 CitationJet
C27J	ALENIA C27J Spartan
C295	EADS CASA CN-295/T-21
C500	Cessna 500 Citation

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft's flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
C525	Cessna 525 CitationJet
C550	Cessna 550 Citation Bravo/550 Citation II/Citation S/II
C56X	Cessna 560XL Citation Excel
C650	Cessna 650 Citation III/650 Citation VI/650 Citation VII
C680	Cessna 680 Citation Sovereign
CL2P	Bombardier CL-215
CL60	Bombardier Challenger 600/601/604/605
CN35	EADS CASA CN-235
CONC	Aerospatiale / BAe Concorde 101
CVLT	Convair 580/640
D328	Dornier 328 (Turboprop)
DC10	Boeing (McDonnell Douglas) DC-10-10/DC-10-30/DC-10-40/MD-10-10/MD-10-30F
DC3	Boeing (Douglas) DC-3/Super DC-3S (C-117D)
DC85	Boeing (McDonnell Douglas) DC-8-50
DC86	Boeing (McDonnell Douglas) DC-8-60
DC87	Boeing (McDonnell Douglas) DC-8-70
DC91	Boeing (McDonnell Douglas) DC-9-14/DC-9-15
DC92	Boeing (McDonnell Douglas) DC-9-21
DC93	Boeing (McDonnell Douglas) DC-9-30
DC94	Boeing (McDonnell Douglas) DC-9-41
DC95	Boeing (McDonnell Douglas) DC-9-51
DH8A	Bombardier DHC-8 Dash 8 Series 100
DH8B	Bombardier DHC-8 Dash 8 Series 200
DH8C	Bombardier DHC-8 Dash 8 Series 300
DH8D	Bombardier DHC-8 Dash 8 Series 400
DHC7	De Havilland DHC-7 Dash 7
E120	Embraer 120
E135	Embraer Legacy Executive (EMB-135BJ)/RJ135ER (EMB-135ER)/RJ135LR (EMB-135LR)/RJ140LR (EMB-135KL)
E145	Embraer RJ145EP (EMB-145EP)/RJ145LI (EMB-145LI)/RJ145LR (EMB-145LR)/RJ145LU (EMB-145LU)/RJ145MP (EMB-145MP)/RJ145RS (EMB-145RS)/RJ145SA (EMB-145SA)
E170	Embraer 170 (ERJ 170-100)/175 (ERJ 170-200)

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft's flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
E190	Embraer 190LR (ERJ 190-100LR)/(ERJ 190-200)
EC25	Eurocopter EC-225
EC35	Eurocopter EC-135
EC55	Eurocopter EC-155
EC75	Eurocopter EC-175
EH10	Agusta EH-101
EN28	Enstrom 280/F28
EXPL	MD Helicopters MD 900 Explorer
F100	Fokker 100 (F28 Mk0100)
F27	Fokker F27 Friendship
F28	Fokker F28-1000 Fellowship/F28-2000/F28-3000 /F28-4000
F2TH	Dassault Falcon 2000
F50	Fokker 50 (F27 Mk050)
F900	Dassault Falcon 900/900B/900C/900DX/900EX/900LX
FA10	Dassault Falcon 10/100
FA20	Dassault Falcon 20/200
FA50	Dassault Falcon 50/50EX
FA7X	Dassault Falcon 7X
G150	Gulfstream G150 (IAI Gulfstream 150)
GALX	Gulfstream G200 (IAI Galaxy)
GLF2	Gulfstream GII/GIIB/GII-SP
GLF3	Gulfstream GIII
GLF4	Gulfstream G300 (Gulfstream G-IV)/G350 (Gulfstream G-IV)/G400 (Gulfstream G-IV)/G450 (Gulfstream GIV-X)/GIV/GIV-SP
H25A	British Aerospace (BAe) - BAe HS 125 - 100/BAe HS 125 - 200/BAe HS 125 - 300/BAe HS 125 - 400/BAe HS 125 - 600
H25B	British Aerospace (BAe) - BAe HS 125 - 700/Raytheon Hawker 800 (BAe HS 125 - 800)/850XP
H25C	Raytheon Hawker 1000 (BAe HS 125 - 1000)
HA4T	Hawker 4000
IL62	Ilyushin Il-62
IL76	Ilyushin Il-76/Il-78
IL86	Ilyushin Il-86

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft's flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
IL96	Ilyushin Il-96
KA27	Kamov Ka-32
L101	Lockheed L-1011-385-1-14 TriStar 100/L-1011-385-3 TriStar 500
L188	Lockheed L-188 Electra
L29B	Lockheed L-1329 JetStar 731/L-1329 JetStar II
L410	Let L410
LJ23	Bombardier Learjet 23
LJ24	Bombardier Learjet 24
LJ25	Bombardier Learjet 25/29
LJ28	Bombardier Learjet 28
LJ31	Bombardier Learjet 31
LJ35	Bombardier Learjet 35/36
LJ45	Bombardier Learjet 40/45
LJ55	Bombardier Learjet 55
MD11	Boeing (McDonnell Douglas) MD-11
MD81	Boeing (McDonnell Douglas) MD-81 (DC-9-81)
MD82	Boeing (McDonnell Douglas) MD-82 (DC-9-82)
MD83	Boeing (McDonnell Douglas) MD-83 (DC-9-83)
MD87	Boeing (McDonnell Douglas) MD-87 (DC-9-87)
MD88	Boeing (McDonnell Douglas) MD-88 (DC-9-88)
MD90	Boeing (McDonnell Douglas) MD-90-30
MU30	Mitsubishi MU-300 Diamond I
PRM1	Beechcraft Premier I (Raytheon 390)
RJ1H	Avro 146-RJ100
RJ70	Avro 146-RJ70
RJ85	Avro 146-RJ85
S210	Aerospatiale (Sud) SE210 Caravelle
S76	Sikorsky S-76
S92	Sikorsky S-92
SBR1	Sabreliner 40A (Rockwell NA-265-40A)/60 (Rockwell NA-265-60)/65 (Rockwell NA-265-65) Sabreliner/North American T-39A
SBR2	Sabreliner 75A (Rockwell NA-265-80)

ICAO Aircraft Type Code	Commonplace Aircraft Description
	<i>Note: Published data for shaded aircraft types include ranges of noise levels that extend across the 91.0 EPNdB threshold. These ranges result from multiple published noise levels for varying aircraft configurations (e.g., differing powerplants, maximum operating weights, etc.). For these types, aircraft owners must provide the Airport Director with noise level information from the individual aircraft's flight manual, if the owner believes the aircraft in question should not be classified as noisy.</i>
SF340	Saab 340
SH33	Shorts 330/360
SH36	Shorts 360
SU95	Sukhoi SSJ 100-95
T134	Tupolev - Tu-134
T154	Tupolev - Tu-154
T204	Tupolev - Tu-204/Tu-214
VF14	VFW-Fokker 614
W3	PZL W-3 Sokół
WW24	IAI 1124 Westwind
YK40	Yakovlev Yak-40
YK42	Yakovlev Yak-142/Yak-42

## FOOTNOTE

<sup>1</sup> Proposed Town Code § 75-38 A. (4) states: "Noisy Aircraft" shall mean any airplane or rotorcraft type classified as a Noisy Aircraft type pursuant to this Section.

- (a) The Airport Director is directed to maintain on the Town website a current list of aircraft based upon the noise characteristics published by the Federal Aviation Administration, or (if data is not available from that agency), the European Aviation Safety Agency. Noisy Aircraft shall be defined as any airplane or rotorcraft for which there is a published Effective Perceived Noise in Decibels (EPNdB) approach (AP) level of 91.0 or greater
- (b) In lieu of being subject to the definition of "Noisy Aircraft" pursuant to subsection (a) on the basis of the Town's list of types of Noisy Aircraft, the owner of an Individual Aircraft may elect to have the noise classification of such Individual Aircraft determined by the sound levels on the basis of the EPNdB level that is published in the airplane or rotorcraft flight manual for such Individual Aircraft pursuant to 14 C.F.R. 36.1581(a). To obtain a noise classification of an Individual Aircraft, the owner of such aircraft shall provide the Airport Director with a true copy of the relevant pages from such manual showing the noise level data. In the event of a conflict between the Town's list of classifications of Noisy Aircraft types and classification based on the data set forth in the Individual Aircraft airplane or rotorcraft flight manual, the data in the Individual Aircraft airplane or rotorcraft flight manual shall prevail. Once the owner of an Individual Aircraft has provided the Airport Director with such data from the Individual Aircraft airplane or rotorcraft flight manual, and the Airport Director has determined the authenticity thereof, the Airport Director shall keep such data on file so that the owner need not resubmit the data for each Use of the Airport, and compliance by such Individual Aircraft with this Section shall be determined based on such data.

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF NEW YORK

-----X

COMMITTEE TO STOP AIRPORT  
EXPANSION, et al.,

Plaintiffs,

v.

DEPARTMENT OF TRANSPORTATION,  
et al.,

Defendants.

SETTLEMENT  
AGREEMENT

Civil Action  
No. CV-03-2634

(Seybert, J.)  
(M. Orenstein, M.J.)

-----X

**SETTLEMENT AGREEMENT**

WHEREAS, on January 10, 1989, the East Hampton Town Board passed Resolution No. 145, wherein it adopted the Master Plan Update for East Hampton Airport ("the 1989 Master Plan") with certain amendments that are set forth in the Resolution No. 145 (a copy of the Master Plan Update as adopted and Resolution No. 145 are attached hereto as Exhibit A); and

WHEREAS, on December 15, 1989, the East Hampton Town Board passed Resolution No. 2020 wherein it approved an Airport Layout Plan (the "1989 ALP") for the East Hampton Airport and authorized Pat Trunzo, III, the then Deputy Supervisor, to sign the 1989 ALP; and

WHEREAS, on December 19, 1989, Pat J. Trunzo, III signed the 1989 ALP on behalf of the East Hampton Town Board (a copy of the Airport Layout Plan, as adopted and signed, is attached hereto as Exhibit B); and

WHEREAS, by letter dated September 5, 1990 from Mr. Phillip Brito to Mr.

Tony Bullock, the Federal Aviation Administration ( "FAA") conditionally approved the 1989 ALP (a copy of which letter is attached hereto as Exhibit C); and

WHEREAS, in 2001 the FAA did not have in its possession a signed copy of the 1989 ALP and the FAA asked the Town to furnish a signed copy thereof; and

WHEREAS, the East Hampton Town Board, on August 3, 2001, adopted Resolution No. 1023, wherein it authorized the re-signing of the ALP adopted in 1989 and the submission of the re-signed ALP (the "2001 ALP") to the FAA; and

WHEREAS, in August 2001, the Town of East Hampton submitted the 2001 ALP to the FAA (a copy of which is attached hereto as Exhibit D) and represented that the 2001 ALP was a true copy of the 1989 ALP; and

WHEREAS, according to published reports, in December of 2002 or January of 2003 in response to a federal subpoena, the Town of East Hampton produced a copy of the 1989 ALP that included the signature of Pat J. Trunzo, III; and

WHEREAS, Plaintiffs allege that a comparison of the airport layout plan produced by the Town in response to the subpoena and the 2001 ALP demonstrates that the 2001 ALP is not in fact a true copy of the 1989 ALP; and

WHEREAS, to the best of the knowledge, information, and belief of the FAA, the approval of an ALP by the East Hampton Town Board may only be affected by resolution of the Town Board; and

WHEREAS, to the best of the knowledge, information and belief of the FAA, since December 15, 1989 there has been no resolution of the East Hampton Town Board approving an ALP for the East Hampton Airport other than the 1989 ALP; and

WHEREAS, in this action Plaintiffs seek review of the determination by the FAA

in 2001 to approve the 2001 ALP; and

WHEREAS, the Plaintiffs submitted several Freedom of Information Act requests to the FAA concerning the East Hampton Airport prior to the initiation of the above-captioned action; and

WHEREAS, the parties desire to resolve this action and the issues between them without further litigation;

IT IS HEREBY STIPULATED AND AGREED, by and between Plaintiffs and Defendants ("the parties"), that the above-captioned action shall be settled and compromised on the following terms and conditions:

1. Plaintiffs will file a Rule 41(a) stipulation of dismissal whereby the above-captioned action would be dismissed with prejudice, and without costs and fees to any party, provided that Plaintiffs' obligation to file such a stipulation shall not arise until the Defendants or their counsel sign this Agreement. Plaintiffs agree to file such stipulation within ten business days of receipt of Defendants' executed signature page.

2. Plaintiffs will submit to the United States District Court for the District of Columbia a Rule 41(a) stipulation of dismissal, with prejudice and without costs and fees to any party, of the action entitled *Committee to Stop Airport Expansion, et al. v. United States Department of Transportation, et al.*, Civil Action No. 02-0619 (JR) following receipt of the Court's order dismissing Civil Action No. CV-03-2634 (Seybert, J.) and execution by the parties of a stipulation of dismissal of Civil Action No. 02-0619 (JR).

3. Plaintiffs will submit a request seeking dismissal, with prejudice and without costs and fees to any party, of the proceeding entitled *Committee to Stop Airport Expansion v. Town of East Hampton*, FAA Docket No. 16-02-04 to Defendant FAA within ten

days of receipt by Plaintiffs' counsel of an order dismissing Civil Action No. 03-2634.

Defendant FAA agrees that upon receipt of such request, it will withdraw the order of dismissal dated June 24, 2002 in FAA Docket No. 16-02-04.

4. Defendant FAA agrees that it will not assert, agree or conclude in any subsequent proceeding, including during its consideration of a request for federal financial assistance, that any master plan concerning the East Hampton Airport other than the 1989 Master Plan as modified by the Town Board in Town Resolution No. 145, which plan and resolution are attached as Exhibit A, is a master plan approved by the Town of East Hampton unless Defendant FAA obtains or is presented with a certified copy of the resolution of the Town Board adopted subsequent to the effective date of this Agreement approving such master plan. Defendant FAA also agrees that it will not assert, agree or conclude in any subsequent proceeding, including during its consideration of a request for federal financial assistance, that any airport layout plan concerning the East Hampton Airport, other than the 1989 ALP which is attached as Exhibit B, is an airport layout plan approved by the Town of East Hampton unless Defendant FAA obtains or is presented with a certified copy of the resolution of the Town Board adopted subsequent to the effective date of this Agreement approving such airport layout plan. Defendant FAA agrees that the 1989 ALP does not, as of the date hereof, constitute a "current" airport layout plan within the meaning of applicable federal law and; therefore, is not a legally acceptable basis for any federal financial assistance, including airport improvement grants, issued subsequent to the effective date of this Agreement.

5. Defendant FAA will not award federal financial assistance, including grants, to the Town of East Hampton for the East Hampton Airport unless the application for federal financial assistance is based upon an airport layout plan for the East Hampton Airport

that was adopted by resolution of the East Hampton Town Board and in a manner consistent with applicable law.

6. Through and including December 31, 2009, Defendant FAA will require that applications for federal financial assistance, including grants, from the Town of East Hampton for the East Hampton Airport include a copy of the Town Board Resolution approving the airport layout plan that is submitted to the FAA and a certified copy of the Town Board Resolution approving the submission of the application itself, except that the requirement to submit a copy of the Town Board resolution approving the extant airport layout plan shall not apply to a request for funding to develop a new or revised airport layout plan.

7. Defendant FAA agrees, with respect to East Hampton Airport grants issued prior to the effective date of this Agreement, that the following grant assurances will not be enforced beyond December 31, 2014:

- It will make the airport available as an airport for public use on reasonable terms and without unjust discrimination to all types, kinds and classes of aeronautical activities, including commercial aeronautical activities offering services to the public at the airport (grant assurance 22.a.).
- The sponsor may establish such reasonable, and not unjustly discriminatory, conditions to be met by all users of the airport as may be necessary for the safe and efficient operation of the airport (grant assurance 22.h).
- It will keep up to date at all times an airport layout plan of the airport showing; (1) boundaries of the airport and all proposed additions thereto, together with the boundaries of all offsite areas owned or controlled by the sponsor for airport purposes and proposed additions thereto; (2) the location and nature of all existing and proposed airport facilities and structures (such as runways, taxiways, aprons, terminal buildings, hangars and roads), including all proposed extensions and reductions of existing airport facilities; and (3) the location of all existing and proposed nonaviation areas and of all existing improvements thereon. Such airport layout plans and each amendment, revision, or modification thereof, shall be subject to the approval of the Secretary which approval shall be evidenced by the signature of a duly authorized representative of the Secretary on the face of the airport layout plan. The sponsor will not make or permit any changes or alterations in the airport or any of its facilities which are not in conformity with the airport layout plan as approved by the Secretary and which might, in the

opinion of the Secretary, adversely affect the safety, utility or efficiency of the airport (grant assurance 29.a.).

- If a change or alteration in the airport or the facilities is made which the Secretary determines adversely affects the safety, utility, or efficiency of any federally owned, leased, or funded property on or off the airport and which is not in conformity with the airport layout plan as approved by the Secretary, the owner or operator will, if requested, by the Secretary; (1) eliminate such adverse effect in a manner approved by the Secretary; or (2) bear all costs of relocating such property (or replacement thereof) to a site acceptable to the Secretary and all costs of restoring such property (or replacement thereof) to the level of safety, utility, efficiency, and cost of operation existing before the unapproved change in the airport or its facilities (grant assurance 29.b.).

Notwithstanding the foregoing, Defendant FAA reserves its right to take action as provided in grant assurance 29 if the Town of East Hampton takes an action or proposes to take an action that will adversely affect the safety of the East Hampton Airport. All other grant assurances with respect to any grant awarded to the East Hampton Airport, and all grant assurances with respect to any grant awarded after the effective date of this Agreement, including grant assurances 22.a and 22.h and grant assurance 29, shall be enforced in full.

8. a) Plaintiffs will file a request pursuant to the Freedom of Information Act, 5 U.S.C. § 552, 49 C.F.R. Part 7, in the form attached as Exhibit E (the "FOIA request"), within ten (10) business days of the execution of this Settlement Agreement.

(b) Defendant FAA will respond to the FOIA request within seventy-five (75) days of receipt by the FAA of the FOIA request and will send the response to the undersigned counsel for Plaintiffs. Defendant FAA agrees that any record within the scope of the FOIA request that is withheld by Defendant FAA on the grounds that it is exempt from disclosure will be identified on a list or log and that list or log will be provided to Plaintiffs' counsel within 105 days of receipt of the FOIA request. Defendant FAA also agrees that the FAA Regional Counsel's Office ("FAA counsel") will review any record so withheld and listed and will provide Plaintiffs' counsel with a written statement informing Plaintiffs as to whether

FAA counsel agrees that such record is properly withheld. The parties agree that the records on the list or log shall be identified by providing the name of the author(s), the name of the intended and actual recipients, the date of the record, the type of record and the reason why the record was withheld.

(c) The parties agree that Plaintiffs may appeal the determination of Defendant FAA by: (1) submitting a written appeal to the Assistant Administrator for Regions and Center Operations, FAA Headquarters, 800 Independence Avenue, S.W., Washington, D.C., 20591; (2) submitting the appeal within thirty (30) days of receipt by Plaintiffs' counsel of the response of Defendant FAA to the FOIA request or the FAA counsel's written statement, whichever occurs last in time, (3) referencing the FOIA Control Number, and including all information and arguments relied upon in support of the appeal in the submission to the Assistant Administrator for Regions and Center Operations; (4) indicating that it is an appeal from a denial of a request under the Freedom of Information Act; and (5) prominently marking the envelope in which the appeal is sent as "FOIA Appeal." Defendant FAA agrees that any determination of the Assistant Administrator concerning such appeal will be sent to the undersigned counsel for Plaintiffs.

(d) The parties agree that within forty-five (45) days of receipt by Plaintiffs' counsel of a determination by the Assistant Administrator, Plaintiffs may request that this Court determine whether there has been a failure by Defendant FAA to comply with the Freedom of Information Act with respect to the FOIA request. The parties agree that the Court shall retain jurisdiction to determine any issues raised by the FAA response to the FOIA request, if such request is filed with the Court within forty-five (45) days of receipt of the Assistant Administrator's determination by Plaintiffs' counsel. The parties also agree that the Court's

review of the Assistant Administrator's determination and the nature of the relief available shall be governed by the Freedom of Information Act.

(e) The parties agree that this Paragraph 8 shall not be construed to afford Plaintiffs any rights beyond those provided in the Freedom of Information Act.

9. Nothing herein, or in the settlement hereof, shall in any way be deemed an admission or evidence of wrongdoing or liability on the part of the Defendants, including agents, officers, assigns, employees and representatives, past and present.

10. Plaintiffs and Defendants understand and agree that this Agreement contains the entire agreement between the parties, and no statements, representations, promises, agreements or negotiations, oral or otherwise, between the parties or their counsel which are not included herein shall be of any force or effect.

11. The effective date of this Agreement shall be the date that the document is signed by the party who signs it last in time.

COMMITTEE TO STOP AIRPORT EXPANSION

By: Edward Gorman  
Edward Gorman

Dated: January 27, 2005

EDWARD GORMAN

By: Edward Gorman  
Edward Gorman  
68 Huckleberry Lane  
East Hampton, NY 11937

Dated: January 27, 2005

PAT TRUNZO, JR.

By: Pat Trunzo Jr.  
Pat Trunzo, Jr.  
148 Buckskill Road  
East Hampton, NY 11937

Dated: January 27<sup>th</sup>, 2005

PAT J. TRUNZO, III

By: Pat J. Trunzo III  
Pat J. Trunzo, III  
10 Cedar Trail  
East Hampton, NY 11937

Dated: January 27<sup>th</sup>, 2005

COUNSEL FOR PLAINTIFFS

Sheila D. Jones  
Sheila D. Jones, Esquire  
(Admitted Pro Hac Vice)  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-1564

Dated: April 29, 2005  
~~January~~, 2005

UNITED STATES OF AMERICA

Roslynn R. Mauskopf  
United States Attorney  
Eastern District of New York  
Attorney for Defendants  
610 Federal Plaza  
Central Islip, New York 11722-4454

Dated: January \_\_\_\_, 2005

By: \_\_\_\_\_  
Kevin P. Mulry (KM 3752)  
Assistant U.S. Attorney

PAT TRUNZO, JR.

By: \_\_\_\_\_  
Pat Trunzo, Jr.  
148 Buckskill Road  
East Hampton, NY 11937

Dated: January \_\_\_\_, 2005

PAT J. TRUNZO, III

By: \_\_\_\_\_  
Pat J. Trunzo, III  
10 Cedar Trail  
East Hampton, NY 11937

Dated: January \_\_\_\_, 2005

COUNSEL FOR PLAINTIFFS

\_\_\_\_\_  
Sheila D. Jones, Esquire  
(Admitted Pro Hac Vice)  
Akin Gump Strauss Hauer & Feld LLP  
1333 New Hampshire Avenue, N.W.  
Washington, D.C. 20036-1564

Dated: January \_\_\_\_, 2005

UNITED STATES OF AMERICA

Roslynn R. Mauskopf  
United States Attorney  
Eastern District of New York  
Attorney for Defendants  
610 Federal Plaza  
Central Islip, New York 11722-4454

Dated: April 11, ~~January~~ 2005

By: Kevin P. Mulry  
Kevin P. Mulry (KM 3752)  
Assistant U.S. Attorney

**Exhibit E**

Federal Aviation Administration

National Freedom of Information Act Staff, ARC-40

800 Independence Ave., SW

Washington, DC 20591

Dear [Insert name]:

This firm represents the Committee to Stop Airport Expansion with respect to certain matters relating to the East Hampton Airport located in the Town of East Hampton, New York (airport identifier: HTO). Pursuant to the Freedom of Information Act, 5 U.S.C. § 552, and the settlement agreement executed by the parties in *Committee to Stop Airport Expansion, et al. v. U.S. Department of Transportation, et al., Civil Action*, No. CV-03-2634 (E.D.N.Y.), we request the following documents and records:

all records and documents referring or relating to the East Hampton Airport from January 1, 1988 to December 31, 2003, that were received by, issued by or created by the following organizational units of the Federal Aviation Administration's Eastern Region (and all organizational units reporting to such organizational units); Airports Division (AEA-600), including without limitation the New York Airports District Office; the Airway Facilities Division (AEA-400); the New York NAS Implementation Center (ANI-200); the NY Flight Procedures Office (NYFPO); the Flight Standards Division (AEA-200); the Air Traffic Division (AEA-500); the Office of the Runway Safety Program Manager, and the Office of the Regional Administrator (AEA-1). In addition, the requester seeks documents and records referring or relating to the East Hampton Airport that were received, issued by or created by the Office of the Associate Administrator for Airports (ARP-1), Office of Airport Safety and Standards (AAS), and the Office of Airport Planning and Programming (APP), each of which are located at FAA National Headquarters, Washington, D.C.

For the purposes of this request, as defined in the U.S. Department of Transportation's regulation implementing FOIA, 49 C.F.R. Part 7, the term "record" includes "any writing, drawing, map, recording, tape, film, photograph, or other documentary material by which information is preserved. The term also includes any such documentary material stored by computer." 49 CFR §7.2. Also for the purposes of this request, "record" and "document" mean draft versions, final versions and all attachments or exhibits to such "records" and "documents."

**REQUEST FOR PROPOSAL**  
**EH2014-105**

**TITLE: NOISE STUDY AT THE EAST HAMPTON AIRPORT**

**REQUEST FOR PROPOSAL DEFINITION:**

*An RFP defines the situation or object for which the goods and or services are required, how they are expected to be used, and/or problems that they are expected to address. Bidders are invited to propose solutions that will result in the satisfaction of the Town's objectives in a manner most advantageous to the Town. The proposed solutions are evaluated against a predetermined set of criteria for which price may not be the primary consideration.*

RFP DISTRIBUTION-Important Notice-The Town of East Hampton distributes Request for Proposal documents from the East Hampton Town Purchasing Department. Copies of documents obtained from any other source are not considered official copies. Only those proposers who obtain documents from the Purchasing Department office are guaranteed to receive addendum information, if such information is issued.

**\*\*Interested parties are advised to fax the enclosed Receipt Confirmation Form (Appendix A) immediately upon receipt of this RFP to ensure that they receive further information with regard to this RFP.**

**Information offered from sources other than the Office of Purchasing is not official and may be inaccurate. Do not contact any other Departments or Agencies involved in the RFP.**

**Closing date for this Request for Proposal is 3:00 p.m., prevailing time, on Thursday May 15, 2014.**

**Send MARKED ORIGINALS AND 10 COPIES of each proposal.**  
Please use the RFP number on all correspondence.

**For further information contact:**  
**Jeanne Carroza, CPPB**  
**Purchasing Agent**  
**Town of East Hampton**  
**631-324-4183**

# **PART A-ADMINISTRATIVE SECTION**

## **INTRODUCTION**

### **TOWN OF EAST HAMPTON GOVERNMENT OVERVIEW**

The Town of East Hampton is a municipality located in the easternmost part of Suffolk County on Long Island. The Town is comprised of six hamlets East Hampton, Amagansett, Montauk, Springs, Wainscott and Sag Harbor.

The Town has a five member Board with one elected Supervisor and four elected Councilpersons.

### **RFP TERMINOLOGY**

Generally, throughout this RFP the following terminology is used:

- “Mandatory”- a requirement that must be met in a substantially unaltered form. The terms “shall”, “must”, “required”, and “will” are also used to indicate mandatory requirements.
- “Desirable”- a requirement has a high degree of importance to the objectives of this RFP. The term “should” also indicates a desirable requirement.
- “Optional”- a requirement that is not considered essential, but for which evaluation credit is given. The terms “may” and “can” also indicate option requirements.

### **RECEIPT CONFIRMATION FORM**

Upon receipt, fill out the attached Receipt Confirmation Form (Appendix A) and fax or e-mail it to the Town Purchasing Department. All subsequent information regarding this RFP will be directed only to those who return the form with an indication that they intend to submit a proposal.

### **CLOSING DATE**

Complete copies of each proposal must be received at the Purchasing Department Office located East Hampton Town Hall 159 Pantigo Road East Hampton, New York 11937 by 3:00 pm, prevailing time on Thursday May 15, 2014.

**PROPOSALS MUST BE CLEARLY MARKED WITH THE NAME AND ADDRESS OF THE PROPOSER AND THE RFP NUMBER AND NAME ON THE SEALED ENVELOPE AND/OR BOX.**

## **TERMS AND CONDITIONS**

### **INQUIRIES**

All inquiries related to this Request for Proposal shall be in writing to the Town utilizing Appendix B - Question Form. Information obtained from any other source is not official and may be inaccurate. Do not contact any other person(s) involved. Inquiries and responses will be recorded and may be distributed to all proposers at the Town's option.

### **NOTIFICATION OF CHANGES**

All recipients of this Request for Proposal who have returned the Receipt Confirmation Form will be notified regarding any changes made to this document.

### **CHANGES TO PROPOSAL WORDING**

No changes to wording of the proposal will be accepted after submission unless requested by the Town.

### **OWNERSHIP OF PROPOSALS**

All responses to the RFP become the property of the Town of East Hampton.

### **PROPOSERS EXPENSES**

Prospective proposers are solely responsible for their own expenses in preparing a proposal and subsequent negotiations with the Town, if any.

### **ACCEPTANCE OF PROPOSALS**

This RFP should not be construed as a commitment by the Town to proceed with the proposed leases. The Town is not bound to accept the highest lease price or any proposal of those submitted.

### **LIABILITY OF ERRORS**

While the Town has used considerable efforts to ensure an accurate representation of information in this RFP, all prospective proposers are urged to conduct their own investigations into the material facts and the Town shall not be held liable or accountable for any error or omission in any part of this RFP.

### **ACCEPTANCE OF TERMS**

All the terms and conditions of this RFP are deemed to be acceptable by the proposers and incorporated in its proposal except those conditions and provisions that are expressly excluded by the proposal.

### **QUOTES FROM THE MARKETPLACE**

The Town of East Hampton reserves the right to consider quotes from the marketplace by suppliers other than those invited to respond to this solicitation.

### **FINANCIAL STABILITY**

The successful firm must demonstrate financial stability and the Town reserves the right to conduct independent background checks to determine the financial strength of any and all organizations or individuals submitting proposals.

### **NEGOTIATION DELAY**

If any contract cannot be negotiated within thirty (30) days of notification to the designated proposer, the Town may terminate negotiations with that proposer, and negotiate a lease agreement with another proposer of its choice.

### **DEFINITION OF CONTRACT**

The Town may at its option notify a proposer in writing that its proposal has been accepted and such acceptance shall at the Town's option constitute the making of a formal contract for the services set out in the RFP. Alternatively, the subsequent full execution of a written agreement shall constitute the making of a lease, and no proposer shall acquire any legal or equitable rights or privileges whatever relative to the proposal until the Town has delivered either a signed notice in writing to the proposer or a fully executed written agreement to the proposer.

### **COMPLIANCE WITH LAWS**

The contractor shall give all notices and obtain all the licenses and permits required to perform the work. The contractor shall comply with all the laws applicable to the work or the performance of the contract.

The successful Contractor shall not discriminate against any individual in accordance with applicable federal, state, or local laws. It will be the responsibility of the Contractor to ensure the appropriate DBE goals are satisfied on projects

### **GOVERNING LAW**

This RFP and any contract entered into between the proposer and the Town shall be governed by and in accordance with the laws of the County of Suffolk, the State of New York, and the United States of America.

### **CONFIDENTIALITY**

This document, or any portion thereof, may not be used for any purpose other than the submission of proposals.

Contractors should be aware that pertinent facts relating to their proposals, excluding trade secrets or proprietary information, could potentially be released as soon as sixty (60) days after the selection of the successful firm.

The Town of East Hampton is subject to New York State's Freedom of Information Law (FOIL). Should your submission to this RFP contain "**trade secrets**", or other information that the disclosure of which could **reasonably be expected to be harmful to business interests**, you must insure that such information is clearly identified and marked as such. Identification must be specific by item or paragraph.

Marked information will be treated as Confidential Third Party Information. Should marked information be the subject of a request under FOIL, you may be requested either to consent to the request, or make representation explaining why the information should not be disclosed.

Unpublished information pertaining to the Town or its customers obtained by the proposer as a result of participation in this project is confidential and must not be disclosed without written authorization from the Town.

## **GENERAL**

Subsequent to the submission of proposals, interviews and negotiations may be conducted with some of the proposers, but there shall be no obligation to receive further information, from any proposer.

Any or all proposals shall not necessarily be accepted. The Town shall not be obligated in any manner to any proposer whatsoever until a written agreement has been duly executed relating to an approved proposal. The Town reserves the right to modify the terms of the RFP at any time in its sole discretion.

Neither acceptance of a proposal nor execution of an agreement shall constitute approval of any activity or development contemplated in any proposal that requires any approval, permit or license pursuant to any federal or municipal statute, regulation or by-law.

## **PRICING**

### **FIRM PRICING**

Prices quoted in the proposals shall be firm for a period of at least forty five (45) days after the submission deadline.

### **CURRENCY AND TAXES**

Prices are to be in U.S. dollars. The Town is exempt from all sales and use taxes.

## **PART B – REQUIREMENTS SECTION**

### **Statement of Purpose and Scope**

The Town of East Hampton is seeking proposals for a preliminary, “screening” study of aviation noise and noise reduction measures related to the operation of the East Hampton Airport.

After December 31, 2014, the Town will no longer be subject to certain FAA Grant Assurances (imposed pursuant to 49 U.S.C. 47107) and will no longer be restricted by the Airport Noise and Capacity Act of 1990 (“ANCA”) or to the FAA regulations that implement that statute, 14 C.F.R. Part 161, unless it should decide again to seek FAA funding. At that time, the Town, in its capacity as airport proprietor, will have increased opportunity and responsibility to protect East Hampton citizens from aviation noise impacts. East Hampton is therefore seeking experts in aviation noise and its effects to assess how best to fulfill its responsibility as airport proprietor.

East Hampton is a quiet community, a summer resort destination sought for its physical beauty and as a refuge from urban stresses, including noise. This is specially the case in the period May through September, referred to as “the season,” during which the resident population can increase by two to four times. From prior study, it is known that application of the FAA’s 65 DNL noise standard to East Hampton Airport results in the conclusion that there is no significant noise outside of the airport itself. Yet, intrusive and objectionable airport noise exists in fact and has been a subject of communal strife and controversy for more than 30 years. It is clear, therefore, that, in a location such as East Hampton, application of the 65 DNL standard is meaningless.

In weighing whether to adopt measures that would significantly reduce airport-related noise, East Hampton seeks to: 1) quantify the current noise in a meaningful and useful way that effectively captures the adverse effects experienced by residents and 2) quantify the reductions in noise that could plausibly be achieved by various measures, including, but not limited to: A) airport access restrictions based on any or all of, a) time of day, b) day of the week, c) season, d) numbers of airport operations, e) types of operations, f) classes and types of aircraft, g) noise budgets, and h) single-even noise limitations, B) route and altitude controls, and C) physical changes at the airport and/or alternative facilities.

As the study will be used as a basis for preliminary judgment about the relative utility of measures that can or cannot practicably be applied while subject to FAA Grant Assurances and ANCA, noise control and mitigation measures should be screened solely for their noise reduction efficacy. This analysis is intended to be a purely objective measure of physical possibilities given the technical aviation and noise characteristics of existing air traffic. Accordingly, the set of measures evaluated should not be limited by regulatory or legal considerations, cost/benefit, or other policy considerations. Those matters will be addressed after a preliminary determination, on this basis of this study, of the measures that East Hampton would like further to evaluate and pursue.

East Hampton has an existing noise ordinance, found at: <http://ecode360.com/9230783>. The noise ordinance, adopted in 1985, contains in Sec. 185-3(A) and (B) objective DBA standards for what the community does and does not consider excessively intrusive noise; it determines what is and is not deemed a noise nuisance in East Hampton. The study should evaluate airport-related noise by application of the community standard found in the extant noise ordinance. Additionally, each

scenario examined should be evaluated by application of the standard FAA DNL metric at the 65, 55, and 45 DNL levels.

The study will not include fieldwork, but should be based on available data concerning the levels and types of operations at East Hampton Airport. In previous noise studies, the Town has identified the types of data that would be essential to identify and understand specific characteristics of helicopter and other aircraft noise issues related the airport, including flight-related data and noise complaints using the AirScene, Vector Airport Solutions, and PlaneNoise software platforms. The town also has data regarding flights and noise complaints occurring both before and after a seasonal air traffic control tower began operation, and data collected from seasons during which various voluntary flight tracks were adopted for use by helicopter operators. The town has INM modeling for the year 2009. *The results of these earlier efforts will be made available to the successful proposer and the town will endeavor to respond positively to requests for data for the purpose of crafting a proposal.*

### **Elements of the study will include:**

1. Determination of flight tracks, helicopter routes, usage rates, and operations for the years 2012 and 2013;
2. Determination of fleet mix of aircraft and helicopters;
3. Creation of a protocol and metric for tally of events, by household affected, that exceed the Lmax standards set by the Town noise ordinance;
4. Evaluation of the operations data set, including Lmax-event noise impacts exceeding the standard set by the Town noise ordinance and population count of Lmax impacts within contours having regard to daily, diurnal, seasonal, and peak variations;
5. For each scenario examined, determination of the corresponding 65, 55, and 45 DNL contours in accordance with FAA practice;
6. Determination of noise reduction benefits of alternative noise control measures and routes based on the tally of excess noise events, as described above, and for each such noise control measure, the reduction in noise within the 65, 55, and 45 DNL contours;
7. Summary of findings, presenting any recommendations, including recommendations for further study, and identification of unaddressed or unresolved issues.

It is expected that there will be not more than two meetings with town officials and interested community members for the purpose of scoping the set of measures to be evaluated in the study.

### **Term of Contract**

The agreement will be for a period not to exceed three months.

## **Proposal Deadline**

All responses to this Request for Proposal must be received by 3:00 p.m., prevailing time, on **May 15, 2014**.

## **Qualifications and Requirements**

All prospective proposers shall have sufficient qualified personnel, sub-consultants, and resources to accomplish all the services described herein within the prescribed time. A three-month time frame is estimated for completion of the studies. The proposer shall be capable of furnishing all necessary professional, technical, and expert services as required to complete all the elements of the noise study as described in the scope of work below.

The Town is seeking one or more professionals for this study who have extensive knowledge and experience in two areas:

1. Noise and its effects, including aviation noise effects;
2. Noise modeling, including aviation noise modeling.

In addition, the proposer must have technical, professional, and project management knowledge and expertise to prepare the noise study that addresses all of the required elements in the scope of work as outlined below. Specifically, proposer must:

- Demonstrate knowledge of the research and literature concerning noise effects, including aviation noise effects;
- Demonstrate proficiency with noise modeling software such as INM, CADNA-A, and/or Soundplan;
- Demonstrate written communication skills and the ability to make complex information understandable to the public.

## **Contents of Proposal**

The contents of the proposal shall be complete but concise. The proposal shall be in the format of a written submission on 8½" x 11" sheets and made available both in hard copy and in electronic PDF format. Once submitted, the proposal, including the composition of the consulting team, cannot be altered without prior written consent of the Town. The proposal should, at a minimum, include the following sections:

- a) Transmittal Letter and Title Page: Include a transmittal letter containing a brief statement of the proposer's understanding of the work to be done and an indication of positive interest in performing this work for the Town. The letter and/or a title page should contain the name of the respondent's firm, a street address for correspondence, and a primary contact for this proposal.
- b) Services and Work Plan: The proposal should include a work plan describing the services, approach and methodology proposed for accomplishing the scope of work. The proposed phasing of the studies should be discussed (especially if different from the scope of work, described below). The proposal should be sufficient in detail to allow an objective analysis of the firm's capabilities and envisioned work plan in comparison with competing firms.

- c) Qualifications and Experience: The proposal must supply information concerning the qualifications and experience of the proposing firm and the proposed project team for this study.
- d) Budget: All proposals must include proposed costs to complete the tasks described.

**THE TOWN RESERVES THE RIGHT TO REJECT ANY AND ALL WRITTEN PROPOSALS, WITH OR WITHOUT CAUSE, AND TO WAIVE ANY IRREGULARITIES OR INFORMALITIES IN THE PROPOSALS. THE TOWN FURTHER RESERVES THE RIGHT TO MAKE SUCH INVESTIGATIONS AS IT DEEMS NECESSARY AS TO THE QUALIFICATIONS OF ANY AND ALL CONSULTANTS SUBMITTING PROPOSALS. IN THE EVENT THAT ALL PROPOSALS ARE REJECTED, THE TOWN RESERVES THE RIGHT TO RE-SOLICIT PROPOSALS.**

#### **SUBMISSION OF PROPOSAL:**

Proposals shall be submitted in a sealed envelope or box addressed to Town of East Hampton Purchasing Department with the front of the envelope plainly marked with the name and address of the individual or firm submitting the proposal, together with "Noise Study at the East Hampton Airport" or similar words plainly marked on the front of the envelope.

**LATE PROPOSALS SHALL NOT BE ACCEPTED. PROPOSERS SHALL BE SOLELY RESPONSIBLE FOR THE TIMELY DELIVERY OF THEIR PROPOSALS.**

#### **ADDITIONAL INFORMATION/QUESTIONS**

Any requests for additional information desired by the applicant regarding the furnishing of said qualifications and proposals shall be requested in writing from the Purchasing Department, East Hampton Town Hall, 159 Pantigo Road, East Hampton, New York 11937. All requests for information must be received no later than **Wednesday May 7, 2014**. Any requests received after this date will not be considered. Any questions must be submitted in writing to the Purchasing Department @ [jcarroza@ehamptonny.gov](mailto:jcarroza@ehamptonny.gov) or fax # 631-324-7895 on the form herein provided (Appendix B).

#### **EVALUATION OF THE PROPOSALS**

The Town will review all proposals and choose the professional whom the Town deems to be most capable of providing the services sought herein. The Town may consider other factors in addition to the costs for such services, including, but not limited to, the professional's credentials, experience within the Town of East Hampton, and the Town Board's assessment of the professional's ability based upon the submissions made with the response to this proposal, previous submissions to the various town boards or subsequent inquiries or interviews.

**The Town reserves the right to reject any and all Proposals if deemed in the best interests of the Town.**

**PROPOSAL DEADLINE**

Closing date for this Request for Proposal is 3:00 p.m., prevailing time, on Thursday May 15, 2014. Proposers assume the risk of the method of dispatch chosen. The Town assumes no responsibility for delays caused by any delivery service. Postmarking by the due date shall not substitute for actual proposal receipt by the Town. Late proposals shall not be accepted nor shall additional time be granted to any potential Vendor. Proposals may not be delivered orally, by facsimile transmission, or by other telecommunication or electronic means.

# APPENDIX A RECEIPT CONFIRMATION FORM

**Failure to return this form may result in no further communication regarding this RFP.**

Please complete and return this confirmation form within 5 working days to:

Jeanne Carroza, CPPB  
Purchasing Agent  
Town of East Hampton  
159 Pantigo Road  
East Hampton, New York 11937  
Tel 631-324-4183  
Fax 631-324-7895

Company Name: \_\_\_\_\_

Address: \_\_\_\_\_

City: \_\_\_\_\_ State: \_\_\_\_\_ Zip Code: \_\_\_\_\_

Contact Person: \_\_\_\_\_

**Phone Number:** \_\_\_\_\_ **Fax Number:** \_\_\_\_\_

I have received a copy of the above noted RFP.

\_\_\_\_\_ We will be submitting a proposal.

\_\_\_\_\_ We will not be submitting a proposal.

I authorize the Town of East Hampton to send further correspondence that the Town deems to be of an urgent nature by the following method:

Courier Collect: \_\_\_\_\_ Mail: \_\_\_\_\_

Signature: \_\_\_\_\_

Title: \_\_\_\_\_



**APPENDIX D**

**POLICY & PROCEDURES FOR OUTSIDE  
PROFESSIONALS/SUBCONTRACTORS**

## **Procurement**

1. All outside professional and subcontractors must be authorized by Town Board Resolution that includes:
  - a. Project scope of work – length of project
  - b. Rates of pay for all authorized staff
  - c. Maximum amount (“amount not to exceed”)
  - d. Reimbursable expenses (compliance with travel policy and procurement)
  - e. Budget line item to be charged
  
2. Upon adoption, the Town Attorney will process vendor contract with information included in the adopted resolution.
  - a. Standard/Boilerplate Contract will be provided by Town Attorney
  - b. Town Attorney approval required for all contracts
  
3. An on-going contract with a vendor for consulting services may be approved and executed on an annual basis with hourly billing rates.
  - a. Each project with maximum amount to be authorized by resolution
  
4. Upon contract execution – Purchasing will process a Purchase Order consistent with terms of TBR and contract.

**NO work is to be performed prior to completion of steps 1-4**  
**Any changes in the contract terms or maximum amounts must be**  
**authorized by Town Board Resolution**

## **Procedures for Outside Professional/ Subcontractors**

### **Payment Processing**

**1.** All invoices must include:

- a.** Department Head approval
- b.** Description of work performed - listing date, staff member, number of hours and authorized rate of pay
- c.** Copies of all receipts for reimbursable expenses submitted
- d.** Detailed copies of all travel expenses requested
- e.** Detailed copies of all meal reimbursement (itemized restaurant receipt), names of attendees and business purpose of meal

**2.** All claims for these expenditures are subject to pre-audit by the Division of Internal Audit before being scheduled on the Warrant.

- a. Be sure to allow additional time for this important step before Warrant deadlines**

## *Procedures for Outside Professional/ Subcontractors*

### *Disallowed Expenses*

1. During the pre-audit, in accordance with the terms of the authorizing resolution and contract, Internal Audit will deduct any unauthorized or undocumented items from the Claim Voucher before processing
  
2. Internal Audit will contact the department head to notify of missing information using the **VOUCHER REJECTION FORM**
  - a. **It is the Department's responsible to contact the vendor and obtain all missing documentation.**
  
3. A copy of the **VOUCHER REJECTION FORM** should accompany the missing documentation when re-submitted for payment.

## **Travel and Reimbursement Policy for Vendors**

Expenses will be reimbursed only in those instances where authorized by resolution of the Town Board, and included in the contract for services.

Expenses for Federal and State Funded Programs will be reimbursed according to the rates set forth in the program guidelines.

### **MEALS**

No reimbursements will be made without proper documentation. Meal receipts must be itemized (credit card receipts are not sufficient), and include a summary of the business purpose of the meal to be reimbursed and the names of individuals in attendance.

Maximum meal allowances shall be as follows:

Breakfast - \$10.00

Lunch -\$18.00

Dinner - \$30.00

Reimbursement shall not be made for alcoholic beverages.

Reimbursement shall not be made for snacks.

### **LODGING**

Hotel bills must show room rates (i.e. single, double, all-inclusive); receipts must be originals. No receipts should be altered, highlighted, or blacked out. Maximum Room Rate allowance per room shall be as follows:

Oct 15 – May 15 - \$150 per night

May 15 - June 30 and Sept 1 – Oct 14 - \$200 per night

July and August - \$250 per night

July and August (Hamptons) - \$350 per night

### **AIRFARE/TRAIN TRAVEL**

Airfare or Travel by Rail will be reimbursed at the Coach or Lowest available rate, with proper documentation

Airport shuttles to hotels will be allowed with proper documentation. Limousine service will not be reimbursed. No valet parking charges will be accepted.

### **OTHER TRAVEL**

Rental cars will be reimbursed for the lowest available economy rental rate.

Auto travel will be reimbursed at the current IRS Standard Mileage Rate.

Tolls and parking will be reimbursed with submitted receipts.

### **OTHER EXPENSES**

Expenses for supplies, printing, postage or any other out-of pocket expenses provided in the contract will be reimbursed with proper documentation.



East Hampton Town Board  
159 Pantigo Road  
East Hampton, NY 11937

Meeting: 05/07/15 06:30 PM  
Department: Town Attorney  
Category: Local Law  
Prepared By: Elizabeth Vail  
Initiator: Elizabeth Vail  
Sponsors: Councilwoman Kathee Burke-Gonzalez  
DOC ID: 15329 A

ADOPTED

RESOLUTION 2015-569

## **Adopt Local Law Amending Chapter 75 (Airport) of the Town Code Clarifying Penalties Provisions and Definitions in the Law and Providing for Evaluation of the Effectiveness of Restrictions**

WHEREAS, the East Hampton Town Board has considered several local laws to address restrictions on the use of the East Hampton Airport; and

WHEREAS, the proposed local laws have been modified in response to further analysis and public comment; and

WHEREAS, it has been determined that the previously proposed laws inadvertently omitted a definition of the term "season" because the definition appeared only in a proposal for which the Town Board has decided to defer consideration; and

WHEREAS, it is important that the proposed local laws be enforced effectively but that the penalties not be excessive or disproportionate to the offense; and

WHEREAS, the penalties for violation of Section 75-38 should be only as severe as prudent to discourage violations; and

WHEREAS, it is appropriate for penalties for violations to be "violations" under New York law rather than "misdemeanors" and also be subject to civil action as appropriate; and

WHEREAS, the entire study, analysis and public outreach process has demonstrated that there exists considerable reliable data on the impacts of the Airport on residents and visitors but the Town can only predict how people will change their behavior in response to the proposed restrictions; and

WHEREAS, in order to ensure that the restrictions remain effective and no more restrictive than necessary to address community noise concerns, it is important for the Town to evaluate the effectiveness of the restrictions following the summer 2015 season; and

WHEREAS that evaluation should reveal valuable information about people's behavior and reaction to the proposed restriction; and

WHEREAS, the Town will consider modifications to the restrictions if warranted based upon the data about the results of the restrictions during the 2015 summer season; and

WHEREAS, The Town Board of the Town of East Hampton held a public hearing on May 7, 2015 to consider a local law amending Chapter 75 (Airport) of the Town Code clarifying penalties provisions and definitions of the law and providing for evaluation of the effectiveness of restrictions; and

WHEREAS, after considering the matter, the comments of the public at the time of the hearing, the Town Board believes that the establishment of the subject restrictions are in the best interests of the Town; and

WHEREAS, the proposed local law is a Type II action pursuant to the New York State Environmental Quality Review Act (SEQRA) 6 NYCRR Part 617.5 and Chapter 128 of the Town Code; now therefore, be it

RESOLVED, said Local Law is hereby adopted to read as follows:

LOCAL LAW NO. 7 OF 2015  
Intro. #7 Of 2015

A LOCAL LAW amending Chapter 75 (Airport) of the Town Code clarifying penalties provisions and definitions of the law and providing for evaluation of the effectiveness of restrictions.

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

**SECTION 1. Amendment**

Sections 75-38, Airport Use Restrictions, and 75-39, Penalties, of the Code of the Town of East Hampton are hereby amended to state as follows:

**§ 75-38 AIRPORT USE RESTRICTIONS:**

A. **Definitions.**

...

(5) "Season" shall be the months of May, June, July, August and September.

**§ 75-39 PENALTIES:**

A. Section 75-34 shall not apply to violations of Section 75-38 and this Section 75-39 shall apply for all violations of Section 75-38. For the purpose of conferring jurisdiction upon courts and judicial officers in general, violations of Section 75-38 shall be deemed violations, and, for such purpose only, all provisions of law relating to violations shall apply to such violations.

B. Any Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall be punishable by a fine assessed against any person, organization, corporation, group or other entity which holds an ownership interest in such aircraft, as follows:

(1) For the first violation by an Individual Aircraft, a fine of not more than \$1,000.

(2) For the second violation by an Individual Aircraft, a fine of not more than \$4,000.

(3) For the third violation by an Individual Aircraft, a fine of not more than \$10,000.

(4) For the fourth violation by an Individual Aircraft, a prohibition on any Use of the Airport by the Individual Aircraft involved in such violation for a period of not more than two years.

C. Each Use of the Airport by an Individual Aircraft in violation of Section 75-38 shall constitute a separate violation.

D. In addition, any entity convicted hereunder of not complying with the requirements of Section 75-38 may be subject to a fine of not less than the amount of the actual costs incurred and owed to the Town and not more than an amount equal to twice said actual costs. Should any person, organization, corporation, group or other entity be found in violation of the provisions of Section 75-38 within five years of a previous violation of this chapter, the minimum additional fine shall be not less than \$2000.

E. In addition to the above penalties, the Town may also maintain a civil action or proceeding in the name of the Town in a court of competent jurisdiction to compel compliance with or to restrain by injunction the violation Section 75-38 by any person, organization, corporation, group or other entity which holds an ownership interest in the Individual Aircraft.

(1) If a finding is made by a court of competent jurisdiction that the defendants or any of them has caused, permitted or allowed a violation of Section 75-38, a penalty to be jointly and severally included in the judgment may be awarded at the discretion of the court in an amount not to exceed \$10,000.00 for each violation that the defendants or any one of them individually caused, permitted or allowed the violation.

**SECTION 2. Authority**

The Town Board is authorized to establish and promulgate rules and regulations regarding use of the East Hampton Airport pursuant to Municipal Home Rule Law §10(1)(ii)(a)(11) and (12) and Town Law §130 and pursuant to its powers as the proprietor of East Hampton Airport under federal statutory and case law and regulations of the Federal Aviation Administration.

**SECTION 3. Severability.**

If any section or subdivision, paragraph, clause or phrase of this law shall be adjudged invalid, unenforceable, or unconstitutional by any order or judgment of a court of competent

jurisdiction, or pursuant to any order of any administrative agency having jurisdiction, whether such judgment or order is temporary or permanent, such judgment or order shall not affect the validity of this law as a whole or any part thereof other than the part or provision so adjudged to be invalid or unconstitutional.

#### **SECTION 4. Interim Evaluation**

The Town shall evaluate the effectiveness of all airport use restrictions set forth in Section 75-38, Airport Use Restrictions, as soon as practical after September 30, 2015. The evaluation shall include assessment of whether the restrictions have been effective in reducing community disturbance and annoyance and of the financial consequences of the restrictions. The results of the evaluation shall be made available to the public and shall be the subject of a public meeting convened by the Town Board. After such public meeting, the Town Board shall consider what modifications, if any, to the restrictions set forth in Section 75-38 are warranted.

#### **SECTION 5. Effective Date.**

This local law shall take effect upon filing with the Secretary of State.

Dated: May 7, 2014

BY ORDER OF THE TOWN BOARD  
TOWN OF EAST HAMPTON, NEW YORK  
CAROLE BRENNAN, TOWN CLERK

<b>RESULT:</b>	<b>ADOPTED [UNANIMOUS]</b>
<b>MOVER:</b>	Kathee Burke-Gonzalez, Councilwoman
<b>SECONDER:</b>	Peter Van Scoyoc, Councilman
<b>AYES:</b>	Burke-Gonzalez, Van Scoyoc, Overby, Overton, Cantwell



February 2, 2015

Larry Cantwell, Supervisor  
Town of East Hampton  
159 Pantigo Road  
East Hampton, NY 11937  
[lcantwell@eamptonny.gov](mailto:lcantwell@eamptonny.gov)

**RE: East Hampton Airport**

Dear Mr. Cantwell:

We are contacting you on behalf of three trade associations – the National Business Aviation Association (NBAA), the Aircraft Owners and Pilots Association (AOPA) and the National Air Transportation Association (NATA). As you may be aware, our associations represent the interests of numerous companies and individuals who are involved in aviation – many of which are located at, use, and/or have an interest in ensuring the continued accessibility and viability of East Hampton Airport (HTO).

Our associations support the continued availability of East Hampton Airport to all types of aeronautical operations, and would like to have an opportunity to express and explain our concerns to you and the other members of the town board. Accordingly we would like to request a meeting – preferably in early February – which we believe could be beneficial for all parties interested in the airport.

In particular, we would like to outline why it is important that HTO remain open and accessible, both for economic and practical reasons; the airport's benefits are not just local but also are an essential part of the national airspace system. We would also like to better understand the specific restrictions that may be under consideration, and whether there could be some common ground or other flexibility that would benefit from an in-person exchange between town and association officials.

Finally, the often-cited 2005 settlement agreement – which suggests that the Federal Aviation Administration (FAA) will waive the enforcement of certain federal grant-based obligations applicable to East Hampton Airport – leaves numerous obligations in effect, and we believe that it would helpful to discuss the grant-based as well as statutory requirements that will continue to be applicable to HTO irrespective of the terms of the settlement agreement.

Thank you for your prompt attention to these matters and we look forward to meeting with you and other appropriate town officials.

Sincerely,



Steve Brown  
NBAA, Chief Operating Officer



Jim Coon  
AOPA, Senior Vice President Government Affairs



William R. Deere  
NATA, Senior Vice President for Government and External Affairs

- CC: Peter Van Scoyoc, Deputy Supervisor, [pvanscoyoc@ehamptonny.gov](mailto:pvanscoyoc@ehamptonny.gov)  
Kathee Burke-Gonzalez, Councilwoman, [kburke-gonzalez@ehamptonny.gov](mailto:kburke-gonzalez@ehamptonny.gov)  
Sylvia Overby, Councilwoman, [soverby@ehamptonny.gov](mailto:soverby@ehamptonny.gov)  
Fred Overton, Councilman, [foverton@ehamptonny.gov](mailto:foverton@ehamptonny.gov)  
Jemille Charlton, Airport Manager, [jcharlton@ehamptonny.gov](mailto:jcharlton@ehamptonny.gov)



March 12, 2015

Mr. Larry Cantwell  
Supervisor  
Town of East Hampton  
159 Pantigo Road  
East Hampton, NY 11937

**RE: March 5, 2015 Town Board Meeting to Consider Restrictions on the Use of East Hampton Airport**

Dear Supervisor Cantwell:

The National Air Transportation Association (NATA), the Aircraft Owners and Pilots Association (AOPA) and the National Business Aviation Association (NBAA) appreciated the opportunity to meet last week with Councilwoman Kathee Burke-Gonzalez and you to discuss the Town of East Hampton's proposal to restrict operations at East Hampton Airport (HTO), and its related airport infrastructure plan.

As the Council deliberates on these important issues, our associations – which represent aviation businesses, pilots and company flight departments and other entities – caution that these proposals could undermine the long-term utility of the airport and will likely result in years of costly litigation.

We understand the concerns that have led to the development of these proposals, and the general aviation (GA) community shares the town's desire to maintain a clean and quiet community of beaches and surrounding protected lands. We also appreciated your acknowledgement last week of the efforts of the GA community to work with the town toward that common goal.

While the development of the HTO proposals under consideration might seem justified, given that they are based on GA traffic growth from 2013 to 2014, a deeper analysis suggests the comparison of traffic between the two years may be a less-than-ideal basis for the proposals under review.

We understand that operations in and out of HTO in 2013 were not representative, due to the 2013 season's adverse weather conditions. Should comparisons of 2014 traffic levels with figures from other years not demonstrate a dramatic rate of growth; continued work with the GA community could lead to additional, effective noise mitigation initiatives.

Furthermore, we understand that town leaders want to be responsive to a reported 25,000 noise complaints from 633 households, but as with the traffic data set, we think these numbers also may deserve a closer look, given that the comments submitted may represent a mix of genuine complaints, and an effort by a concerted minority to drive town leaders toward a radical and unnecessary over-reaction.

We also appreciate the town Board's acknowledgment of the airport's long list of deferred maintenance, and its long-term commitment to the airport's health, as evidenced by its efforts to develop a financial plan to invest in the airport. However, the recent acknowledgment by the town's Budget and Financial Advisory Committee, noting that East Hampton cannot currently reach consensus on the sustainability of HTO if the proposed operational restrictions are imposed, should serve as an important wake-up call.

Indeed, the imposition and structure of the proposed restrictions and investment plan will have a detrimental impact on HTO-based aviation businesses resulting in reduced revenues, investment and job loss. Aviation jobs are good-paying jobs that will not be easily replaced in the community; and while we appreciate your commitment to reviewing and reassessing the restrictions after October 31st, the damage from enactment of one or more of the proposals will have already been done. It is critical that the Town of East Hampton reconsider its action in order to encourage general aviation at the airport, including maintaining healthy businesses at the field.

From a broader perspective, we emphasize that the proposals before the town Board raise significant legal questions. Although the Federal Aviation Administration (FAA) has stated that it will waive the enforcement of certain "grant assurances" at HTO, the agency's ability to waive enforcement is in dispute. In addition, other grant assurances and federal statutes remain in effect. These requirements likely prohibit *any* noise-based restrictions at HTO – and even if they allow some "proprietor's" discretion, the pending proposals (such as to prohibit operations by an entire class of aircraft on certain days) likely would be deemed impermissible. East Hampton also should be alert to the FAA's prohibitions on revenue diversion, which may require any legal costs incurred in defense of restrictions at HTO to be paid out of municipal accounts (i.e., by the East Hampton taxpayer), and would not allow those costs to be assessed to HTO accounts.

Simply put, East Hampton Airport is part of a national system of airports, and operational restrictions like those under consideration present a threat to the national air transportation system that transcends local communities. This is the primary reason why the FAA requires airports that have received federal funds to adhere to grant assurances requiring, among other things, access to all airports on reasonable conditions and without unjust discrimination. This is a critical element in the survival of our nation's system of airports and one the town can expect will be vigorously defended.

Thank you for your ongoing consideration of our views and we welcome the opportunity for further discussions.

Sincerely,

Steve Brown  
NBAA, Chief Operating Officer

Jim Coon  
AOPA, Senior Vice President Government Affairs

William R. Deere  
NATA, Senior Vice President for Government and External Affairs

CC: Kathee Burke-Gonzalez, Councilwoman



# TOWN OF EAST HAMPTON

159 Pantigo Road  
East Hampton, New York 11937

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## PRESS STATEMENT

April 21, 2015

RE: Lawsuit Against Town of East Hampton

### **CONTACT:**

Peter Kirsch  
Kaplan Kirsch & Rockwell LLP  
1675 Broadway #2300  
Denver, CO 80202  
pkirsch@kaplankirsch.com  
Office: (303) 825-7000

The Town of East Hampton was served with a lawsuit in Federal Court this morning by the Friends of the East Hampton Airport organization (along with several corporations). Stripped of its rhetoric, the 34-page complaint is entirely predictable and contains no surprises. The plaintiffs assert that the Town's three new restrictions on aircraft are unreasonable and violate the U.S. Constitution. (*Friends of the East Hampton Airport et al. v. Town of East Hampton*, U.S. District Court for the Eastern District of New York, filed April 21, 2015)

The complaint cites several federal laws and provisions of the U.S. Constitution, but conveniently forgets what makes these restrictions unique:

- Plaintiffs ignore the years of studies, analyses, public meetings, consultations with airport users, and deliberative process and Town Board deliberations that led to the three restrictions.
- Plaintiffs forget that the Town has patiently waited for federal contractual obligations to expire before taking this action.
- Plaintiffs don't mention that the Airport Noise and Capacity Act no longer applies to this airport.
- Plaintiffs conveniently ignore the many, many steps that led to the Town Board decision that these restrictions are necessary – steps that included federally mandated flight paths for helicopters, voluntary flight paths for all aircraft, voluntary curfews, voluntary altitude requirements and other measures. All of these efforts proved ineffective.
- Plaintiffs don't admit that the restrictions are narrowly targeted to address the operations of most concern that generate the most disturbance – and that the restrictions will not affect almost 80 percent of the operations at the Airport.

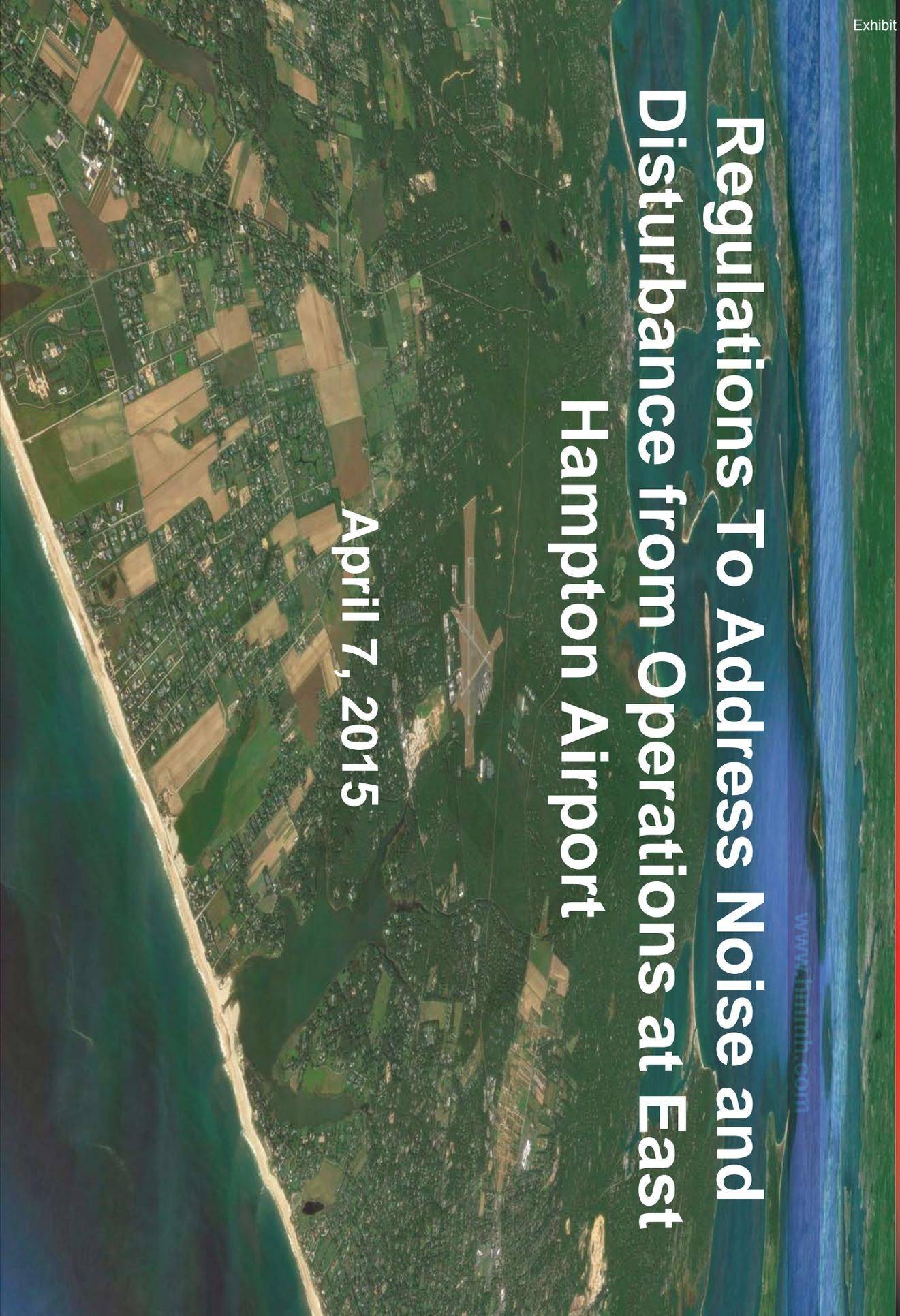
We have, with surgical precision, defined precise restrictions that limit only the most disturbing operations at East Hampton Airport. The Town has committed to an incremental approach – and to reevaluation of the restrictions after the end of the 2015 season to make sure that they have been only as restrictive as necessary.

The Town is fully prepared for this litigation and will vigorously defend its legal and constitutional right to impose reasonable, non-arbitrary, and carefully balanced restrictions. Plaintiffs raise issues that we are fully prepared to defend. The issues that plaintiffs raise have been litigated over and over again in lawsuits throughout the nation and airport proprietors have consistently won.

While we anticipated this lawsuit, it is sad that these airport users are now going to force the Town to spend scarce airport funds to defend these restrictions rather than working to make this airport the best it can be.

# Regulations To Address Noise and Disturbance from Operations at East Hampton Airport

April 7, 2015



## **Problem Statement**

**Noise from aircraft operating at East Hampton Airport disturbs many residents of the East End of Long Island.**

**Residents find helicopters more disturbing than any category of fixed-wing aircraft.**

**Disturbance caused by all types of aircraft is most significant when operations are (1) most frequent and (2) in evening, night, and early morning hours.**

## **Four Restrictions Considered**

1. Prohibit all aircraft operations year-round 11 pm – 7 am
2. Prohibit noisy aircraft year-round during 8 pm – 9 am evening, night, and early morning hours (extends curfew into “shoulder hours”)
3. Prohibit helicopter operations on weekends and holidays during the summer season (May 1 – Sept. 30)
4. Prohibit noisy aircraft from conducting more than one take-off and one landing in any calendar week during the summer season

## Three Restrictions Proposed

1. Prohibit all aircraft operations year-round 11 pm – 7 am
2. Prohibit noisy aircraft year-round during 8 pm – 9 am evening, night, and early morning hours (extends curfew into “shoulder hours”)
3. Prohibit noisy aircraft from conducting more than one take-off and one landing in any calendar week during the summer season

***Collectively affect only 23% of all operations, but address 60% of all complaints***

Restrict types of aircraft – at the times of the day, week, and year – that are associated with the greatest number of complaints

**Restrictions require defining: “season”, “weekend”, “holiday”, “shoulder hours”, and “noisy aircraft”**

- **Season**
  - May 1 – September 30
- **Weekend**
  - Thursday noon – Monday noon
- **Holidays**
  - Memorial Day, Independence Day and Labor Day
  - Also include the days before and after the holidays
- **Shoulder hours (for extended curfew)**
  - 8 - 11 p.m. and 7 - 9 a.m.

## Defining “noisy” aircraft

- **FAA and international regulators use a number of noise metrics to certify aircraft designs**
  - Jets, heavy props, and heavy helicopters are rated in terms of Effective Perceived Noise Level decibels (EPNdB)
  - Light helicopters are rated in terms of either EPNdB or Sound Exposure Level (SEL)
  - Light props are rated in terms of maximum A-weighted decibels (Lmax)

### **Noisy aircraft are defined as follows:**

If EPNdB ratings are published by U.S. or international regulatory bodies, noisy aircraft are those with approach levels  $\geq 91.0$  EPNdB

**Incremental outcomes of Restrictions (1) 11 pm - 7 am curfew on all aircraft, (2) 8 pm - 9 am curfew on all noisy aircraft, and (3) limit each noisy aircraft to two operations (one takeoff and one landing) per week in season**

### ***Incremental outcomes of restrictions 1, 2, and 4***

Note: May 1 – Sept. 30 weekend and holiday outcomes assume operators “retain” or “protect” weekend operations to the maximum feasible extent; i.e., they are the last to be cut.	May 1 – September 30 Weekend and Holiday Outcomes (See note)			Total May 1 – Sept. 30 Outcomes			Total Annual Outcomes		
	Heli-copter	Fixed-Wing	All Aircraft	Heli-copter	Fixed-Wing	All Aircraft	Heli-copter	Fixed-Wing	All Aircraft
<b>Proposed Restriction</b>	<b>Estimated Operations Effected</b>								
1) 11pm – 7am curfew on all aircraft operations	148	263	411	175	323	498	199	382	581
2) 8pm – 9am curfew on all noisy aircraft operations	631	171	802	838	229	1,067	973	270	1,243
3) Noisy aircraft limited to two operations per week in season	2,596	159	2,755	3,715	283	3,998	3,715	283	3,998
<b>Proposed Restriction</b>	<b>Estimated Associated Complaints</b>								
1) 11pm – 7am curfew on all aircraft operations	552	264	816	702	335	1,037	747	362	1,109
2) 8pm - 9am curfew on all noisy aircraft operations	2,225	301	2,526	2,847	369	3,216	2,997	378	3,376
4) Noisy aircraft limited to two operations per week in season	6,066	195	6,261	8,681	348	9,029	8,681	348	9,029

**Combined outcomes of Restrictions (1) 11 pm - 7 am curfew on all aircraft, (2) 8 pm - 9 am curfew on all noisy aircraft, and (3) limit each noisy aircraft to two operations (one takeoff and one landing) per week in season**

## ***Total outcomes of restrictions 1, 2, and 4***

Note: May 1 – Sept. 30 weekend and holiday outcomes assume operators “retain” or “protect” weekend operations to the maximum feasible extent; i.e., they are the last to be cut.	May 1 – September 30 Weekend and Holiday Outcomes (See note)			Total May 1 – Sept. 30 Outcomes			Total Annual Outcomes		
	Heli-copter	Fixed-Wing	All Aircraft	Heli-copter	Fixed-Wing	All Aircraft	Heli-copter	Fixed-Wing	All Aircraft
<b>Estimated operations affected</b>	<b>3,375</b>	<b>593</b>	<b>3,968</b>	<b>4,728</b>	<b>835</b>	<b>5,563</b>	<b>4,887</b>	<b>935</b>	<b>5,822</b>
Total existing operations in category	4,525	10,863	15,388	5,855	14,004	19,859	7,044	18,670	25,714
% total operations associated with Restrictions 1, 2, and 4	74.6%	5.5%	25.8%	80.8%	6.0%	28.0%	69.4%	5.0%	22.6%
<b>Estimated operations associated with complaints</b>	<b>8,843</b>	<b>761</b>	<b>9,604</b>	<b>12,230</b>	<b>1,051</b>	<b>13,282</b>	<b>12,425</b>	<b>1,088</b>	<b>13,513</b>
Total existing complaints in category	12,126	4,943	17,069	14,935	5,999	20,934	16,152	6,316	22,468
% total complaints associated with Restrictions 1, 2, and 4	72.9%	15.4%	56.3%	81.9%	17.5%	63.4%	76.9%	17.2%	60.1%