

## Chapter 271. Zoning

[HISTORY: Adopted by the Board of Trustees of the Village of East Hills 12-20-1982 by L.L. No. 3-1982.<sup>[1]</sup>

Amendments noted where applicable.]

### GENERAL REFERENCES

Lighting—See Ch. 117.

Noise—See Ch. 127.

Land for parks and recreation—See Ch. 137, Art. III.

Plumbing—See Ch. 145.

Satellite dish antennas—See Ch. 165.

Solid waste—See Ch. 173.

Storage units—See Ch. 175.

Streets and sidewalks—See Ch. 177.

Trees preservation—See Ch. 186.

Administration and enforcement of Building and Zoning Codes—See Ch. 217.

Building construction—See Ch. 223.

Environmental quality review — See Ch. 235.

Flood damage prevention — See Ch. 239.

Property ownership disclosure — See Ch. 253.

Stormwater management and erosion and sediment control — See Ch. 260.

271a Res Const and Bldg Reqs  (to be replaced with updated tables)

~~271b Application Examples ~~

[1] Editor's Note: This local law provided for the readoption of the existing Zoning Law, as amended (Ch. 50 of the 1972 Code). It was originally designated to be added as Ch. 214, but was renumbered to maintain the organizational style of the Code.

## Article I. Purpose; Enforcement; Interpretation

### § 271-1. Enactment; title.

The Board of Trustees of the Incorporated Village of East Hills does hereby enact this chapter, which shall be known and cited as the "Village of East Hills Building Zone Ordinance."

### § 271-2. Purpose.

The purpose of this chapter is the classification, regulation and restriction of the height, number of stories and size of buildings and other structures; the percentage of lots that may be occupied; the size of yards and other open spaces; the density of population; the location and use of buildings, structures and land for trade, industry, residence and other purposes; the establishment of the boundaries or districts for said purposes; and the providing of fines and penalties for violations in order to promote the health, safety, morals and general welfare of the Village of East Hills.

### § 271-3. Interpretation and application.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the promotion of the public health, safety, comfort, convenience and general welfare. Where this chapter imposes greater restrictions upon the use of buildings or premises or upon the height of buildings or requires larger yards, courts or other open spaces than are imposed or required by existing provisions of law or ordinance or by any other rules, regulations or permits adopted or issued at any time, the provisions of this chapter shall control. Wherever the requirements of this chapter differ from the requirements of another existing ordinance of the Village, the more ~~drastic-restrictive~~ shall govern.

### § 271-4. Enforcement.

- A. This chapter shall be enforced by the Building Inspector, as appointed by the Board of Trustees; in his absence, such chapters shall be enforced by the officer so appointed by a ~~special~~ resolution of the Board of Trustees. In the event that no special resolution is adopted, this chapter shall be enforced, in the absence of the Building Inspector, by the Village Clerk. Such officer, so appointed by special resolution, or the Village Clerk may issue building permits or certificates of occupancy or carry on any other of the duties herein specifically delegated to the Building Inspector. No building permit or certificate of occupancy shall be issued by the Building Inspector or ~~such~~ other officers ~~hereinabove~~ referred to, - except where the provisions of this chapter are complied with.
- B. Where a lot is formed from part of a lot then already improved, the separation must be effected in such manner as not to impair any of the provisions of this chapter, whether related to the then existing improvement or to the proposed new improvement.

### § 271-5. Amendment procedure.

- A. The Board of Trustees may, from time to time, on its own motion or on petitions filed for ~~said this~~ purpose, amend, supplement or repeal the regulations and the provisions of this chapter.
- B. The Board of Trustees, by a resolution adopted at a stated meeting, shall fix the time and place of a public hearing on the proposed amendments and cause notice ~~thereof~~ to be given as follows:
  - (1) By publishing a notice ~~thereof~~ in accordance with the Village Law in the official newspaper of ~~said the~~ Village.
  - (2) By mailing a notice ~~thereof~~ to every civic association of residents of the Village which shall have registered its name and address for this purpose with the Board of Trustees.
  - (3) The notices shall state the general nature of the proposed amendment or deletion.
- C. Whenever the owners of 50% or more of the street frontage in any district shall present to the Board of Trustees a petition duly signed and acknowledged requesting an amendment, supplement, change, modification or repeal of any of the regulations or provisions herein prescribed or the Zoning Maps herein referred to, including said district in which such owners reside or with respect to any specified part of ~~said the~~ district, it shall be the duty of the Board of Trustees to hold a public hearing ~~thereon~~ and cause notice ~~thereof~~ to be given in the manner prescribed above.

### § 271-6. Appointment of Board of Appeals.

The Mayor shall appoint a Board of Appeals under and pursuant to the provisions of the Village Law of the State of New York, subject to approval of the Board of Trustees.

## § 271-7. Definitions and word usage.

- A. Generally. Words used in the present tense include the future tense. The singular includes the plural. The word "person" includes a corporation or association or partnership as well as an individual. The word "lot" includes the word "plot" or "parcel." The term "shall" is always mandatory. The words "used" or "occupied," as applied to any land or buildings, shall be construed to include the words "intended, arranged or designed to be used or occupied." The word "building" includes the words "structure" and "premises." The word "premises" includes "building and land," and the words "vacant land" shall include the word "premises."
- B. As used in this chapter, the following terms shall have the meanings indicated:

### ACCESSORY BUILDING

A subordinate building used in conjunction with the principal use and which is customarily incidental to and located on the same lot occupied by the main building. The use of such accessory building shall be limited to the accessory use permitted in the district in which such accessory building is located, whether same is residential, business or industrial.

### ACCESSORY SITE FEATURE

Any built improvement not habitable or regulated by other definitions which includes but is not limited to sheds, fire pits, built in barbeques and outdoor kitchens, hot tubs, and patios.

### ACCESSORY STRUCTURE

A structure that is an accessory to and incidental to that of the dwelling(s) and that is located on the same lot.

### ACCESSORY USE

A use on the same lot which is customarily incidental to the principal use permitted thereon. In residence districts, such accessory use shall be limited to professional offices which are expressly permitted in a residential district, occupied by a person or persons, not exceeding two persons who work in the practice and who reside, residing on on the premises. An announcement or professional nameplate sign is hereby permitted, provided that an application therefor is made to the Building Inspector for a sign permit and a permit fee, as established by the Board of Trustees, is paid ~~therefor~~. The permit fee shall be a one-time charge, except that, in the event a new or different sign is erected, a new permit ~~therefor~~ shall be obtained and a fee ~~therefor~~ paid.

[Amended 12-5-1988 by L.L. No. 4-1988]

1. The maximum signage area per face for the professional sign shall be 120 square inches, and the maximum height ~~thereof~~ shall be six inches and the depth ~~thereof~~ not more than four inches. The professional sign may be double-faced and may be affixed on a signpost, the height of which shall not exceed eight feet. The ~~said~~ signpost shall be placed no nearer than 10 feet ~~to~~ the curblineline of ~~said the~~ property.
2. No more than one sign shall be permitted for each lot upon which a professional practice is conducted, notwithstanding the fact that more than one licensed person occupies and uses the said premises as professional offices.
3. Signs may be illuminated by a maximum of 15 watts of incandescent or eight watts of fluorescent lamps. All illuminated signs shall emit only diffused light.
4. No animated, blinding, flapping, moving or LED signs shall be permitted.

~~5. All signs not in conformity with the above regulations shall be amortized by and considered illegal on January 1, 1990, at which time existing signs not conforming to the above regulation~~

~~shall be required to be removed or replaced by conforming signs.~~

## ADDITION

An extension or increase in floor area or height of a building structure

## ALTERATIONS

Any construction, retrofit or renovation to an existing structure other than repair or addition that requires a permit. Also, a change in a building, electrical, gas, mechanical, or plumbing system that involves an extension, addition, or change to the arrangement, type or purpose of the original installation that requires a permit. (Refer also to the definition for "SUBSTANTIALLY IMPROVED STRUCTURE").

## ALTERATIONS, STRUCTURAL

Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams, headers or girders or any substantial change in the roof or in the exterior walls.

## AREA, NET SITE

The total area within the property lines, excluding external streets, and excluding all area within a lot with a slope of greater than 20%.

~~[Amended 7-19-2004 by L.L. No. 6-2004]~~

## ATTIC

The unfinished space between the ceiling assembly and the roof assembly.

## ATTIC, HABITABLE

The finished or unfinished area, not considered a story, complying with all the following requirements:

1. The occupiable floor area is not less than 70 sf in accordance with the State Building Code
2. The occupiable floor area has a ceiling height in accordance with the State Building Code.
3. The occupiable space is enclosed by the roof assembly above, knee walls (if applicable) on the sides and the floor-ceiling assembly below.

## ATHLETIC COURT

A tennis court, basketball court, or other structure involving the installation of a surface material to be used for recreational and/or athletic purpose.

~~[Added 11-17-2003 by L.L. No. 4-2003]~~

## AUTOMOBILE SERVICE STATION

Any area of land, including the building and structure thereon, which is used for the sale of gasoline or other motor vehicle fuel, oil or lubricating substances and motor vehicle accessories in general, and which may or may not include facilities for lubricating, washing or otherwise servicing motor vehicles. Painting or lacquering of motor vehicles or major body or fender work shall not be deemed included among the permitted uses of an automobile service station.

## BALCONY

An exterior habitable platform accessed from an upper story.

## BASEMENT

A story that is not a story above grade plane (see definition for "STORY ABOVE GRADE PLANE")

## **BASEMENT WALL**

The opaque portion of a wall that encloses one side of a basement and has an average below grade wall areas that is 50% or more of the total opaque and non-opaque area of that enclosing side.

## **BAY WINDOW**

A mass/building element comprised of a minimum of 3 planes of windows (each level) of one or more stories, projecting from the face of a building, canted with a straight front and angled sides. Both types rest on corbels or brackets and is located above finished floor level and is not a continuation of the floor structure.

## **BOAT**

A vessel which is designed to transport people or cargo on water.

## **BUILDING**

~~Any structure having a roof supported by columns or by walls and intended for the shelter, housing or enclosure of persons, animals or chattels.~~

Any structure used or intended for supporting or sheltering any use or occupancy.

## **BUILDING, DETACHED**

A building surrounded by open space on the same lot.

## **BUILDING, FRONT LINE OF**

The line of that face of the building nearest the front line of the lot. This face includes sun parlors and covered porches, whether enclosed or unenclosed, but does not include steps.

## **BUILDING, HEIGHT OF**

In residence districts: ~~the height of a building shall be the vertical distance measured from the lowest elevation of the proposed finished grade immediately adjacent to the building to the highest point of the building~~ the vertical distance from the average elevation of the existing grades, taken at the four corners of the building ("GRADE PLANE"), to the highest point of the roof surface. Except as otherwise provided in this chapter, no appurtenant structures or mechanical devices, other than chimneys and flues, shall be permitted to extend above the highest point of the roof. In business and industrial districts: the height of a building shall be the vertical distance measured from the lowest elevation of the proposed finished construction grade immediately adjacent to the building, excluding below-grade parking, to the highest point of the building, including elevator shafts, mechanical equipment enclosures and stairs/stairwells. [Amended 3-16-1998 by L.L. No. 4-1998; 4-20-1998 by L.L. No. 6-1998]

## **BUILDING, PRINCIPAL**

A building in which is conducted the main or principal use of the lot on which ~~said the~~ building is situated.

## **CEILING HEIGHT**

On the first floor: the vertical distance between the first-floor platform structural substrate and the highest point of a finished ceiling above. On the second floor: the vertical measurement from the second-floor platform structural substrate to the top of the top plate of the major exterior structural wall that supports the main roof framing system. For single-story high spaces without a story above, ceiling height is measured from the first-floor platform structural substrate to the underside of the ridge joist.

## **CELLAR**

~~A story partly underground and having more than 1/2 of its clear height below the average level of~~

~~the adjoining ground. A cellar shall not be considered in determining the permissible number of stories.~~

## COURT

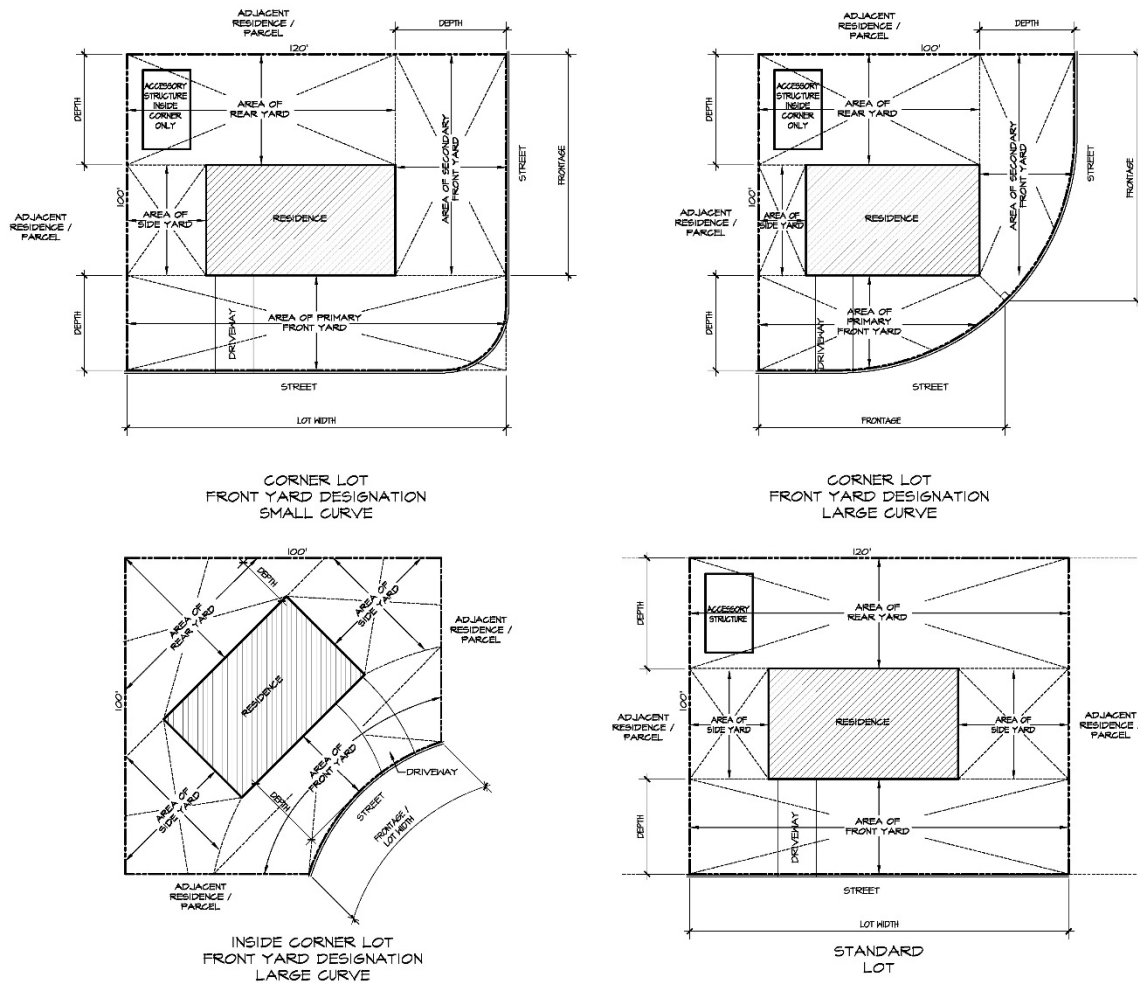
An unoccupied open space, other than a yard, on the same lot with a building, which is bounded on two or more sides by the walls of such building.

## COVERAGE, LOT

The sum of the gross horizontal areas on the ground floor of all buildings, accessory buildings, gazebos, pool houses, sheds, sunrooms and greenhouses on a lot, measured from the exterior faces of the exterior walls thereof, including cantilevered portions thereof, breezeways, open and covered porches, porticos, balconies and elevated decks, and terraces more than 8 inches above grade, divided by the lot area expressed as a percentage. Notwithstanding the foregoing, the gross horizontal area of all permitted encroachments pursuant to this chapter, except for chimneys, shall be excluded from the calculations for lot coverage. (See Article XXIV Standards for Stormwater Retention for on-site management of all stormwater runoff generated by impervious areas contained in §271-265 through §271-272).

## COVERAGE, FRONT YARD IMPERVIOUS

The sum of areas of all impervious site improvements, such as driveways, walks, patios, located within the area between the front of a dwelling and the property lines. Pervious pavers and pavement are included within these improvement materials as they are 'hardscape' materials and not vegetation. The front yard impervious coverage area shall be calculated by dividing the total area of impervious surfaces located in the front yard as defined by this definition, by the frontage of the property along the street multiplied by the actual setback to the dwelling. In the case where the dwelling is on a corner lot, there are separate impervious coverage limits for the primary and secondary front yards. The primary frontage calculation remains the same as for a standard lot (direction to the primary 'front of dwelling). The secondary front yard is calculated by the width of the frontage along the street, multiplied by the same dimension as the actual setback from the primary front yard (see Figure 1 below). The allowable coverage for the secondary front yard will be less than for the primary front yard.



**Figure 1. Front and Rear Yard Impervious Dimensional Criteria**

## **COVERAGE, REAR YARD IMPERVIOUS**

The sum of all impervious site improvements, such as patios, walks, pool and pool patios, accessory buildings/structures, located within the area between the rear of the dwelling and the rear lot line. Rear yard impervious coverage shall be calculated by taking the area of impervious surfaces within the area defined herein, divided by the area described as: the linear measurement along the rear lot line of the property multiplied by the actual distance to the dwelling. (See Figure 1 above for illustration of areas included in rear yard for calculating impervious rear yard coverage allowances).

## **CURB LEVEL**

The officially established grade of the curb in front of the midpoint of the lot.

## **DECK**

An exterior floor system comprised of wood or similar composite materials, without a roof, supported on at least two opposite sides by an adjoining structure and/or posts, piers or other independent supports, attached to a building structure.

## **DISTRICT**

Any one of the areas as shown on the Zoning Map of the Village into which the Village has been divided for the purpose of this chapter.

## **DOG KENNEL**

The keeping of more than three dogs.



## DUMP

A lot of land or part thereof used primarily for the disposal of, by abandonment, dumping, burial, burning or any other means and for whatever purpose, garbage, sewage, trash, junk, discarded machinery, vehicles or parts thereof or waste material of any kind.

## DWELLING

A building designed or used as the living quarters for one or more families, other than a tourist home, tourist court, motel, hotel or rooming house.

## DWELLING, MULTIPLE

A building or portion thereof containing three or more dwelling units.

## DWELLING, ONE-FAMILY

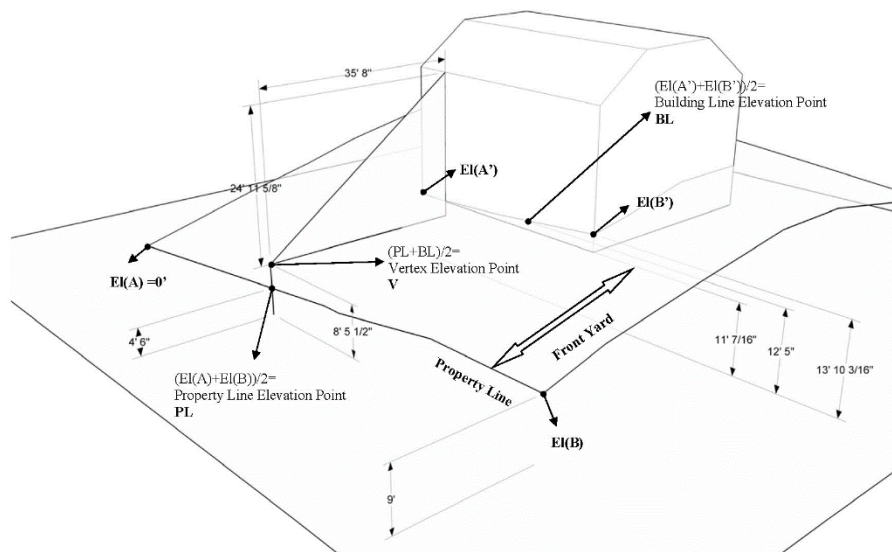
A detached building designed for and occupied exclusively by one family.

## ELEVATION POINTS

For purposes of calculating height/setback ratio:

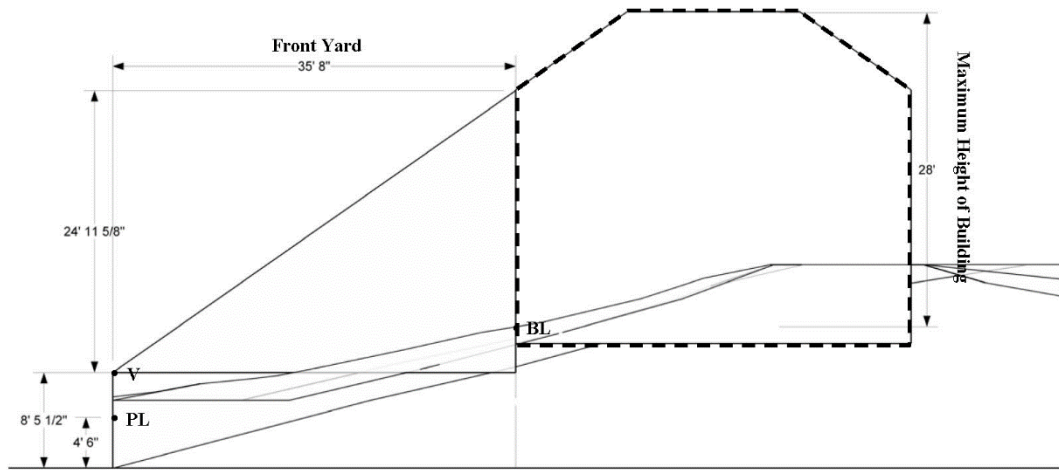
- (1) Building line elevation point ("BL") shall be an elevation which is the average of the finish grade elevations of the two principal corners of a building wall for which the height/setback ratio is being calculated.
- (2) Property line elevation point ("PL") shall be an elevation which is the average of the finish grade elevations of two points on a property line which are at the closest proximity to the principal corners of a building wall for which the height/setback ratio is being calculated.
- (3) Vertex elevation point ("L") shall be an elevation located above, on or below a lot line which is the average of the building line elevation point and the property line elevation point.

APPLICATION EXAMPLE OF HEIGHT/SET BACK RATIO: PERSPECTIVE VIEW  
EXAMPLE OF FRONT YARD HEIGHT/SETBACK RATIO OF (.7) AS IN R-2 DISTRICT





**APPLICATION EXAMPLE OF HEIGHT/SET BACK RATIO: SIDE VIEW**  
**EXAMPLE OF FRONT YARD HEIGHT/SETBACK RATIO OF (.7) AS IN R-2 DISTRICT**



## FAMILY

One or more persons related by blood, marriage or adoption, living and cooking together as a single housekeeping unit, exclusive of ~~household servants~~ live-in domestic staff. A number of persons, but not exceeding two, living and cooking together as a single housekeeping unit, though not related by blood, adoption or marriage, shall be deemed to constitute a "family."

## EXTERIOR WALL

An above-grade wall that defines the exterior boundaries of a building. Includes between-floor spandrels, peripheral edges of floors, roof and basement knee walls, dormer walls, gable end walls, walls enclosing a mansard roof and basement walls with an average below-grade wall areas that is less than 50% of the total opaque and non-opaque areas of that enclosing side.

## FARM

~~Any parcel of land containing at least 10 acres which is used for gain in the raising of agricultural products, livestock, poultry and dairy products, and containing necessary farm structures within the prescribed limits and the storage of equipment used. It excludes the raising of fur-bearing animals, riding academies, livery or boarding stables and dog kennels.~~

## FLAT ROOF

Any roof of a building or structure that has a roof slope less than a 3" vertical rise across 12" horizontal measurement.

## FLOOR AREA

The sum of the horizontal areas of the floors in each story of a building or buildings (having a floor or floors) measured from the exterior of the outside walls of such building or buildings without exclusion of any areas on the floors being measured (i.e. including attached garages, closets, bathrooms, stairwells and other open areas, and all accessory buildings/structures), except that basements shall be excluded except as identified below in 1(a).

For half stories (including but not limited to storage areas over garages and one-story areas),

horizontal areas that contain no habitable space, where the vertical distance between the floor joists and the roof rafters or ridge (not ceiling joists, collar ties or truss cords) above is less than seven feet and where the outboard end of the rafters rests directly on the top plate, shall be excluded. Where more than one roof structure covers this area, the vertical measurement shall be taken from the higher of the two structures.

For the purposes of calculating floor area, an eight-foot ceiling will be considered the standard ceiling height except for on the first floor where a standard ceiling height will be eight (8) feet to ten (10) feet. Any space above the springline of a cathedral ceiling will be excluded from floor area unless the overall interior height exceeds fourteen (14) feet from the floor, in which case the floor area calculation is doubled. If the first-floor ceiling height exceeds ten (10) feet and less than twelve (12) feet, the floor area is calculated at 150% the floor area for that portion of the house. This applies whether or not a second floor structure exists. If the first floor ceiling height exceeds twelve (12) feet and less than 14 feet, (only permissible where there is no story above) the floor area is calculated at 150% of the floor area for that portion of the house.

(1) In particular, the calculated floor area of a building or buildings shall include:

(a) Walk-out basement space that has an exterior wall fully visually exposed more than 50% of the length of the overall dimension of the house along that yard.

~~(b) Elevator shafts and stairwells at each floor.~~

~~(c) Floor space used for mechanical equipment, with structural headroom of seven feet six inches or more.~~

~~(d) Penthouses.~~

~~(e) Attic space, whether or not a floor has actually been laid, providing structural headroom of seven feet six inches or more.~~

~~(f) Interior balconies and mezzanines.~~

~~(g)~~ Enclosed porches and breezeways.

~~(h) Accessory uses, not including space used for accessory off-street parking.~~

~~(i) Car ports, porte-cocheres and breezeways.~~

~~(j) All accessory structures, other than sheds under 120 square feet in size.~~

(2) However, the floor area of a building or buildings shall not include:

~~(a) Cellar space, except that cellar space used for retailing shall be included for the purpose of calculating requirements for accessory off-street parking spaces and accessory off-street loading berths.~~

~~(b)~~ Elevator and stair bulkheads, accessory water tanks and cooling towers (not applicable to residential).

(b) Open porches.

~~(c) Floor space used for mechanical equipment with structural headroom of less than seven feet six inches.~~

~~(d) Attic space, whether a floor has actually been laid, providing structural headroom of less than seven feet six inches.~~

~~(e) Uncovered steps.~~

- ~~(f) Terraces, breezeways and open spaces.~~
- ~~(g) Accessory off-street parking spaces.~~
- ~~(h) Accessory off-street loading berths, where required~~
- (c) A single shed up to 120 square feet in size.

## **FLOOR AREA RATIO OF A BUILDING**

~~The quotient of the floor area of a building divided by its lot area.~~

## **FLOOR AREA RATIO**

A ratio which produces the proportion of maximum allowable floor area to total lot area.

## **GARAGE**

An accessory building intended or designed to be used for the storage of noncommercial motor vehicles.

## **GARAGE, PRIVATE**

An enclosed space for the storage of one or more motor vehicles, provided that no business, occupation or service is conducted for profit therein.

## **GARAGE, PUBLIC**

Any garage other than a private garage, available to the public, operated for gain and which is used for storage, repair, rental, greasing, washing, servicing, adjusting or equipping of automobiles or other motor vehicles.

## **GRADE PLANE**

A reference plane representing the average of the finished ground level adjoining the building at all exterior walls. Where the finished ground slopes away from the exterior walls, the reference plane shall be established by the lowest points within the areas between the building and the lot line or, where the lot line is more than 3 feet from the building between the structure and the point 3 feet from the building.

## **GRADE**

The ground level adjoining the building at all exterior walls.

## **GRADE, ESTABLISHED**

The elevation of the center line of the streets as officially established by the county, town or Village authorities.

## **GRADE, FINISHED**

The completed surfaces of lawns, walks and roads brought to grades as shown on official plans or designs relating thereto.

## **HABITABLE FLOOR AREA**

~~In a dwelling, rooms occupied by one or more persons for living and/or eating and/or sleeping, but does not include attached or built-in garages, open porches, terraces or rooms below grade. "Habitable floor area" on the first floor of a dwelling shall be construed to mean all finished floor area having a clear headroom of 7 1/2 feet or over, including stairwells; with respect to the second floor, it shall be construed to include all finished or unfinished floor area having a clear headroom of 7 1/2 feet or over for a minimum horizontal measurement of six feet, with side walls not less~~

than 5 1/2 feet in height.

### HEIGHT/SETBACK RATIO

The Height/Setback Ratio is one of the criteria used in setting building and construction limitations on a residential lot. It is a ratio which produces an inclined plane beginning at a property line rising towards a principal building or structure, starting at a vertex elevation point. Except as otherwise provided in this chapter, no appurtenant structures or mechanical devices, other than minor architectural features not covering more than 10 percent of the roof area, such as chimneys, flues, skylights and dormer windows peaks, shall be permitted to extend above the inclined plane of the height/setback ratio. (See Figure 2 below).

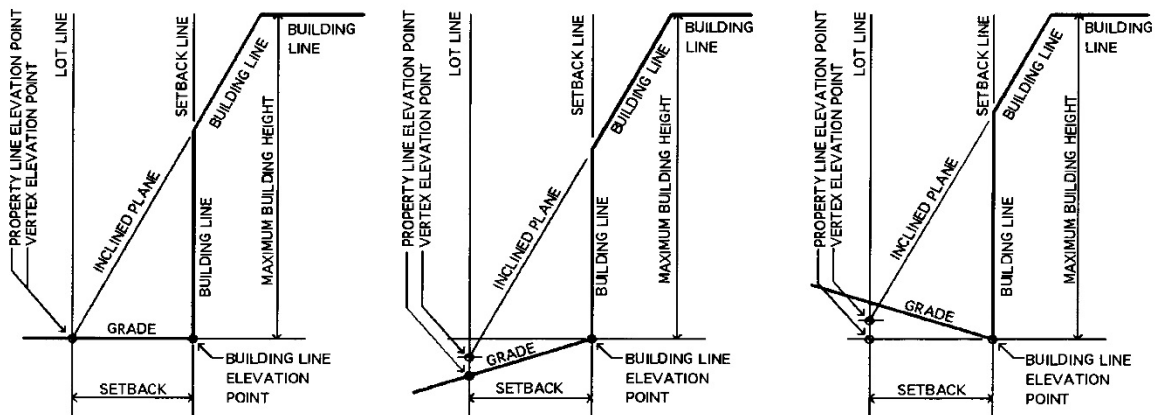


Figure 2. Application Examples of Height/Setback Ratio

### HOME OCCUPATION

An accessory use of a service character customarily conducted within a dwelling by the residents thereof. The office of a physician, surgeon, dentist or other professional person, including teaching of violin, piano or other individual musical instrument, all limited to a single pupil at a time, who offers skilled services to clients and is not professionally engaged in the purchase or sale of economic goods, shall be deemed to be a "home occupation." Trades or business of any kind as well as marketing at homes to the public which involves consumers at residence of any kind not herein excepted shall not be deemed to be home occupations.

### HOSPITAL

A building used for the medical diagnosis, treatment or other care of human ailments, unless otherwise specified. The term "hospital" shall not be deemed to include sanitarium, preventorium, clinic, rest home, nursing home, convalescent home and any other place for the diagnosis, treatment or other care of ailments of similar character.

### HOUSE TRAILER

Any portable or mobile vehicle used or designed to be used for living purposes and with its wheels, rollers or skids in place.

### IMPERVIOUS SURFACE

Those surfaces, improvements and structures that cannot effectively infiltrate rainfall, snowmelt and water (including but not limited to building rooftops, pavement, sidewalks, driveways).

## JUNKYARD

A lot, land or structure, or part thereof, used primarily for the collecting, storage and sale of wastepaper, rags, scrap metal or discarded material or for the collecting, dismantling, storage and salvaging of machinery or vehicles not in running condition and for the sale of parts thereof.

## LAUNDERETTE

A business premises equipped with individual clothes-washing machines for the use of retail customers, exclusive of laundry facilities provided as an accessory use in an apartment house or an apartment hotel.

## LINE, STREET

The dividing line between the street and the lot.

## LODGING HOUSE

A building in which three or more rooms are rented and in which no table board is furnished.

## LOT

Land occupied or to be occupied by a building and its accessory buildings or by a dwelling group and its accessory buildings, together with such open spaces as are required under the provisions of this chapter, having not less than the minimum area and width required by this chapter for a lot in the district in which such land is situated, and having its principal frontage on a street or on such other means of access as may be determined in accordance with the provisions of law to be adequate as a condition of the issuance of a building permit for a building on such land.

## LOT AREA

The total horizontal area within the property lines and or lot lines of a plot.

## LOT, CORNER

A parcel of land at the junction of and fronting on two or more intersecting streets.

## LOT, DEPTH OF

The mean distance from the street line of the lot to its opposite rear line, measured in the general direction of the side lines of the lot.

## LOT, INTERIOR

A lot other than a corner lot.

## LOT LINE

~~Any line dividing one lot from another.~~

A legal boundary of a lot.

## LOT, THROUGH

An interior lot having frontage on two parallel or approximately parallel streets.

## LOT, WIDTH OF

The mean width, measured at right angles to its depth.

## MARKET VALUE

For the purpose of this chapter, market value is defined as the full market value indicated in the Village final tax roll for the current fiscal year.

#### **MOTOR VEHICLE REPAIR SHOP**

A building or portion of a building arranged, intended or designed to be used for making repairs to motor vehicles.

#### **NONCONFORMING USE**

A building or structure or use of land existing at the time of enactment of this chapter and which does not conform to the regulations of the district or zone in which it is situated.

#### **NURSING OR CONVALESCENT HOME**

Any building with sleeping rooms where persons are housed or lodged and furnished with meals and nursing care for hire.

#### **OPEN SPACE**

An unoccupied space open to the sky on the same lot with the building.

#### **PARKING AREA**

An off-street space available for the parking of motor vehicles, exclusive of passageways and driveways appurtenant thereto and giving access thereto, and having direct access to a street or alley.

#### **PARKING SPACE**

The area required for parking one automobile, which in this chapter is held to be an area 10 feet wide and 20 feet long, not including passageways.

#### **PATIO**

Any ground area covered by concrete, brick or other impervious material, excluding walkways 48 inches or less in width, which is without a roof structure and not elevated above the surface of the ground in any matter. Patios do not include driveways in front yards.

#### **PLAT**

A map, plan or layout of a county, town or Village subdivision or section thereof indicating the location and boundaries of individual properties.

#### **PLOT**

A lot or a combination of lots constituting a parcel of land considered as a single unit with a single ownership and united by both a common ownership and use.

#### **PORCH, OPEN**

Any open-sided roofed structure, without screens or other enclosures, attached to the outside of a building on no more than two sides.

#### **PORCH, ENCLOSED**

Any nonconditioned, roofed structure, enclosed with screens or other similar enclosures, attached to the outside of a building.

#### **PORTICO**

Any open-sided roofed structure, without screens or other enclosures, attached to the entrance of a building.

#### **PROJECTING WINDOW**

Any window element that is not supported underneath by a foundation or post, and is

projecting from the façade plane.

#### PROPERTY LINE

Any lot line dividing a lot of one owner from a lot of different owner.

#### REPAIR

The reconstruction or renewal of any part of an existing building for its maintenance or to correct damage.

#### RETAINING WALL

A wall not laterally supported at the top, that resists lateral soil load and other imposed loads.

#### SIDE PRIMARY FAÇADE

The largest (by percentage of total side façade), single vertical and horizontal plane of the side facing exterior façade.

#### SIGN

Any structure or part thereof or any device attached to a structure or painted or represented on a structure which shall display or include any letter, word, model, banner, flag, pennant, insignia, device or representation used as, or which is in the nature of, an announcement, direction or advertisement. A sign includes any billboard, but does not include the flag, pennant or insignia of any nation or group of nations or of any state, city or other political unit or of any political, educational, charitable, philanthropic, civic, professional, religious or like campaign drive, movement or event.

##### (1) BUSINESS SIGN

A sign which directs attention to a business or profession conducted or to products sold upon the same lot. A "for sale" or "to let" sign relating to the lot on which it is displayed shall be deemed a "business sign."

##### (2) ILLUMINATED SIGN

Any sign designed to give forth any artificial light or designed to reflect such light deriving from any source which is intended to cause such light or reflection.

##### (3) FLASHING SIGN

Any illuminated sign on which the artificial light is not maintained stationary and constant in intensity and color at all times when in use.

#### SHED

For the purpose of this chapter, a shed is defined as a non-habitable storage structure up to 120 square feet in size and less than 12 feet in height. Sheds over 120 SF must be constructed in accordance with ~~NYSRBC~~ New York State Residential Building Code for wind and distance from other structures. Note that minimum distance from other structures in accordance with Section R302.1 of the New York State Residential Building Code unless constructed with 1 hour fire resistive construction.

#### SIGN, ADVERTISING

A sign which directs attention to a business, commodity, service or entertainment conducted, sold or offered elsewhere than on the premises and only incidentally on the premises, if at all.



## SLOPE

Any area, whether or not located on a single lot, having a topographical gradient of 20% (the ratio of vertical distance to horizontal distance) or more. For purposes of this definition, area measurements must be made along a horizontal plane from within the boundaries of a lot.  
[Amended 7-19-2004 by L.L. No. 6-2004]

## STABLE

A building in which any horses are kept for remuneration, hire or sale.

## STORY

The portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. The part of a building between the top of the structural floor level and the floor structural floor level of the level above or ceiling joist (of attic).

- (1) The first story may not in any case exceed 12 feet where there is a story above.
- (2) The second story may not exceed 8 feet as measured from the second-floor finished floor elevation to the top plate of load bearing walls or spring line of a cathedral ceiling.

## STORY ABOVE GRADE PLANE

Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is either of the following:

- (1) More than 6 feet above grade plane, or,
- (2) More than 12 feet above the finished ground level at any point.

## STORY, HALF

A story under a gable, hip or gambrel roof, the wall plates of which on at least two opposite exterior walls are not more than two feet above the floor of such story.

## STORY, HEIGHT OF

The vertical distance from the top surface of the floor next above. The height of the topmost story is the distance from the top surface of the floor to the top surface of the ceiling joists.

## STREET

~~A public way which affords the principal means of access to abutting properties.~~

Any highway or thoroughfare which affords the principal means of access to abutting properties, whether designated as a street, avenue, road, crescent, lane, terrace, way, place or otherwise, and whether public or private.

## STREET FRONTAGE

The lineal frontage of a lot or parcel abutting on a private or public street that provides principal access to or visibility of the building, measured by the width of the lot or parcel at the front yard setback.

[Amended 7-19-2004 by L.L. No. 6-2004]

## STREET GRADE

The officially established grade of the street upon which a lot fronts or, in its absence, the established grade of other streets upon which the lot abuts, at the midpoint of the frontage of the lot thereon. If there is no officially established grade, the existing grade of the street at such midpoint shall be taken as the "street grade."

## STREET LINE

The dividing line between a lot, tract or parcel of land and a contiguous street. For purposes of this chapter, a street line and a right-of-way line are the same.

### **STRUCTURE**

That which is built or constructed.

~~A combination of materials, other than a building, used in conjunction with, and customarily incidental to and located on the same lot occupied in said district, to form a construction that is safe and stable.~~

### **SUBSTANTIAL IMPROVEMENT**

Any addition and/or alteration of any structure, where the cost equals or exceeds 50% of the Market Value of the pre-existing structure prior to such improvements or any alterations that affect 50% by measurement of square footage or more of the total structure, excluding area of basement within the calculation.

### **SUBSTANTIAL IMPROVEMENT, CUMULATIVE**

Any alteration, addition, or other improvement of a structure for which the cost of which equals or exceeds 50% of the market value of the structure or any alterations that affect 50% by measurement of square footage or more of the total structure, excluding area of basement within the calculation at the time of the improvement or repair when counted cumulatively for 5 years.

### **SUNROOM**

A one-story structure attached to a dwelling with a glazed area in excess of 40% of the gross areas of the structures exterior walls and roof.

### **TERRACE**

A habitable raised patio more than 8 inches above the ground.

### **USE**

The specific purpose for which land or a building is designed, arranged, intended or for which it is or may be occupied or maintained. The term "permitted use" or its equivalent shall not be deemed to include any nonconforming use.

### **USE, ACCESSORY**

See definition for "ACCESSORY USE".

### WAY

A street or alley or other thoroughfare or easement permanently established for passage of persons or vehicles.

### WINDOW

An opening to the outside, other than a door, which provides all or part of the required natural light, natural ventilation, or both, to an interior space. The glazed portion of a door in an exterior wall may be construed to be a "window."

### YARD

An unoccupied space open to the sky on the same lot with a building or structure.

### YARD FOR CORNER LOT, PRIMARY FRONT

The front yard that has historically been established as the front yard by its street address.

### YARD FOR CORNER LOT, SECONDARY FRONT

The front yard that has not historically been established as the front yard by its street address.

### YARD FOR INSIDE CORNER LOT, FRONT

For the purposes of calculating front yard coverage on an inside corner lot, front yard is the dimension described by the least setback from the house to the tangent along the property line curve and extended to the side yards uniformly. (See **Figure 1** provided in § 271-7B under the definition of "Coverage, Front Yard Impervious" for corner lot types).

### YARD, FRONT

An open unoccupied space on the same lot with the building, between the front line of the building and the front line of the lot and extending the full width of the lot.

### YARD, REAR

A portion of property extending the full width of the lot opposite (and approximately parallel to) the principal front yard between the main building and the rear lot line, unless said yard would otherwise be a secondary front yard. A rear yard may abut a street or right-of-way when the lot has a front and/or a secondary front yard.

### YARD, SIDE

An open unoccupied space on the same lot with the building, situated between the building and the sideline of the lot extending from the front yard to the rear yard. Any lot line not a rear line or a front line shall be deemed a "side line."

## Article II. Establishment of Districts

### § 271-8. Designation of districts.

[Amended 10-16-1995 by L.L. No. 5-1995; 6-23-2011 by L.L. No. 4-2011]

For the purpose of this chapter, the Village of East Hills is hereby divided into 10 classes of districts, which are hereby designated as follows:

Residence R-A District

Residence R District

Residence R-1 District  
Residence R-2 District  
Residence R-3 District  
Residence R-4 District  
Business A District  
Business B District  
Light Industrial A District  
Business Park District

## § 271-9. Establishment of boundaries; Zoning Map.

[Amended 10-16-1995 by L.L. No. 5-1995; 6-23-2001 by L.L. No. 4-2001]

The boundaries of ~~said the~~ districts are ~~hereby~~ established as shown upon the Building Zone Map,<sup>[1]</sup> last dated October 16, 1995, which is to be updated from time to time and which, with the notations, references and other matter shown thereon, is ~~hereby~~ declared to be part of this chapter.

[1] *Editor's Note: A copy of the current Zoning Map is on file in the Village's office.*

## § 271-10. Conformance with district regulations.

No buildings shall be erected, altered or used and no premises shall be used for any purpose in the zone in which such buildings shall be erected, altered or used, or such premises used, except in conformity with the regulations ~~herein~~-prescribed for the zone in which ~~such the~~ buildings or premises are located.

Substantially Improved Structures shall be subject to the requirements of all applicable Building and Zoning regulations and fees that would apply to a new structure. See §271-7.B. for definition of "Substantial Improvement".

Damage caused by any origin sustained by a structure where the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the effected total structure (building) by dimensional calculation defined in 'Substantially Improved Structure'. All structures that are determined to be substantially damaged are automatically considered to be substantial improvements, regardless of the actual repair work performed.

## § 271-11. Interpretation of boundaries.

- A. Where uncertainty exists with respect to the boundaries of any of the ~~aforesaid~~ districts as shown on the Zoning Map, the following rules shall apply:
- (1) Where district boundaries are indicated as approximately following the center lines of streets or highways, street lines or highway right-of-way lines, such center lines, street lines or highway right-of-way lines shall be construed to be such boundaries.
  - (2) Where district boundaries are so indicated that they approximately follow the lot lines, ~~such the~~ lot lines shall be construed to be said boundaries.
  - (3) Where district boundaries are so indicated that they are approximately parallel to the center lines or street lines of streets or the center lines or right-of-way lines of highways, such district boundaries shall be construed as being parallel thereto and at such distance therefrom as indicated on the Zoning Map. If no distance is given, such dimension shall be determined by the use of the scale shown on said Zoning Map.
  - (4) Where the boundary of a district follows a railroad line, ~~such the~~ boundary shall be deemed to be located midway between the main tracks of said railroad line.
  - (5) Where the boundary of a district follows a stream, lake or other body of water, said boundary line shall be deemed to be at the limit of the jurisdiction of the Village of East Hills unless otherwise indicated.
- B. In any particular instance where there is doubt as to the exact location of a district boundary line, the Board of Appeals, in conformity with this chapter, shall have the power to interpret ~~such the~~ location so that the intent of this chapter and said maps shall be observed and the areas affected ~~thereby~~ shall be safeguarded.

## Article III. Residence R Districts

### § 271-12. Applicability.

The provisions of this article shall apply in an R District.

## § 271-13. Permitted uses.

- A. No building or land shall ~~hereafter~~ be used or occupied and no building or part thereof shall be erected, used or altered unless in conformity with the regulations herein specified and except for the purposes set forth in this article and for no other purpose.
- B. Permitted uses shall be as follows:
  - (1) A single-family detached dwelling.

## § 271-14. Fences.

- A. In residence districts, fences of any kind or description shall not exceed a height of four feet from ground level. No fences are permitted to be erected within the front yard, as defined under § 271-7 of this chapter. On corner lots or on any lot fronting on more than one street, such plots are determined to have a front yard wherever a street immediately abuts a lot line. All fences shall be so erected that the finished surface shall be faced outward.
- B. No fence over three feet in height shall be erected unless the Building Inspector ~~shall~~ issues a permit ~~therefor~~. The procedure for the issuing of ~~said a~~ permit shall be the same as provided in Article XI, § 271- 127 ~~and Chapter 223, hereof~~. The fee shall be the same as provided for the issuance of a building permit.
- C. The enclosure of less than the entire rear yard of a lot, where such enclosed portion is used or intended to be used as a dog run or an enclosure for an animal or animals, and regardless of the height of such enclosure, shall not be permitted unless an application for a special permit ~~therefor shall have~~ first first have been made to the Board of Appeals. The Board of Appeals, if it shall grant such a special permit, may impose such conditions and restrictions with regard to the erection, maintenance and use thereof as it shall deem appropriate.
- D. Notwithstanding the foregoing, fences up to a maximum height of six feet from ground level shall be permitted only where the rear yard or side yard immediately abuts one of the following public streets, zoning districts or uses: Harbor Hill Road, Old Westbury Road, Roslyn Road, Business A District, Business B District, schools, recharge basins or the Park at East Hills. Notwithstanding the foregoing, fences up to a maximum of eight feet from ground level shall be permitted only where the rear yard or side yard immediately abuts one of the following public streets, zoning districts or uses: Glen Cove Road, Northern Boulevard, Light Industrial District.  
[Amended 7-20-1998 L.L. No. 8-1998; 5-21-2013 by L.L. No. 7-2013]

## § 271-15. Height restrictions.

- A. ~~The height of any principal building shall not exceed 32 feet. The maximum height for any primary single family residential building is proscribed in §271-228 A. [Amended 9-19-2003 by L.L. No. 2-2003]~~
- B. ~~The height of any accessory building shall not exceed 20 feet. The maximum height of any residential accessory building is proscribed in §271-228 B.~~
- C. ~~The height of any boundary line fences shall not exceed four feet.~~
- E.D. Refer to 271-Attachment 1 for the "Table of Requirements for Residential Construction and Building Limitations".

## § 271-16. Required lot area.

- A. The principal building, as herein defined, or any part thereof shall be erected, constructed, reconstructed, altered, repaired or used on a plot containing an area of not less than one acre (43,560 square feet) contained in one lot. Notwithstanding any other state or local law to the contrary, the minimum lot area herein may not be met by combining two or more contiguous plots of land, each of which is less than such required minimum lot area.

[Amended 8-16-1999 by L.L. No. 5-1999]

- B. There shall not be more than one principal building or portion thereof to each one acre contained in a plot.

## § 271-17. Lot coverage.

All buildings, including accessory buildings, shall not cover more than 25% of the area of the lot. See also §271-263 for Impervious Yard Coverage.

## § 271-18. Required floor area.

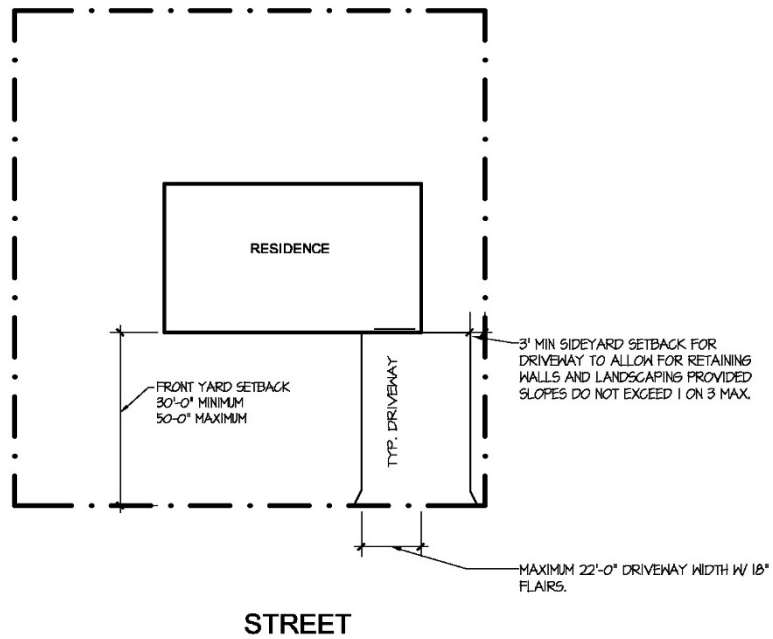
No main dwellings shall be erected unless it has a habitable floor area of at least 1,800 square feet to be completed prior to occupancy.

## § 271-19. Yards and Driveways.

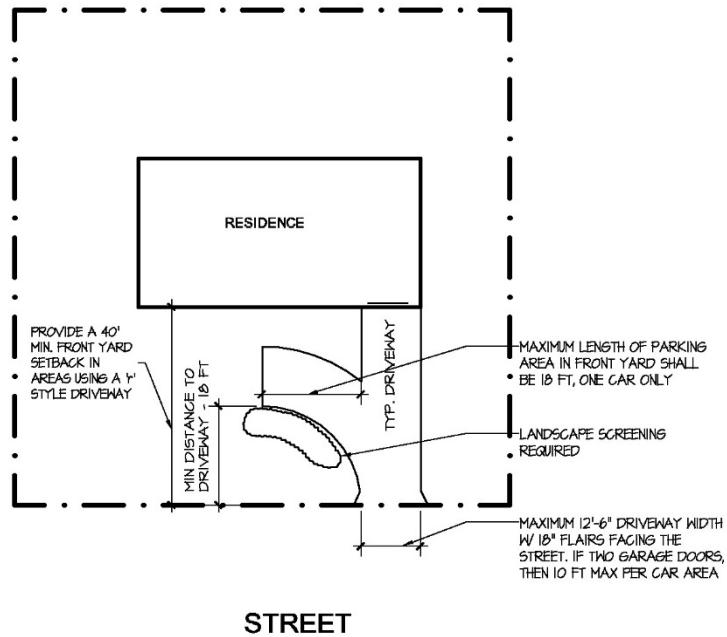
Each lot shall have front, side and rear yards not less than the depths or widths following.

- A. Front yard depth: 50 feet.
- B. In case of a single-family dwelling, there shall be two side yards, one on each side of the main building, the aggregate widths of which shall be at least 50 feet. Neither side yard shall be less than 20 feet wide.
- C. Rear yard depth: 30 feet.
- D. Corner lot: A building shall not be required to comply with Subsection A, but the depth of yard from any street line shall not be less than 45 feet.
- E. Maximum driveway width, layout and arrangement shall comply with the requirements (as illustrated in Figures 3A-3F below) with no more than two compliant single width garage doors or one compliant double width garage door facing the primary front yard.



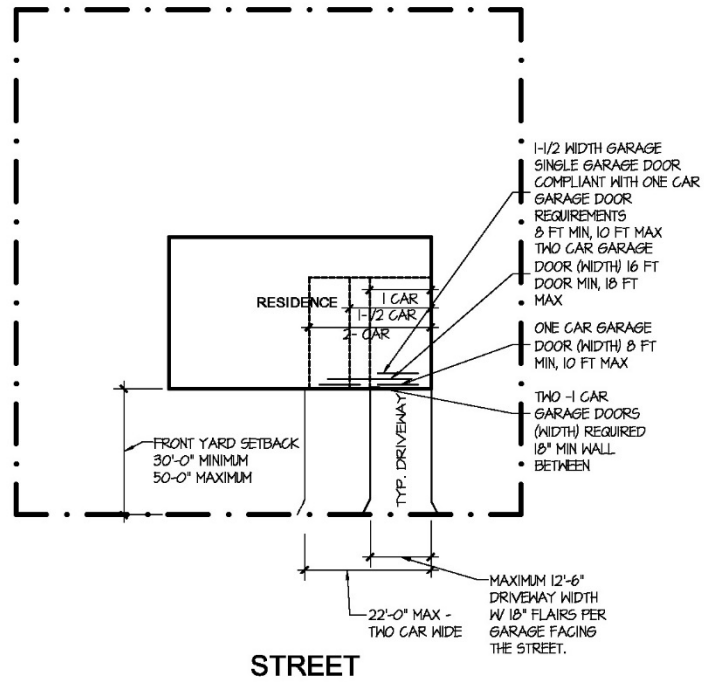


### FRONT ENTRY GARAGE

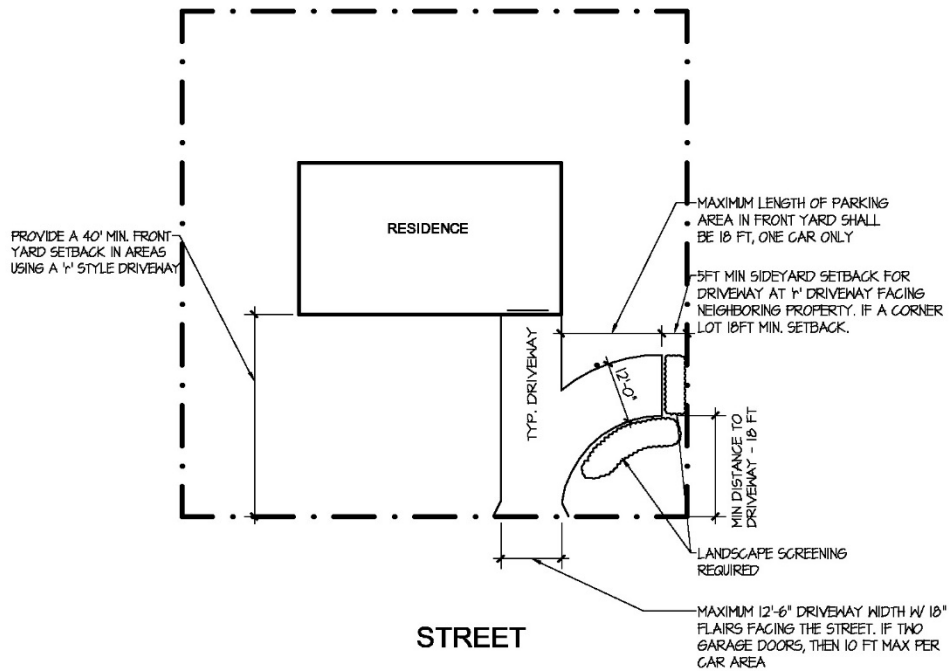


### FRONT ENTRY GARAGE with 'r' DRIVEWAY CONFIGURATION CRITERIA

Figure 3A. Driveway Criteria #1

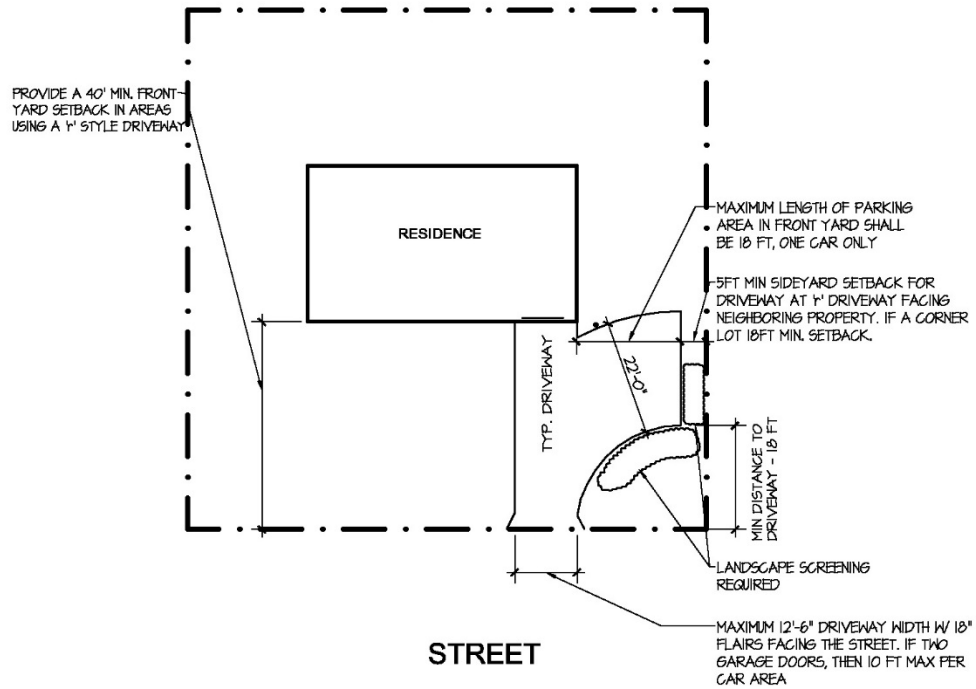


### FRONT ENTRY GARAGE TYP GARAGE DOOR DIMENSION REQUIREMENTS

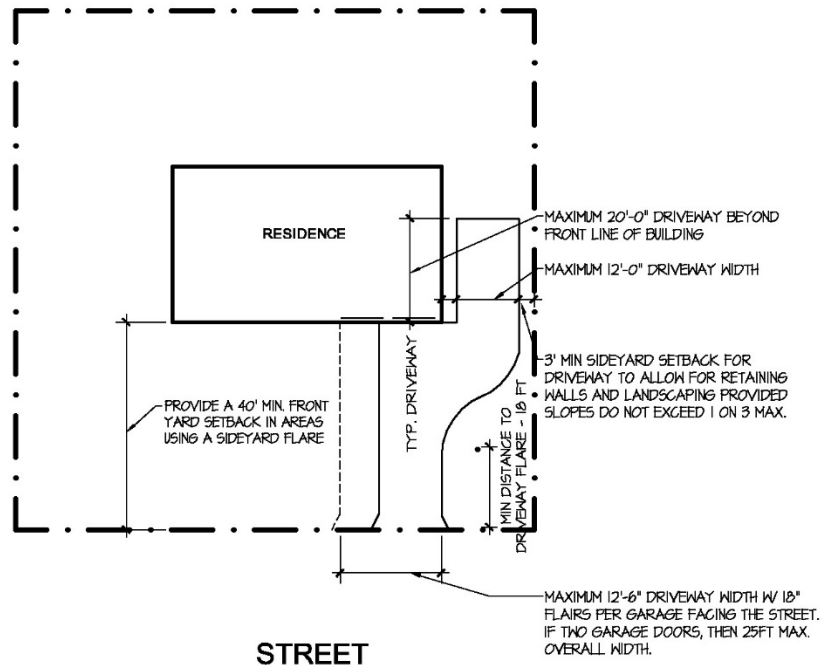


### FRONT ENTRY GARAGE with 'r' DRIVEWAY CONFIGURATION CRITERIA

Figure 3B. Driveway Criteria # 2

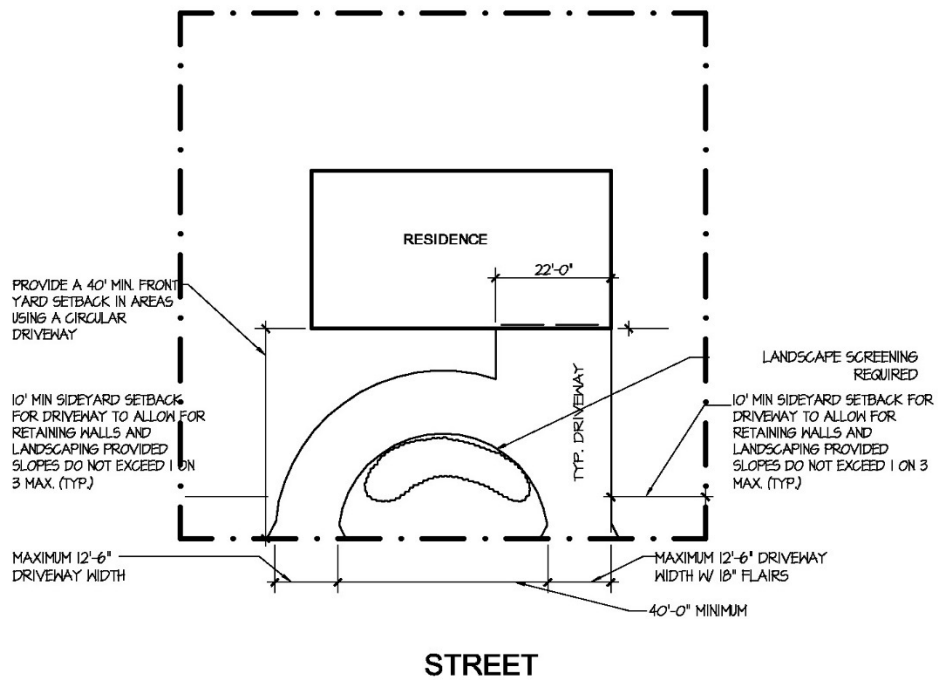


### FRONT ENTRY GARAGE with TWO CAR 'T' DRIVEWAY CONFIGURATION CRITERIA ZONES R & R-1 ONLY

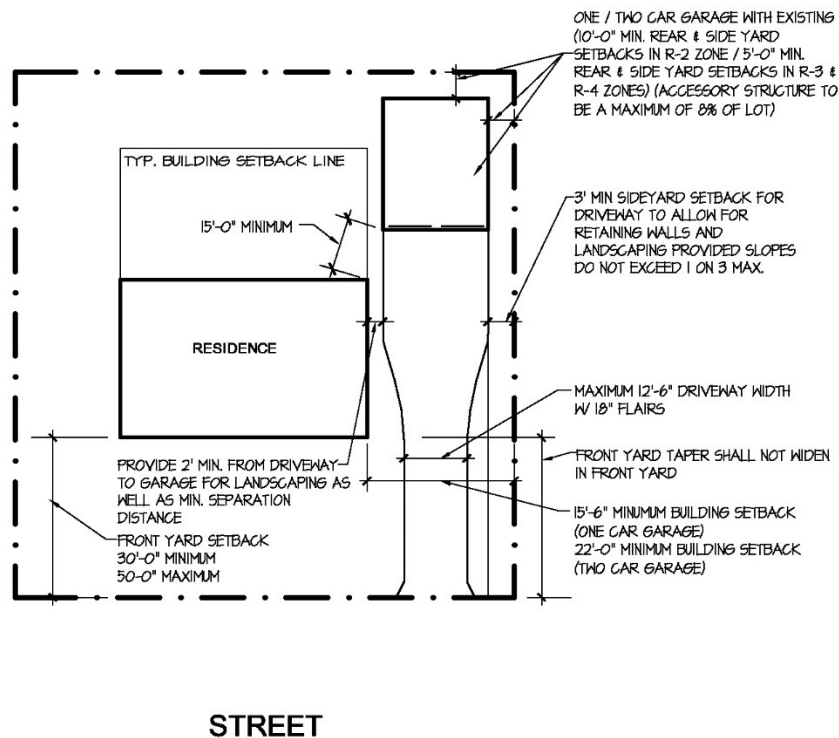


### FRONT ENTRY GARAGE WITH SIDERYARD FLARE

Figure 3C. Driveway Criteria # 3

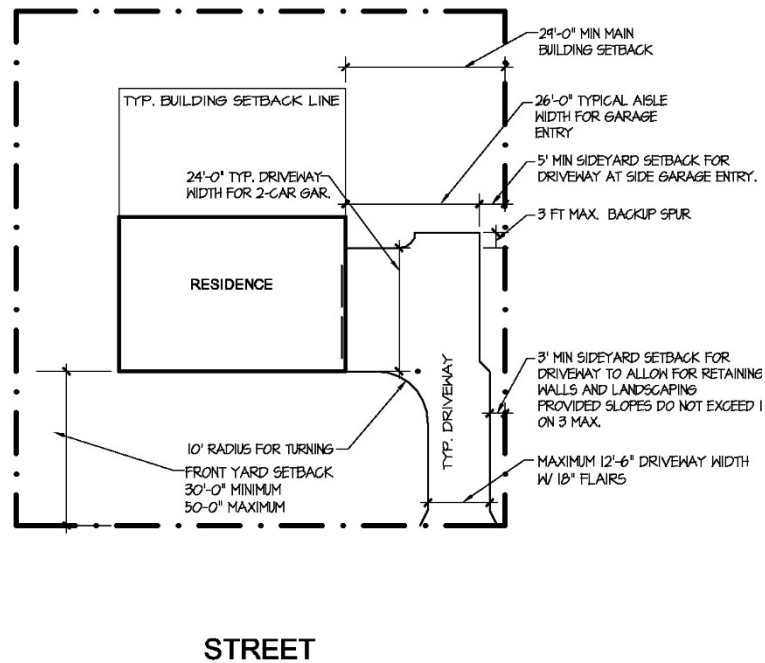


### FRONT ENTRY GARAGE CIRCULAR DRIVEWAY CRITERIA

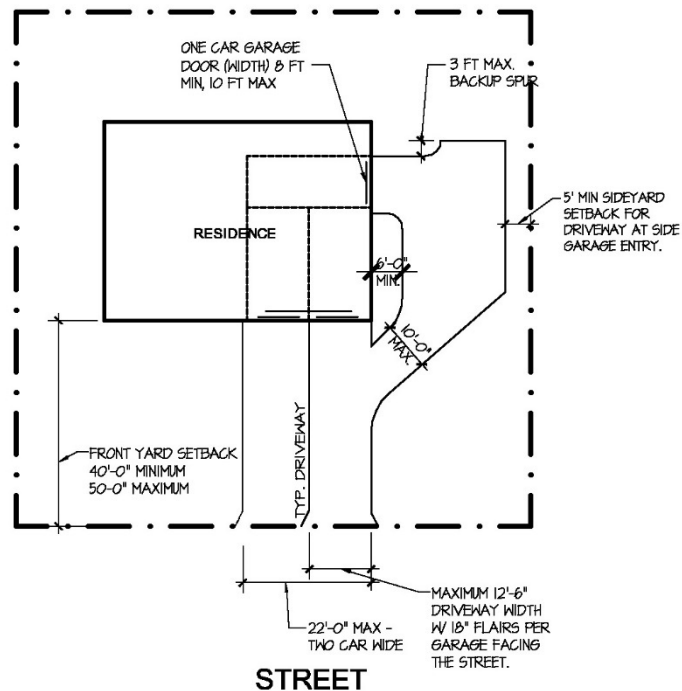


### ONE / TWO CAR GARAGE DETACHED

Figure 3D. Driveway Criteria # 4

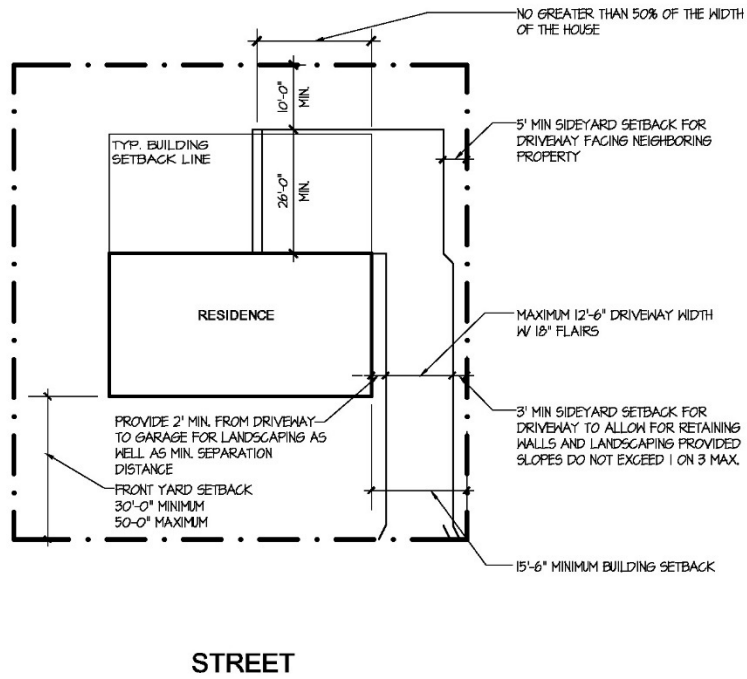


### SIDE ENTRY GARAGE

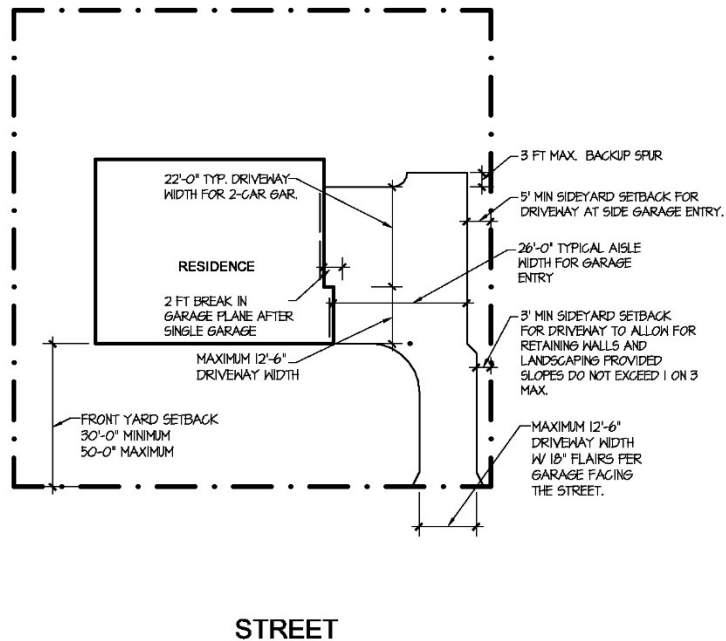


### 3 CAR GARAGE ALLOWABLE LAYOUT OPTION A - ONE OR TWO - FRONT FACING W/ SINGLE GARAGE ON SIDE - INTERNALLY CONTIG.

Figure 3E. Driveway Criteria # 5



### REAR ENTRANCE GARAGE



### 3 CAR GARAGE ALLOWABLE LAYOUT OPTION B - THREE SIDE FACING W/ SINGLE GARAGE TOWARDS FRONT OFFSET INTERNALLY CONTIG.

Figure 3F. Driveway Criteria # 6

F. See also §271-273. Additional Requirements for Accessory Off-street Parking for Residential Districts.

## § 271-20. Street frontage required.

No lot shall have a street frontage of less than 160 feet.

## § 271-21. Projection of buildings.

No building or structure or part thereof shall project into any yard except as shall be specifically provided in §271-230 ~~this article~~.

## § 271-22. Projection of accessory structures.

Stationary outdoor fireplaces may project be located in the rear yard or side yard but shall be at least five ten feet distant from side and rear property lines and shall not exceed eight feet in height.

## § 271-23. Accessory buildings and uses.

A. Accessory buildings or structures shall not occupy more than 20% of the rear yard (as illustrated in Figure 1 which is provided in §271-7B under the definition of "Coverage, Front Yard Impervious"), similar to Impervious Rear Yard area calculation. The yard area occupied by the accessory buildings or structures shall be included in computing the maximum percentage of the lot area which may be utilized for buildings within the FAR calculation.

B. Unless otherwise provided in this article, accessory buildings and structures shall be located in the rear yard and shall be not less than 15 feet distant from the main building, not less than 10 feet distant from the rear lot line and not less than 15 feet distant from any side line, with the exception of boundary line fences and walls which may be located on the lot lines.

A.C. Accessory site feature setback requirements are provided in 271 Attachment 1B "Table of Setback Requirements for Site Accessory Features".



## § 271-24. Churches, schools and related activities.

- A. Churches or other similar places of worship, rectories, parish houses, convents and elementary and secondary schools, either parochial or public, operated under the supervision of the Board of Regents of the State of New York, shall be permitted, subject, however, to the following conditions and restrictions:
- (1) Building area. All buildings, including accessory buildings, shall not cover more than 20% of the area of the lot.
  - (2) Height. The height of any principal building shall not exceed 35 feet; the height of any accessory building shall not exceed 20 feet, except that an accessory building may be 35 feet in height, provided that it shall be distant at least 100 feet from the main building.
  - (3) Yards. Each lot shall have front, side and rear yards not less than the depths and widths following.
    - (a) Front yard depth: 110 feet.
    - (b) Side yard width: each one, 40 feet for a one-story building; each one, 60 feet for a two-or-more-story building; however, when a side yard abuts a street line, the width shall be 110 feet.
    - (c) Rear yard depth: 40 feet for a one-story building; 50 feet for a two-or-more-story building.
  - (4) Parking area. Off-street parking on the lot shall be provided in a paved area equal in area to two times the area occupied by buildings. Such parking area may extend into the side and rear yards but shall be distant not less than 20 feet from any lot line and 15 feet from any street line. Surfacing of such area shall be in accordance with Village ordinance.
  - (5) Screening. Where a parking area abuts a property line, a screen of evergreen shrubs shall be installed along said lines as specified by the Planning Board.
  - (6) Marginal roadway. A marginal roadway 50 feet in width shall be provided in the front yard and in any side yard abutting a street. Said marginal roadway shall extend from the road or street line into the front and side yard, shall be separated from the street by a mall 10 feet in width, and no more than two openings in the mall for access shall be made on any one street; the mall shall be curbed; the pavement in the roadway shall be 30 feet in width, and a sidewalk four feet in width shall be constructed along the inner side of the marginal roadway. All work and construction hereinabove set forth shall be in accordance with Village specifications and regulations.
  - (7) Plan. The plot plan required to be submitted with the application for the building permit shall, in addition, show the requirements set forth herein, together with the estimated cost of the improvements required in Subsection A(4), (5) and (6).
  - (8) Bond. If the improvements provided in Subsection A(4), (5) and (6) have not been completed prior to the application for a certificate of occupancy, a performance bond for not more than one year may be accepted by the Village Clerk in an amount estimated by the Village Engineer necessary to complete the improvements, which bond shall be a surety company bond in such company as shall be approved by the Board of Trustees and in such form as shall be approved by the Village Attorney. On the acceptance and filing of such bond, the Building Official shall be authorized to issue the certificate of occupancy.

- B. The provisions of this section shall apply to all residence and business districts.

## § 271-25. Keeping of horses.

- A. In any residence district, a plot or parcel of land, herein referred to as the "property" or the "premises," having an area of more than one acre and improved with a one-family dwelling actually occupied as such, may have thereon not more than two horses for each full acre, the term "horse" to include "pony," but only when permitted by the Board of Appeals, after a public hearing, subject to the restrictions and conditions hereinafter set forth and such further and other reasonable restrictions and conditions as the Board may impose.
- B. The application to the Board of Appeals shall set forth and shall also include a plot plan, which shall show:
- (1) The dimensions of the property and number of square feet.
  - (2) The location of all improvements on the property.
  - (3) The proposed location of a stable, together with a sketch or drawing of the same and the facilities to be contained therein, which shall include running water, electricity, and cesspool and sanitary disposal facilities separate from the residence.
  - (4) The outdoor area where the horses will be exercised or permitted to graze.
  - (5) The location of the residences on all abutting properties.
  - (6) How the applicant proposes to keep the horses confined to the property.
  - (7) How the applicant proposes to store and dispose of the manure, including the location of a manure storage bin which shall be walled on three sides by walls not exceeding six feet in height and which shall have an area of not less than eight feet square.
  - (8) Where the hay, feed or other food for the horses will be kept or stored by a suitable enclosure within the stable.
  - (9) Such further information as the Board of Appeals may request.
- C. Together with the application, there shall be submitted to the Board of Appeals a written statement from the Long Island Humane Society, the Nassau Suffolk Horsemen's Association or any other agency that said Board may ~~hereafter~~ designate in place of said society, which shall state whether or not the proposed facilities are adequate for the keeping and stabling of the horses.
- D. Each horse kept upon the premises shall, at all times, be owned by a member of the family residing on the premises, and no other horse shall, at any time, be kept, harbored, maintained or boarded on the premises. The hiring of or the commercial use of horses shall be prohibited.
- E. No stable shall be erected or maintained within 30 feet of the residence nor within 30 feet of any side or rear property line and shall be located only in the rear yard, except that if, at the time of the application, there is in existence on the property of the applicant an existing structure erected prior to the enactment of this section, the Board of Appeals may, in its discretion, permit the ~~same structure~~ to be used for a stable, provided that ~~said the~~ structure in all other respects complies with the provisions of this section and of the
- Building Code<sup>[1]</sup> of this Village and the fire and health regulations of Nassau County.
- [1] *Editor's Note: See Ch. 223, Building Construction.*
- F. No living quarters shall be permitted in the same building in which the horses are stabled.
- G. No manure or any other material or substances which cause or create any noxious or offensive odors or

dust or which cause or may cause the presence of or attract any vermin, rodents or other animals shall be permitted to be, or remain in, on or upon the premises.

- H. No horses shall be permitted to be, roam or graze in or on any part of the premises other than the rear yard, and they shall be corralled or confined in such manner and by such means and within such portions of the rear yard as the Board of Appeals shall direct.

- I. The applicant shall construct, plant and maintain such landscaping and/or fencing as the Board of Appeals shall direct.
- J. The Board of Appeals, in considering the application, shall not grant the same unless it shall find, in each instance, that the granting of the same will not:
  - (1) Adversely affect the public health, safety and general welfare.
  - (2) Depreciate the value of the property in an area immediately adjoining the subject property.
  - (3) Alter the essential character of the neighborhood.
- K. The application shall be accompanied by a writing signed by each owner and the occupant of the subject property and acknowledged in the form required for the recording of a deed, containing a consent, in form and substance satisfactory to the Board of Appeals, that so long as any stable shall continue to remain on the property or so long as any horse is kept, maintained or stabled on the property, the Village Building Inspector or any other Village official, person, agency or employee designated by the Village Board of Trustees or any society duly chartered for the prevention of cruelty to any animals or for the regulation of animal treatment shall have the right to enter upon the premises or any part thereof of it for the purpose of making such inspection and investigation as the Village may deem appropriate, and ~~said~~ the consent shall be irrevocable.
- L. The provisions of this section shall apply in all residence districts.

## Article IIIA. Conditional Uses in Residence R District

[Added 7-14-1986 by L.L. No. 1-1986; amended 8-18-1986 by L.L. No. 2-1986]

### § 271-25.1. Applicability.

The provisions of this article shall apply to the Residence R District.

### § 271-25.2. Family guidance center.

In the Residence R District, a building may be erected, altered or used or a lot or premises may be used for the establishment, maintenance and operation of a family guidance center solely for outpatient social services, counseling of behavior problems and emotional maladjustment in children and their parents, and the psychotherapeutic treatment of children and their parents; to make available to the public information concerning mental health; and to cooperate with governmental and private agencies concerned with the mental health of children and their parents, provided that the same is operated by an association, not-for-profit corporation or membership corporation not operating as a gainful business and shall be a tax-exempt organization pursuant to the Internal Revenue Code, as evidenced by a ruling or determination from the Internal Revenue Service.

### § 271-25.3. Procedures and standards for Conditional Use.

The Village Board of Trustees, in addition to the powers and duties set forth in the Village Law and as hereinafter set forth in this article, may, in a specific case after public notice and hearing and subject to appropriate conditions and safeguards, authorize the issuance of a conditional use permit in harmony with the general purpose and intent as provided ~~for herein in this chapter~~.

- A. In the consideration and determination of applications for conditional uses, the Board of Trustees shall consider the following general standards applied to the specific application:

- (1) The purposes of zoning as set forth in the Village Law of the State of New York and uses permitted in the district in which the property is located.
  - (2) Whether the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties and that the same is landscaped and appropriately buffered.
  - (3) Whether the proposed use will provide a desirable service, facility or convenience to the area or otherwise contribute to the proper growth and development of the community and to its general welfare and that environmental compatibility is assured.
  - (4) Whether the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of persons or vehicles, proximity to travel routes or congregations of children or pedestrians.
  - (5) Whether the proposed use will be of such nature as to be objectionable to nearby residential dwellings by reason of noise, lights or other factors of impact, including hours of use.
  - (6) Whether the proposed use will be a harmonious use in the district in which it is to be situated and not hinder or discourage the appropriate use and development of adjacent uses or impair the value thereof, and that all of the structures on the site are and shall be readily accessible to fire and police services and that ~~said~~ structures comply with the Village Building Code and the State of New York Building and Fire Code.<sup>[1]</sup>
- [1] *Editor's Note: See Ch. 223, Building Construction.*
- (7) In addition to the foregoing, the Board of Trustees shall, either by its own study and investigation or based upon study and investigation and recommendation of the Village Planning Board, determine the nature and intensity of the proposed use, the proposed site layout and its relation to adjacent properties, street access, vehicular traffic flow, sight distance and pedestrian traffic pattern in order that traffic and other hazards be controlled to provide maximum safety.

- B. If the Board of Trustees shall determine that the conditional uses provided in this article will conform to the general character of the neighborhood to which the proposed use will apply and that the public health, morals, safety and general welfare of such neighborhood will be secure by the granting of ~~such the~~ use, subject to safeguards imposed by the Board, then the Board shall authorize the issuance of a permit pursuant to this article. ~~Such~~ Permits may be granted for a temporary period or permanently, as determined by the Board, and if granted for a temporary period, application for extension ~~of the same~~ shall be subject to a public hearing as required in the original application.
- C. Before an application for a conditional use may be heard by the Board, a complete and accurate list of the names and addresses of the owners of all the lands within a radius of 200 feet of the property affected by such application as appears on the latest completed assessment roll of the County of Nassau shall be submitted simultaneously with the application. The applicant shall send, by registered or certified mail, to each owner shown on ~~said the~~ list, not less than 10 days nor more than 20 days before the date set for a hearing upon this application, a notice addressed to ~~such the~~ owners generally, signed by the applicant, identifying the property affected thereby and setting forth the use requested and the date, hour and place fixed by the Board of Trustees for the hearing ~~thereon~~. Before ~~such the~~ case may be heard by the Board, the applicant must file with the Clerk of the Village, not later than five days prior to the hearing date, an affidavit of the mailing of ~~such the~~ notices as ~~herein~~ provided, ~~said the~~ affidavit to be made on forms to be provided by the Board. This provision shall likewise also apply to any application for the extension of a temporary conditional use.

If the Board of Trustees finds that, in an application for a conditional use permit provided for in this article,

the proposed and requested use in ~~said~~the application does not conform to the general character of the neighborhood to which the proposed use is to apply and that the public health, morals, safety and general welfare of such neighborhood will not be served by granting ~~such~~the conditional use, the Board shall deny such application, anything to this article to the contrary notwithstanding.

- D. If upon an application for extension of a temporary conditional use permit the Board finds that the applicant has violated the conditions imposed in the granting of the same or if the Board finds that, because of a change in the general character of the neighborhood, the public health, safety, morals and general welfare shall be adversely affected by the extension of ~~such the~~ temporary conditional use permit, then the Board may deny the application for extension of ~~such the~~ conditional use, anything in this article to the contrary notwithstanding.
- E. Violation of any conditions imposed by the Board of Trustees in granting the conditional use permit shall be grounds for the revocation of ~~said a~~ permit after a public hearing at which evidence of such violation shall be introduced.

## Article IV. Residence R-1 Districts

### § 271-26. Applicability.

The provisions of this article shall apply to an R-1 District.

### § 271-27. Permitted uses.

- A. No building or land shall ~~hereafter~~ be used or occupied and no building or part thereof shall be erected, used or altered unless in conformity with the regulations herein specified and except for the purposes set forth in this article and for no other purpose.
-



B. Permitted uses shall be as follows:

- (1) Any one of the uses and purposes set forth in Article III hereof.
- (2) Fences: See §271-14.
- (3) Parks.
- (4) Public library, public art gallery, public museum, municipal firehouse, municipal recreational use, Village hall and accessory garage, Courthouse, Police Station and Roslyn Water District water pumping stations, booster stations, tanks and appurtenant facilities.
- (5) Office of a doctor, dentist or lawyer residing on the premises, provided that there is no display of advertising except a small professional nameplate; one nonresident employee shall be permitted in ~~such an~~ office.
- (6) Churches: See § 271-24.
- (7) Private swimming club as conditional use. A building or structure may be built, altered or used and a plot or parcel of land may be used for a swimming pool and accessory purposes by an association or membership corporation, all directors, officers and members of which shall be resident owners of real property within the Village, which use is not conducted for profit or gain, provided that the Board of Trustees of the Village shall determine that the public health, morals, safety, comfort and general welfare of the neighborhood will be secure and that ~~such the~~ use will not be detrimental to the general character of the neighborhood or to the orderly development of the Village, and provided that the Board of Trustees shall authorize the issuance of a special permit for ~~such the~~ conditional use. Such a permit shall be issued only to ~~such the a~~ membership association or membership corporation which owns the land which is the subject matter of the application; however, the Board of Trustees, in its discretion, may grant ~~such a~~ permit to a membership association or membership corporation which is a contract vendee in a contract, absolute in its terms, with the sole exception that it is conditioned upon the granting of ~~such the~~ use permit. No permit shall be issued for any ~~such~~ use nor shall any ~~such~~ use of ~~said the~~ land be permitted or carried on until proof is submitted that the portion of the land whereon the pool structure is to be erected is free of mortgage and any other encumbrances and until the location and size of the plot, site plans and detailed building plans of such pool and any accessory buildings, showing dimensions, design, elevations, location and use of all structures, drainage, sewerage and sanitary facilities, parking areas, entrances, driveways, walks, screening, planting and such other information, including the manner of operation, use and maintenance of ~~such a~~ swimming pool, as may be required by the Board of Trustees, has been

submitted to and approved by said Board. All necessary permits and certificates of compliance with the requirements of any and all governmental authorities and agencies, including, but not limited to, the New York State Department of Health, New York State Department of Labor and Nassau County Department of Health shall also be submitted to the Board of Trustees. Such permit may prescribe reasonable rules and regulations for the operation, maintenance and use of such swimming pool and any accessory structures. Any violations of this section or of any rule or regulation prescribed by the Board of Trustees in the permit or otherwise shall be subject to the remedies and penalties prescribed in Article XIII, § 271-137, of this chapter, and in addition ~~thereto~~, any permit issued ~~hereunder~~ may be revoked and canceled forthwith in the event of any such violation. ~~Such A~~ permit, when granted, shall not be assignable by the person, association or membership corporation to which the permit has been granted. The permit shall further stipulate that the regular use of the swimming pool and facilities appurtenant thereto shall be limited to members of said club, their families and guests. In the event that a permittee ~~hereunder~~ shall fail to complete the necessary structures or the use and operations permitted and provided under ~~such a~~ permit or shall fail to operate said swimming club or in the event that said permittee shall terminate its operation for any reason whatsoever, then, and in that event, any permit granted ~~hereunder~~ shall cease and determine, and the subject land shall ipso facto be available for only those uses permitted by this article of this chapter, and contemporaneously the title of ~~said the~~ land and all of the structures, appurtenances erected thereon and/or used in connection therewith, including all property, real, personal and mixed, shall revert to the Village of East Hills at a date of not less than 30 days subsequent to the date said permittee shall discontinue its building operation or terminate its operation and use, as the case may be, and the Board of Trustees of the Village of East Hills, acting for and on behalf and in the interest of all of the residents and taxpayers of the said Village, shall sell subject land and any and all structures, appurtenances, fixtures or other property used in connection with said operation and shall use any and all sums realized thereby for clearing of ~~said the~~ land and restoring the ~~same property~~ to availability for residence use. Any balance remaining shall be divided among members of said permittee active and in good standing as of the date of reverter.

## § 271-28. Height restrictions.

- A. ~~The height of any principal building shall not exceed 34 feet. The maximum height for any residential building is proscribed in §271-228 A. [Amended 9-19-2003 by L.L. No. 2-2003]~~
- B. ~~The height of any accessory building shall not exceed 20 feet. The maximum height of any residential accessory building is proscribed in §271-228 B.~~
- C. The height of any boundary line fence shall not exceed four feet.
- D. Refer to 271-Attachment 1 for the "Table of Requirements for Residential Construction and Building Limitations".

## § 271-29. Required lot area.

- A. The principal building, as ~~herein~~ defined, or any part ~~thereof of it~~ shall be erected, constructed, reconstructed, altered, repaired or used on a plot containing an area of not less than 15,000 square feet contained in one lot. Notwithstanding any other state or local law to the contrary, the minimum lot area ~~herein~~ may not be met by combining two or more contiguous plots of land each of which is less than such required minimum lot area.

[Amended 8-16-1999 by L.L. No. 5-1999]

- B. There shall not be more than one principal building or portion, ~~thereof~~ to each 15,000 square feet contained in a plot.

## § 271-30. Lot coverage.

All buildings, including accessory buildings, shall not cover more than 25% of the area of the plot. See also §271-263. Impervious Yard Coverage.

## § 271-31. Required floor area.

No main dwelling shall be erected unless it has a habitable floor area of at least 1,500 square feet to be completed prior to occupancy.

## § 271-32. Yards and Driveways.

Each lot shall have front, side and rear yards not less than the depths or widths following.

- A. Front yard depth: 35 feet.
- B. In the case of a single-family dwelling, there shall be two side yards, one on each side of the main building, the aggregate widths of which shall be at least 40 feet. Neither side yard shall be less than 15 feet wide.
- C. Rear yard depth: 30 feet.
- D. Corner lot: A building shall not be required to comply with Subsection A, but the depth of a yard from any street line shall not be less than 30 feet.
- E. Maximum driveway width, layout and arrangement shall comply with the requirements illustrated in Figures 3A-3F (see figures provided in §271-19) with no more than two compliant single width garage doors or one compliant double width garage door facing the front yard.
- D-F. Also refer to §271-273. Additional Requirements for Accessory Off-street Parking for Residential Districts.

## § 271-33. Street frontage required.

No lot shall have a street frontage of less than 110 feet.

## § 271-34. Projection of buildings.

No building or structure or part thereof shall project into any yard except as shall be specifically provided in § 271-230 this article.

## § 271-35. Permitted accessory structures.

Permitted accessory structures features shall be the following:

- A. Stationary outdoor fireplaces: See § 271-22.
- B. No outdoor pools shall be constructed to exceed two feet in depth, and no such pool shall be constructed except in compliance with the regulations of the Nassau County Department of Health and unless provided with a drain or outlet to permit same to be emptied.

## § 271-36. Accessory buildings and uses.

Accessory buildings: See § 271-23.

## Article V. Residence R-2 Districts

## § 271-37. Applicability.

The provisions of this article shall apply to an R-2 District.

## § 271-38. Permitted uses.

- A. No building or land shall ~~hereafter~~ be used or occupied and no building or part thereof shall be erected, used or altered unless in conformity with the regulations herein specified and except for the purposes set forth in this article and for no other purpose.
- B. Permitted uses shall be as follows:
  - (1) Any one of the uses and purposes set forth in Article III ~~hereof~~.
  - (2) Fences: See § 271-14.
  - (3) Office of a doctor, dentist or lawyer residing on the premises, provided that there is no display of advertising except a small professional nameplate; one nonresident employee shall be permitted in ~~such an~~ office.

## § 271-39. Height restrictions.

- ~~A. The height of any principal building shall not exceed 30 feet. [Amended 9-19-2003 by L.L. No. 2-2003]~~  
The maximum height for any residential building is proscribed in §271-228 A.
- ~~B. The height of any accessory building shall not exceed 20 feet. The maximum height of any residential accessory building is proscribed in §271-228 B.~~
- C. The height of any boundary line fence shall not exceed four feet.
- D. Refer to 271-Attachment 1 for the "Table of Requirements for Residential Construction and Building Limitations".

## § 271-40. Required lot area.

- A. The principal building, as ~~herein~~ defined, or any part ~~thereof~~ shall be erected, constructed, reconstructed, altered, repaired or used on a plot containing an area of not less than 10,000 square feet contained in one lot. Notwithstanding any other state or local law to the contrary, the minimum lot area ~~herein~~ may not be met by combining two or more contiguous plots of land each of which is less than ~~such the~~ required minimum lot area.  
[Amended 8-16-1999 by L.L. No. 5-1999]
- B. There shall not be more than one principal building or portion thereof to each 10,000 square feet contained in a plot.

## § 271-41. Lot coverage.

All buildings, including accessory buildings, shall not cover greater than 25% of the area of the plot. See also §271-263. Impervious Yard Coverage.

## § 271-42. Required floor area.

No main dwelling shall be erected unless it has a habitable floor area of at least 1,200 square feet to be completed prior to occupancy.

## § 271-43. Yards and Driveways.

Each lot shall have front, side and rear yards not less than the depths or widths following.

- A. Front yard depth: 30 feet.
- B. In the case of a single-family dwelling, there shall be two side yards, one on each side of the main building, the aggregate widths of which shall be at least 30 feet. Neither side yard shall be less than 10 feet wide.
- C. Rear yard depth: 25 feet.
- D. Corner lot: A building shall not be required to comply with Subsection A, but the depth of yard from any street line shall not be less than 25 feet.

- E. Maximum driveway width, layout and arrangement shall comply with the requirements illustrated in Figures 3A-3F (see figures provided in §271-19) with no more than no more than 2 compliant single width garage doors or one compliant double width single-width garage door facing any front yard except for lots with widths less than 90' for which no more than 1 garage door shall face the front yard.
- F. See also §271-273. Additional Requirements for Accessory Off-street Parking for Residential Districts.

## § 271-44. Street frontage required.

No lot shall have a street frontage of less than 100 feet.

## § 271-45. Projection of buildings.

No building or structure or part thereof shall project into any yard except as shall be specifically provided in § 271-230~~this article~~.

## § 271-46. Permitted accessory structures.

Permitted accessory structures/features shall be as follows.

- A. Stationary outdoor fireplaces: See § 271-22.
- B. Outdoor pools: See § 271-35B.

## § 271-47. Accessory buildings and uses.

- A. Accessory buildings or structures shall not occupy more than 15% of the rear yard. The yard area occupied by the accessory buildings or structures shall be included in computing the maximum percentage of the lot area which may be utilized for buildings.
- B. Unless otherwise provided in this article, accessory buildings and structures shall be located in the rear yard and shall be not less than 15 feet distant from the main building, not less than five feet distant from the rear lot line, and not less than 10 feet distant from any side line, with the exception of boundary line fences and walls which may be located on the lot line.

## Article VI. Residence R-3 Districts

## § 271-48. Applicability.

The provisions of this article shall apply to an R-3 District.

## § 271-49. Permitted uses.

- A. No building or land shall ~~hereafter~~ be used or occupied and no building or part ~~thereof~~ shall be erected, used or altered unless in conformity with the regulations herein specified and except for the purposes set forth in this article and for no other purpose.
- B. Permitted uses shall be as follows:
  - (1) Any one of the uses and purposes set forth in Article III hereof.
  - (2) Fences: See §271-14.
  - (3) Office of a doctor, dentist or lawyer residing on the premises, provided that there is no display of advertising except a small professional nameplate; one nonresident employee shall be permitted in ~~such an~~ office.

## § 271-50. Height restrictions.

- A. ~~The height of any principal building shall not exceed 30 feet. [Amended 9-19-2003 by L.L. No. 2-2003]. The maximum height for any residential building is proscribed in §271-228 A.~~
- B. ~~The height of any accessory building shall not exceed 20 feet. The maximum height of any residential accessory building is proscribed in §271-228 B.~~
- C. The height of any boundary line fence shall not exceed four feet.
- ~~C.D.~~ Refer to 271-Attachment 1 for the "Table of Requirements for Residential Construction and Building Limitations".

## § 271-51. Required lot area and street frontage.

- A. The principal building, as ~~herein~~ defined, or any part ~~thereof~~ of it shall be erected, constructed, reconstructed, altered, repaired or used on a plot containing an area of not less than 7,500 square feet contained in one lot. Notwithstanding any other state or local law to the contrary, the minimum lot area ~~herein~~ may not be met by combining two or more contiguous plots of land each of which is less than such required minimum lot area.  
[Amended 8-16-1999 by L.L. No. 5-1999]
- B. There shall not be more than one principal building or portion thereof to each 7,500 square feet contained in a plot.
- C. No dwelling shall be erected on any lot having a street frontage of less than 75 feet. The street frontage may be reduced, however, provided that, for each foot or fraction thereof that the width of the lot is decreased below 75 feet at the frontmost line of the house proposed to be built, the area of the lot shall be increased by 100 square feet above the minimum area required for the district, but in no event shall the street line of the lot be less than 40 feet or the width of the lot at said frontmost line of the proposed house be less than 65 feet. Whenever a street frontage of a lot shall be less than 75 feet, the lot survey on the plat submitted to the Planning Board for approval shall contain thereon the frontmost line of the house to be built on said lot or lots.

## § 271-52. Lot coverage.

All buildings, including accessory buildings, shall not cover more than 25% of the area of the plot. See also §271-263. Impervious Yard Coverage.

## § 271-53. Required floor area.

No main dwelling shall be erected unless it has a habitable floor area of at least 1,200 square feet to be completed prior to occupancy.

## § 271-54. Yards and Driveways.

Each lot shall have front, side and rear yards not less than the depths or widths following.

- A. Front yard depth: 30 feet.
- B. In the case of a single-family dwelling, there shall be two side yards, one on each side of the main building, the aggregate widths of which shall be at least 30 feet. Neither side yard shall be less than 10 feet wide.
- C. Rear yard depth: 25 feet.

D. Corner lot: A building shall not be required to comply with Subsection A, but the depth of yard from any street line shall not be less than 25 feet.

E. Maximum driveway width, layout and arrangement shall comply with the requirements illustrated in Figures 3A-3F (see figures provided in § 271-19) with no more than two compliant single width garage doors or one compliant double width single-width garage door facing the front yard.

F. § 271-273. Additional Requirements for Accessory Off-street Parking for Residential Districts

## § 271-55. Street frontage.

No lot shall have a street frontage of less than 75 feet.

## § 271-56. Projection of buildings.

No building or structure or part thereof shall project into any yard except as shall be specifically provided in §271-230 this article.

## § 271-57. Permitted accessory structures.

Permitted accessory structures shall be as follows.

- A. Stationary outdoor fireplaces: See § 271-22.
- B. Outdoor pools: See § 271-35B.

## § 271-58. Accessory buildings and uses.

- A. Accessory buildings, features or structures shall not occupy more than 10% of the rear yard. The yard area occupied by the accessory buildings or structures shall be included in computing the maximum percentage of the lot area which may be utilized for buildings.
- B. Unless otherwise provided in this article, accessory buildings and structures shall be located in the rear yard and shall be not less than 15 feet distant from the main building, not less than five feet distant from the rear lot line, and not less than five feet distant from any side line, with the exception of boundary line fences and walls, which may be located on the lot line.



## Article VII. Residence R-4 Districts

### § 271-59. Applicability.

The provisions of this article shall apply to an R-4 District.

## § 271-60. Permitted uses.

- A. No building or land shall ~~hereafter~~ be used or occupied and no building or part ~~thereof~~ shall be erected, used or altered unless in conformity with the regulations herein specified and except for the purposes set forth in this article and for no other purposes.
- B. Permitted uses shall be as follows:
  - (1) Any one of the uses and purposes set forth in Article III hereof.
  - (2) Fences: See §271-14.
  - (3) Office of a doctor, dentist or lawyer residing on the premises, provided that there is no display of advertising except a small professional nameplate; one nonresident employee shall be permitted in ~~such an~~ office.

## § 271-61. Height restrictions.

- ~~A. A. The height of any principal building shall not exceed 29 feet. [Amended 9-19-2003 by L.L. No. 2-2003] The maximum height for any residential building is proscribed in §271-228 A.~~
- ~~B. B. The height of any accessory building shall not exceed 20 feet. The maximum height of any residential accessory building is proscribed in §271-228 B.~~
- C. The height of any boundary line fence shall not exceed four feet.
- D. Refer to 271-Attachment 1 for the "Table of Requirements for Residential Construction and Building Limitations".

## § 271-62. Required lot area.

- A. The principal building, as herein defined, or any part thereof shall be erected, constructed, reconstructed, altered, repaired or used on a plot containing an area of not less than 4,000 square feet contained in one lot. Notwithstanding any other state or local law to the contrary, the minimum lot area ~~herein~~ may not be met by combining two or more contiguous plots of land each of which is less than ~~such the~~ required minimum lot area.  
[Amended 8-16-1999 by L.L. No. 5-1999]
- B. There shall not be more than one principal building or portion thereof to each ~~4,000~~ 5,000 square feet contained in a plot.
- C. No dwelling shall be erected on any lot having a street frontage of less than ~~40~~ 50 feet.

## § 271-63. Lot coverage.

All buildings, including accessory buildings, shall not cover more than 45% of the area of the plot. See also §271-263. Impervious Yard Coverage.

## § 271-64. Required floor area.

No main dwelling shall be erected unless it has a habitable floor area of at least 900 square feet to be completed prior to occupancy.

## § 271-65. Yards and Driveways.

Each lot shall have front, side and rear yards not less than the depths or widths following.

- A. Front yard depth: 15 feet.
- B. In the case of a single-family dwelling, there shall be two side yards, one on each side of the main building, the aggregate width of which shall be at least 13 feet. Neither side yard shall be less than ~~five~~5 feet wide.
- C. Rear yard depth: 25 feet.
- D. Corner lot: A building shall not be required to comply with Subsection A, but the depth of yard from any streetline shall not be less than 25 feet.
- E. Maximum driveway width, layout and arrangement shall comply with the requirements illustrated in Figures 3A-3F (see figures provided in § 271-19) with no more than 1 garage door facing the front yard.

## § 271-66. Street frontage required.

[Amended 8-18-1997 by L.L. No. 5-1997]

No lot shall have a street frontage of less than 50 feet, except that any lot improved with a dwelling, having such lesser street frontage prior to the enactment of this chapter, shall be deemed conforming in respect to such street frontage.

## § 271-67. Projection of buildings.

No building or structure or part thereof shall project into any yard except as shall be specifically provided in §271-230~~this article~~.

## § 271-68. Accessory structures.

Permitted accessory structures features shall be as follows.

- A. Stationary outdoor fireplaces: See § 271-22.
- B. Outdoor pools: See § 271-35B.

## § 271-69. Accessory buildings and uses.

For provisions on accessory buildings and structures, see § 271-58.

## Article VIII. Business A Districts

### § 271-70. Applicability.

This article shall apply to a planned community business center as hereinafter provided and shall be known as a "Business A District."

### § 271-71. Permitted uses.

- A. A building may be erected, altered or used and a lot or premises may be used for any of the purposes set forth in this article and for no other purposes or uses.
- B. Permitted uses shall be as follows.

- (1) Bank, studio, offices, municipal, or restaurant, provided that there shall be no entertainment or dancing in connection therewith. The use "restaurant" means an establishment where tables and chairs are provided for securing and consuming food and/or beverages within the building only.
- (2) Shops for personal service.
- (3) Retail stores for the sale of dry goods, hardware, clothing, furniture, household furnishings and supplies, sporting goods, toys, stationery, jewelry, radio, television, musical and/or scientific instruments, cameras and photographic supplies, electrical appliances and supplies, drugs, cosmetics, food articles and beverages. The retail sale of similar related articles to the aforementioned above may be permitted when specified in the application for the change of zone to a Business A District.
- (4) Advertising signs not exceeding 14 square feet in area for each enterprise when attached to a building advertising the business conducted in such store. Such signs shall not be permitted to be erected on the roof of any building, nor shall two or more such signs be combined so as to constitute one notice or advertisement. No part of any such sign exceed a height of more than two feet. No illuminated sign shall be placed within the interior of any premises so that the same they shall be nearer than five feet from any show window or exterior window. No such illuminated sign shall in any event be of a neon or flashing type. No signs of any type, whether temporary or permanent, shall be affixed to the interior or exterior of any show window or exterior window so as to cover more than 25% of the outside exposed surface of any such window. Signs which are permitted to be erected, installed or maintained shall be of a rigid material and so affixed to the premises so as to prevent the same from moving, waving, flapping or turning. All illuminated exterior signs shall be extinguished by 11:00 p.m. or the closing time of the establishment, whichever is later, and must remain extinguished until 8:00 a.m.
- (5) A gasoline service station when erected in connection with one or more other building units. However, said gasoline service station may be separated from such other building units by driveways and parking areas. No certificate of occupancy shall be issued for a gasoline station prior to the issuance of a certificate of occupancy for one or more of the building units.
- (6) Incidental or accessory uses in connection with the foregoing principal uses provided in this chapter will be permitted, provided that they are housed within the main building or buildings on the plot. No accessory buildings shall be permitted.
- (7) Additional business uses, other than those herein-specified, may be granted within the discretion of the Board of Trustees on special application therefor made at the time of filing of the application for a change of zone to a Business A District.
- (8) Fences of any kind or description shall not exceed a height of six feet six inches from ground level, except when permitted by the Board of Appeals pursuant to the powers delegated to it under the Village Law and under the provisions of this chapter. All fences shall be ~~so~~ erected so that the finished surface shall be faced outward.

## § 271-72. Height restrictions.

[Amended 5-15-2000 by L.L. No. 2-2000]

The height of any building or structure shall not exceed 18 feet and within such limits shall be that best suited to the architectural design and arrangement of all the buildings. All buildings shall conform to the architectural design of the project. However, if the structure exists at the time of the enactment of this chapter and it later is destroyed by fire or other calamity, it may be rebuilt to its preexisting as-built plans and specifications.

## § 271-73. Required lot area.

Every project under this article shall occupy a plot of not less than one acre.

## § 271-74. Lot coverage.

- A. The total coverage of buildings or structures shall not exceed 30% of the plot area. The remaining 70% shall be divided among areas for landscaped parks, sidewalks and accessory parking of vehicles, with not less than 30% of the whole for accessory parking of vehicles and means of ingress and egress thereto.
- B. The aggregate floor area of the buildings shall not exceed 40% of the plot. ~~Gellar~~Basement floor area shall be excluded in computing floor area.

## § 271-75. Required frontage and setback.

A marginal roadway of not less than 50 feet in width shall be provided at the front of said project, and all buildings or structures shall setback a minimum of 100 feet from any street or highway line.

## § 271-76. Side and rear yards.

- A. The minimum distance between any two buildings shall be 30 feet.
- B. The minimum distance between buildings and the side and rear property lines shall be 25 feet.
- C. All buildings shall be erected and arranged in a manner which shall provide adequate light and air.

## § 271-77. Parking areas.

- A. Front and rear areas for accessory parking of vehicles shall be provided. The total aggregate square-foot area of such parking shall be, exclusive of roadways for ingress and egress, at least four times the floor area in said project for retail sales purposes, exclusive of stairwells, hallways and areas used exclusively for storage purposes. Automobile service stations shall not be included as a retail sales area in computing ~~such the~~ necessary parking area. Paved cement concrete dividers of a width of four feet shall be used in constructing such parking areas. Loading and unloading areas and areas for the parking of owners' and employees' motor vehicles shall also be provided at the rear of such project, the size of such areas to be determined by the Board of Trustees, upon recommendation of the Planning Board, after full consideration of the character of the various uses proposed to be included in ~~such the~~ project.
- B. ~~Such The~~ parking area shall not be used for any purpose other than the accessory parking of automobiles or other vehicles. In no case shall the storage, servicing or dismantling of automobiles or other vehicles be permitted in ~~such the~~ area.
- C. ~~Such The~~ parking area shall be adequately screened from the view of surrounding property in accordance with the provisions shown on the approved site plan as ~~hereinafter~~ required.
- D. ~~Such The~~ parking area shall be connected with the highway by means of a roadway at least 35 feet in width as means of ingress and egress upon ~~such a~~ highway.
- E. No application shall be made for a building permit or certificate of occupancy for the construction, alteration or use of any building, structure or premises for restaurant purposes, as defined herein, unless parking spaces shall be provided and maintained upon the same lot and within the same building zone, as follows:

- (1) At least one parking space of a size of 10 by 20 feet shall be provided for motor vehicles for each

~~Threethree~~ seats used to serve patrons of said restaurant or one parking space for each 100 square feet of gross floor area used to serve patrons of said restaurant, whichever is greater.

- (2) All areas available for off-street parking and access driveways shall be constructed in accordance with the specifications determined by the Village Engineer of the Village of East Hills and the Building Department of the Village of East Hills.
- (3) Only one access road to said parking area shall be permitted where the property fronts on a state or county highway. ~~Such~~ An access road shall provide a separate means of ingress and egress with a traffic separator at the entrance. Each separate means of ingress and egress shall be at least 16 feet in width. All access driveways shall be marked with arrows indicating the proper flow of traffic, and all off-street parking facilities shall have individual parking spaces appropriately marked.
- (4) Parking areas shall require such screening as the Village of East Hills Building Department may deem necessary in order to prevent visual impairment to the neighboring property owners or annoyance to the occupants ~~thereof~~. All parking areas shall be illuminated at night during business hours, but no later than 1:00 a.m. Each illumination and lighting plan shall be subject to prior design approval of the Building Department and shall be ~~so~~ placed as specified, constructed and shielded so that no direct light from any light or fixture used to illuminate ~~said~~ all parking areas shall be directed or shine upon any neighboring property.

- F. Shopping centers. Effective July 1, 1988, all shopping centers or facilities containing five or more retail stores and providing 20 or more accessory parking spaces shall provide a minimum of 5% of said parking spaces or 10 spaces, whichever is less, for off-street parking spaces for the handicapped. The parking spaces designated pursuant to the provisions of this subsection shall be clearly identified for use by either handicapped drivers or other handicapped persons, which designation shall include permanently installed above-grade signs which display the international symbol of access and may include the use of blue painted lines or markings. The parking spaces shall be located as close as reasonably practicable to the shopping center facility and shall be reasonably distributed to provide convenient access and use by the handicapped.

[Added 5-2-1988 by L.L. No. 1-1988]

## § 271-78. Sewage disposal

All proposed buildings not provided with municipal disposal of sewage shall be equipped with an independent garbage disposal system approved by the Nassau County Department of Health.

## § 271-79. Storage and removal of garbage.

Suitable storage removable bins shall be provided for the storage of garbage, refuse, rubbish, etc., and shall be approved as to size and location by the Board of Trustees. This power of approval may be specifically delegated by resolution to the Building Inspector. Removal of all garbage, refuse and rubbish shall be the primary responsibility of the owner and at the owner's sole cost and expense.

## § 271-80. General criteria.

- A. All buildings and structures, roads, walks and parking areas authorized under the provisions of this article shall conform to all applicable laws, regulations and ordinances relating to construction, operation and maintenance.
- B. No living quarters shall be permitted in any building, except that provision may be made for the living quarters of a janitor or caretaker, and shall be used for no other purpose.

~~G.~~—An application for a change of zone to a Business A District for a planned community business center shall be filed with the Board of Trustees. ~~Such~~ The application must be in writing and must be accompanied

~~D.C.~~ by a site plan and general building plans showing the design, location and uses of buildings, structures and open spaces and accessibility to municipal sewers or to an independent system approved by the Nassau County Department of Health. Approval of such site plan by the Planning Board will be required before the Board of Trustees will consider such application for a change of zone.

~~E.D.~~ No ordinance will be adopted changing a zone to a Business A District without there having been filed with the Board of Trustees:

(1) Detailed plans and specifications for all buildings and structures to be erected ~~upon~~ on the premises.

(2) A certificate of the Building Inspector, or such other engineers or experts as the Board of Trustees may direct, that the plans and specifications for ~~such~~ the buildings and structures are so designed as to provide compliance, as far as possible, to the minimum requirements of the Village of East Hills

Building Code,<sup>[1]</sup> adopted the 28th day of February 1955, and as thereafter amended, and to provide proper sanitation, adequate guarding against and minimizing of fire hazards, proper light and air, structural soundness and such other construction as to ensure the safety of the persons using ~~such~~ the buildings and structures.

[1] *Editor's Note: See Ch. 223, Building Construction.*

(3) A certificate of compliance with requirements of the Department of Labor of the State of New York.

~~F.E.~~ On the filing of an application for a change of zone to a Business A District, there shall be deposited with the Village Clerk a sum equivalent to 5% of the first \$15,000 and 3% ~~thereafter of~~ the remainder of the estimated cost of the improvements and facilities shown on the site plan, exclusive of buildings, to be applied by the Village to the expense incurred by the Village in connection with the application for change of zone or the change of zone, which shall include, but shall not be limited to, advertising, architects, engineers, expert and legal fees, changes in maps and other similar expense of the Village or any of its boards, agencies or employees. Minimum deposits shall be \$500. Any excess after payment of such expenses by the Village shall be refunded to the applicant. In the event that ~~such~~ the sum is insufficient to cover said expenses, the additional sum required shall be paid by the applicant to the Village Clerk before authorization is given for the public hearing.

~~G.F.~~ On the filing of the detailed building plans and specifications with the Board of Trustees, as provided in Subsection D, there shall be deposited with the Village Clerk \$100 plus \$2 per \$1,000 or any fraction ~~thereof of the remainder~~ of the estimated cost of ~~such~~ the building or buildings, to be applied by the Village to the expense incurred by the Village for examination and approval of the detailed building plans and specifications. Any excess after payment of such expenses by the Village shall be refunded to the applicant, and in the event that such expenses exceed the amount of the deposit, there shall be paid to the Village Clerk such additional sum before the adoption of the ordinance changing the zone to a Business A District.

~~H.G.~~ There shall be no construction of any of the facilities shown upon the approved site plan, nor shall there be issued any building permit for the construction of any buildings or structures upon the premises, unless there shall be filed a performance bond issued by a surety company, approved by the Board of Trustees, and in such form as shall be approved by the Village Attorney, in an amount equal to the estimated cost of the construction of the facilities to be erected on the approved site plan and the estimated cost of the removal of the structures or facilities and the restoration of the land to its previous condition, which performance bond shall include an obligation to remove any structures or facilities and to restore the land to its previous condition, provided that the facilities or buildings for which the permit is issued shall not be constructed or



erected within two years from the date of the issuance of the building permits.

I.H. No modification, variance or change in the general location, layout and character of the project, which shall include the architectural designs and arrangements of all buildings, as shown in the plans and specifications of the buildings and structures as approved, will be permitted. In the event of a partial or total destruction by fire or otherwise of any building or structures, any replacement thereof shall be in accordance with the original plans and specifications, including the architectural design.

J.I. The Board of Appeals shall have the power, consistent with this article and the provisions hereof, to grant variances with respect to interior floor space layout and areas. No application for such a variance will be accepted for filing unless copies of the certificates required by Subsection D of this section are submitted and a fee of \$25 is paid to the Village Clerk.

K.J. The Board of Trustees, on its own motion, after a public hearing, shall have the power to change the zone of property to a Business A District.

L.K. Whenever property has been changed to a Business A District by the Board of Trustees on its own motion, no building or structure shall be erected upon the premises except as the Board of Trustees shall ~~therein~~ provide.

M.L. In the event of the abandonment of a particular project, the Board of Trustees may, after public hearing, restore the property to its former zoning district or such other districts as it may require. The failure to make application for building permits within one year of the date of the change of zone or the failure to complete the project within two years after the issuance of building permits shall be deemed to be an abandonment. Application for an extension of time may be granted by the Board of Trustees, subject to appropriate conditions and safeguards, only after a public hearing in relation thereto. At least 15 days' notice of the time and place of such hearing shall be published in the official newspaper of the Village.

N.M. The Board of Trustees shall have the power to amend the ordinance granting the change of zone to a Business A District in the manner provided in the Village Law for the amending of a zoning ordinance, in regard to the following matters: site plan, detailed building specifications, architectural design of buildings, uses and plot area; provided, however, that a report of the Planning Board regarding ~~such the~~ amendment of the ordinance has been filed with the Board of Trustees on or before the date of the public hearing as required by law. Application for ~~such an~~ amendment shall be made in the same manner and shall comply with the provisions of this article relating to application for change of zones to a Business A District.

## Article IX. Business B Districts

### § 271-81. Applicability.

The provisions of this article shall apply to Business B Districts.

### § 271-82. Permitted uses.

[Amended 11-24-2004 by L.L. No. 11-2004]

A Business B District is intended primarily for commercial and service business activity. No land, building or premises shall be used and no building or part thereof shall be erected, constructed, enlarged, altered, arranged or designed to be used in whole or in part, unless otherwise provided for in the article, except for



one or more of the following purposes or uses:

- A. Store or shop for the conduct of retail trades of the following, provided that any service, manufacture or processing of goods on the premises is incidental to a retail business conducted on the premises:
- 1) Bank.
  - 2) Barbershops. Beauty parlors.
  - 3) Clothing store.
  - 4) Computer store. Decorator.
  - 5) Dressmaker. Electronic store. Electrician.
  - 6) Florist.
  - 7) Hardware store.
  - 8) Household furnishings.
  - 9) Internet sales, communications or consulting. Jewelry shop.
  - 10) Millinery.
  - 11) Music shop/record store. Package liquor store.
  - 12) Pharmacy.
  - 13) Photography studio, provided that no chemicals are used and no developing occurs on premises.
  - 14) Professional office for accountant, architect, chiropractor, dentist.
  - 15) Engineer, medical doctor, optician, optometrist, lawyer, real estate, securities or financial brokerage or investment firm, professional consultant of any type, insurance, title company, management or similar professional office use.
  - 16) Real estate office.
  - 17) Shoemaker.
  - 18) Sporting goods store.
  - 19) Stationery store.
  - 20) Telephone and cellular telephone retail store.
  - 21) Tailor.
  - 22) Travel agency.
  - 23) All businesses of a similar and no more objectionable nature to the above specifically enumerated uses which are deemed permissible by the Village Board of Trustees.
- B. All accessory uses which are customary, incidental and subordinate to the principal use of the premises may be allowed, providing that the accessory use shall not involve the sale or distribution of food, whether frozen or not frozen, the storage of hazardous, toxic or noxious chemicals, and the processing of chemicals on the premises.

## § 271-83. Prohibited uses.

[Amended 11-24-2004 by L.L. No. 11-2004]

The following, and businesses of a similar or more objectionable nature, are prohibited:

- A. Multiple-dwelling units, including boardinghouses, motels, hotels and apartments.
- B. Commercial garages, filling stations and used car lots, except as provided for in Article XII, § 271-131B.
- C. Storage and warehouse facilities, except where incidental to a retail business conducted on the premises.
- D. Drive-in-type eating establishments, bowling alleys, pizza parlors, children's party facilities, billiard parlors, theaters, skating rinks, dance halls or other places of public amusement.
- E. Junkyards, salvage yards and like uses.
- F. Pet and animal shops and hospitals and other establishments for the care, breeding and boarding of animals.
- G. Any trade, business or purpose which is or may reasonably be expected to be noxious or offensive by reason of causing or emitting odor, smoke or vapor gas, glare, dust, garbage, debris, noise or vibration which is dangerous or harmful to the comfort, peace, health or safety of the community or that involves any explosion, menace or any fire hazard.
- H. Restaurants and catering halls of any kind, tea rooms, cafés, and similar establishments where tables and chairs are provided for serving and consuming food and beverages or take-out food and beverages are sold.
- I. Bagel store.
- J. Any store or establishment that serves, sells, manufactures, distributes, services, processes or makes available food or frozen food of any kind and of any nature.

## § 271-84. Restrictions on outdoor activities.

No sales or services, including displays, storage, repair, dismantling or assembling work, is to be performed out of doors, except upon a public garage or automobile service station lawfully operating under the provisions of this chapter.

## § 271-85. Height restrictions.

[Amended 5-15-2000 by L.L. No. 1-2000]

No building shall exceed 18 feet in height when measured from the established curb level in front of the building.

## § 271-86. Required setbacks.

- A. Front yard depth. Every building shall set back at least 34 feet from the front lot line on which it stands; said front yard shall be used for ingress and egress and parking.
- B. Side yard depth. Every building shall have a side yard setback of at least five feet where said side yard fronts on a public highway or street.
- C. Rear yard depth. Every building shall have a rear yard setback of at least 10 feet.

## § 271-87. Required fences.

A minimum six-foot approved fence shall be installed along the entire lot line of a lot used for business when ~~said the~~ lot line is abutting residential property. All fences shall be ~~se~~ erected so that the finished surface shall be faced outward.

## § 271-88. Required lot area; lot coverage,

- A. No building shall occupy an aggregate area of more than 50% of the plot area.
- B. No building shall be erected, constructed, reconstructed, enlarged or used on a plot containing an area of less than 5,000 square feet.

## § 271-89. Off-street parking.

All parking spaces provided pursuant to this section shall be paved in accordance with the specifications of the Village, shall be suitably drained, shall be maintained in good condition, and shall have adequate means of ingress and egress. The following delineated parking spaces (size 10 feet by 20 feet) shall be provided and maintained on private premises for each building or premises in a Business B District:

- A. All one-story buildings must provide a minimum of 50% of the total plot area for landscaping, parking, ingress and egress to said parking area and screening thereof.
- B. Business or professional buildings higher than one story must provide a minimum of one delineated parking space (size 10 feet by 20 feet) for every 300 square feet of building floor area, including that portion of the ~~cellar or~~ basement area designated to be used for office or retail operations.
- C. No application shall be made for a building permit or certificate of occupancy for the construction, alteration or use of any building, structure or premises for restaurant purposes, as defined herein, unless parking spaces shall be provided and maintained upon the same lot and within the same building zone, as follows:
  - (1) At least one parking space of a size of 10 feet by 20 feet shall be provided for motor vehicles for each three seats used to serve patrons of said restaurant or one parking space for each 100 square feet of gross floor area used to serve patrons of ~~said a~~ restaurant, whichever is greater.
  - (2) All areas available for off-street parking and access driveways shall be constructed in accordance with the specifications determined by the Village Engineer of the Village of East Hills and the Building Department of the Village of East Hills.
  - (3) Only one access road to said parking area shall be permitted where the property fronts on a state or county highway. Such access road shall provide separate means of ingress and egress, with a traffic separator at the entrance. Each separate means of ingress and egress shall be at least 16 feet in width. All access driveways shall be marked with arrows indicating the proper flow of traffic, and all off-street parking facilities shall have individual parking spaces appropriately marked.
  - (4) Parking areas shall require ~~such~~ screening as the Village of East Hills Building Department may deem necessary in order to prevent visual impairment to the neighboring property owners or annoyance to the occupants ~~thereof~~. All parking areas shall be illuminated at night during business hours, but no later than 1:00 a.m. Each illumination and lighting plan shall be subject to prior design approval of the Building Department and shall be so placed, constructed and shielded so that no direct light from any light or fixture used to illuminate said parking areas shall be directed or shine upon any neighboring property.

Shopping centers. Effective July 1, 1988, all shopping centers or facilities containing five or more retail stores and providing 20 or more accessory parking spaces shall provide a minimum of 5% of ~~said the~~

parking spaces or 10 spaces, whichever is less, for off-street parking spaces for the handicapped. The parking spaces designated pursuant to the provisions of this subsection shall be clearly identified for use by either handicapped drivers or other handicapped persons, which designation shall include permanently installed above-grade signs which display the international symbol of access and may include the use of blue painted lines or markings. The parking spaces shall be located as close as reasonably practicable to the shopping center facility and shall be reasonably distributed to provide convenient access and use by the handicapped.

[Added 5-2-1988 by L.L. No. 1-1988]

## § 271-90. Permitted accessory uses and structures.

No accessory buildings or structures will be permitted except for display signs and fences as provided for elsewhere in this article. Accessory uses will be permitted, provided that ~~such the~~ uses are housed within the main building or buildings on the plot.

## § 271-91. Advertising signs.

No advertising sign or billboard of any character shall be permitted to be used, except that, upon buildings one sign per establishment may be permitted not larger than 25 square feet in area, constructed parallel to and not more than 12 inches from the building wall to which it is attached. No flashing or moving signs will be permitted. No such permitted signs shall project above the first story, and they shall be limited to displaying the name and the nature of the business for which ~~such the~~ building is used. Illuminated signs shall be of a channel- lighting type. No illuminated sign shall, however, be erected without first submitting a sketch for approval prior to the issuance of a permit by the Building Inspector. All exterior illuminated signs must be extinguished daily at the closing time of the establishment or at 11:00 p.m., whichever is later, and must remain extinguished until 8:00 a.m. No illuminated sign shall be placed within the interior of any premises so that the same shall be nearer than five feet to any show window or exterior window. ~~No such~~ illuminated sign shall in any event be of a neon or flashing type. No sign of any type, whether temporary or permanent, shall be affixed to the interior or exterior of any show window or exterior window so as to cover more than 25% of the outside exposed surface of any such window. Signs which are permitted to be erected, installed or maintained shall be of rigid material and so affixed to the premises so as to prevent the same from moving, waving, flapping or turning.

## § 271-92. Business signs.

Two real estate signs shall be permitted upon vacant property, which shall directly relate to the property where so affixed or erected, each of said signs to be separate and distinct and not to exceed eight square feet for such sign. ~~Such~~ signs shall not be attached to any tree or fence but shall be attached to a standard sunk in the ground. ~~Said~~ A sign shall not exceed 10 feet when measured from the ground elevation to the top of the sign. No sign shall, however, be erected without first submitting a sketch and obtaining a permit from the Building Inspector. A fee of \$5 for each sign shall accompany the sketch.

## § 271-93. Submission of site plan required.

Site plan approval by the Planning Board of the Village of East Hills shall be required for the erection or enlargement of all buildings and structures and for all uses of vacant land. In all cases where any amendment of any such plan is proposed, the applicant must also secure approval of the amendment by the Planning Board. No building permit may be issued for any building within the purview of this article unless and until an approved site plan or amendment of any ~~such~~ plan has been secured from the Planning Board by the applicant and presented to the Building Inspector. The site plan shall be prepared in ~~such~~ detail ~~as and to~~ show the following:

- A. Setbacks and location of the proposed structure.
- B. General building plans, including basement ~~and cellar~~ areas.
- C. Designated parking spaces.
- D. Adjoining streets, access roads and walkways.
- E. Method of ingress and egress.
- F. Proposed landscaping, fencing and exterior lighting.
- G. Proposed grading of the plot to include the disposal of surface water drainage.
- H. Specifications of pavement, including the subbase and curbing.

## § 271-94. Storage and removal of garbage, refuse and rubbish.

Suitable storage space and containers shall be provided for the storage of garbage, refuse and rubbish, subject to the approval of the Building Inspector. All garbage, refuse and rubbish must be removed from the premises, and ~~such the~~ removal shall be under private contract by the owner and/or occupant at the owner's and/or occupant's sole cost and expense. There shall be no incineration on the premises.

## § 271-95. Revocation of certificate of occupancy.

The Board of Trustees may direct the Building Inspector to revoke the certificate of occupancy or use permit of any business upon proof satisfactory to it that the conditions of operation or maintenance of premises are such as to constitute a public nuisance by reason of injury to the adjacent property or to the general neighborhood or where representations, warranties, assurances, guarantees, or provisions of the law were required and not complied with by the applicant.

## § 271-96. Nonconforming uses.

Any nonconforming use existing at the effective date of this chapter may be continued. Any existing building presently devoted to a nonconforming use may be reconstructed and structurally altered subject to the approval of the Board of Appeals.

## Article X. Light Industrial Districts

### § 271-97. Applicability.

The provisions of this article shall apply in a Light Industrial District.

### § 271-98. Permitted uses; prohibited uses.

- A. No building shall be erected, altered or used and no lot or premises may be used for any of the purposes set forth in this article unless the Planning Board shall have approved the site plan and the general building plans as provided in this article.
- B. A building may be erected, altered or used and a lot or premises may be used, subject to the

provisions of this article, for one or more of the following purposes and no other, provided that they ~~are same~~ are lawful, and further provided that any such use shall be established or maintained so that ~~said-the~~ use will comply with all of the performance standards set forth in this article:

- 1) Cabinetmaking.
- 2) Film processing.
- 3) Pharmaceutical laboratories.
- 4) Radio and television studios, but not transmitters.
- 5) Scientific research laboratories not involving the dumping of waste products.
- 6) Assembly of residential boiler units.
- 7) Receiving, warehousing, packaging, shipping and distribution, on a wholesale basis in containers not to exceed 1,000 pounds in weight, of fasteners, such as nuts, bolts, screws, etc.; fireplace fittings; copper tubing; and light metals.
- 8) Receiving, warehousing, cutting, shipping and distribution of carpeting, padding, tile, linoleum, vinyl inlay, woven and knitted textiles, at wholesale, provided that there shall be no converting, finishing, dyeing, sewing or manufacturing of any of such products.
- 9) Manufacturing of any of the following:
  - a. Clocks and watches.
  - b. Cosmetics.
  - c. Finished paper products.
  - d. Handicraft products.
  - e. Hearing aids.
  - f. Nonmetallic toys.
  - g. Optical instruments.
  - h. Precision instruments.
  - i. Surgical dressings.
  - j. Baseboard radiators and heat transfer equipment and parts thereof, including paint finishing and prepainting of steel coils.
  - k. Movie projectors.
- 10) Textile color cards, to include light printing, bookbinding, cloth and paper cutting, application of swatches to paper and warehousing the necessary materials, including the cloth utilized in this business.
- 11) Warehouse and showroom for new major household appliances and consumer electronic equipment, including, as an incident thereto, the repairing and servicing of such appliances and equipment; provided, however, that no such appliance or equipment or any part or parts ~~thereof or therefor~~ shall be sold or offered for sale at retail; and provided, further, that repairs

and servicing shall be restricted and limited to the products manufactured, distributed or sold by the occupant of the premises; and provided, further, that such repairs and services shall not be at the retail level nor available directly to the consumer public.

- 12) Offices, when the same are used and maintained by the occupant of the premises in connection with and incidental to one or more of the other uses herein permitted.

C. The Board of Appeals may, after public notice of which shall be given as provided in Article XIII, authorize as a special exception additional similar uses to those permitted in Subsection B, subject to appropriate conditions and safeguards, and ~~in so acting as~~ part of its review and analysis shall give consideration to, but not limited to, the following:

- 1) Accessibility of the premises for fire and police protection.
- 2) Access of light and air to the premises and adjoining property.
- 3) Traffic problems.
- 4) Transportation requirements and facilities.
- 5) Hazards from fire and explosion.
- 6) Hazards created by noise, vibration and odor.
- 7) The size, type and kind of building and structures in the vicinity, together with their use.
- 8) That ~~such the~~ use shall be lawful and may, in the judgment of the Board of Appeals, be established and maintained so that there will not be any violation of conditions designated in this article.

D. Notwithstanding the above, the following uses shall not be authorized by the Board of Appeals and are hereby expressly prohibited:

Abattoir

Acetylene manufacture

Acid manufacture

Albumin powder manufacture or storage in quantities exceeding 20 pounds

Ammonia, bleaching powder or chlorine manufacture

Arsenal

Asphalt manufacture, refinishing, mixing or treating

Atomic research

Blast furnace

Boiler works

Candle manufacture

Celluloid manufacture

Coke manufacture

Crematory, other than a crematory in a cemetery



Creosote treatment or manufacture  
Dextrin, glucose or starch manufacture  
Disinfectant, insecticide or poison manufacture  
Distillation of coal, petroleum, refuse, grain, wood or bone  
Dyestuff manufacture  
Emery cloth and sandpaper manufacture  
Fat, grease, lard or tallow manufacture, rendering or refining  
Fertilizer manufacture  
Fireworks manufacture or storage  
Fish smoking and curing  
Gelatin, glue or size manufacture, which includes products from fish, animal refuse or offal  
Grain drying or food manufacture from refuse, mash or grain  
Lampblack, animal black or bone black manufacture  
Linoleum or oilcloth manufacture  
Match manufacture  
Nuclear research  
Oiled or rubber goods manufacture  
Paint, oil, shellac, turpentine or varnish manufacture  
Potash works  
Printing and other ink manufacture  
Pyroxyline or other plastic manufacture  
Rawhides or skins storage, cleaning, curing or tanning  
Refining oil or sugar  
Rubber, synthetic rubber, caoutchouc or gutta-percha manufacture or treatment  
Sauerkraut or pickle manufacture  
Shoe blacking or stove polish manufacture  
Smelting  
Soap manufacture  
Soda and compound manufacture Steel furnaces, blooming or rolling mill  
Stockyards  
Stone crushing  
Structural steel or pipe works  
Tar distillation or manufacture  
Tar roofing and waterproofing manufacture  
Vinegar manufacture  
Wool pulling or scouring  
Yeast plant

E. The sale, display or offering for sale at retail of any goods, wares, merchandise, products, services or repairs is specifically prohibited and shall not be permitted in a Light Industrial District.

## § 271-99. Performance standards for noise.

A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **DECIBEL**

A unit of measurement of the intensity of sound (the sound-pressure level).

### **IMPACT-NOISE ANALYZER**

An instrument used in conjunction with the sound-level meter to measure the peak intensities of short-duration sounds.

### **METHOD OF MEASUREMENT**

For the purpose of measuring the intensity and frequencies of sound, sound-level meters and octave-band analyzers shall be employed. Sounds of short duration which cannot be measured accurately with the sound-level meter shall be measured with the impact-noise analyzer as manufactured by the General Radio Company, or its equivalent, in order to determine the peak value of the impact. American Standards Association standards shall apply in all cases.

### **OCTAVE BAND**

A means of dividing the range of sound frequencies into octaves in order to classify sound according to pitch components.

### **OCTAVE BAND ANALYZER**

An instrument used in conjunction with a sound-level meter to measure sound in terms of its pitch components in each of eight octave bands.

### **SOUND-LEVEL METER**

An instrument standardized by the American Standards Association, used for measurement of the intensity of sound and calibrated in decibels.

- B. Maximum permitted sound-pressure levels (in decibels):

C-Network Sound-Pressure Level (decibels)		
Column A Octave Band (cycles per second)	Column B Lot Line Between Industrial Premises	Column C Lot Line Between Industrial Premises and Residential Zones
20 to 75	72	71
75 to 150	69	57
150 to 300	66	49
300 to 600	63	44
600 to 1,200	60	40
1,200 to 2,400	57	36
2,400 to 4,800	54	33
4,800 to 20,000	51	31

- C. The decibels resulting from any activity or use of a machine, whether open or enclosed, shall not exceed at any point on or beyond any lot line the maximum decibel levels for the designated octave band as set forth in the table above. If the lot line lies within 200 feet of a lot line of a residence, the maximum permitted decibel levels shall be as stated in Column C above.
- D. In the enforcement of this regulation, sound produced by the operation of motor vehicles or other transportation facilities shall not be included in determining the maximum permitted decibel levels.

## § 271-100. Performance standards for vibration.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### FREQUENCY

The number of oscillations per second of a vibration.

### IMPACT VIBRATIONS

Earthborne oscillations occurring in discrete pulses at or less than 100 per minute.

### METHOD OF MEASUREMENT

A component system as manufactured by the General Radio Company or its equivalent.

### STEADY-STATE VIBRATIONS

Continuous earthborne oscillations. Discrete pulses that occur more than 100 times per minute shall be considered to be "steady-state vibrations."

### THREE-COMPONENT MEASURING SYSTEM

A device for recording the intensity of any vibration in three mutually perpendicular directions.

- B. Maximum permitted steady-state and impact vibrations displacement.

Frequency (cycles per second)	Vibration Displacement Steady-State	Impact (inches)
----------------------------------	-------------------------------------	--------------------

	(inches)	
Under 10	0.0005	0.0010
10 to 20	0.0004	0.0008
20 to 30	0.0003	0.0006
30 to 40	0.0002	0.0004
40 and over	0.0001	0.0002

- C. No activity or machines shall cause or create a steady-state or impact vibration on a lot line with a vibration displacement by frequency bands in excess of that indicated in the table above.
- D. Sonic sound, super-high frequency sound or ultra-high frequency sound as a component to a manufacturing process. No component part or integral part thereof of a manufacturing process shall be allowed to employ a device, machine or process using sonic sound, super-high frequency sound or ultra-high frequency sound other than sonic cleaning devices complying with the Federal Communications Commission Rules and Regulations, Part 18.

## § 271-101. Performance standards for atmospheric pollutants.

- A. Definitions. As used in this section, the following terms shall have the meanings indicated:

### **DUST**

Solid particulate matter capable of being airborne or gasborne.

### **PARTICULATE MATTER**

Any finely divided liquid or solid matter, including smoke, capable of being airborne or gasborne.

### **RINGELMANN SMOKE CHART**

A chart for determining the density of smoke and is described in Federal Bureau of Mines Information Circular 7718, as may be amended from time to time.

### **SMOKE**

Any visible emission into the open air from any source, except emissions of an uncontaminated water vapor.

### **SMOKE UNIT**

A measure of the quantity of smoke being discharged and is the number obtained by multiplying the smoke density in a Ringelmann Smoke Chart number by the time of emission in minutes. For example, the emission of Ringelmann Smoke Chart No. 1 for one minute equals one smoke unit.

- B. Method of measurement of smoke. For the purpose of grading the density of the smoke, the Ringelmann Smoke Chart shall be used for the purpose of determining the total smoke units emitted; a reading shall be taken every minute for an hour or for less than an hour if the total smoke units emitted exceed the number allowed by this section. Each reading shall be multiplied by the number of minutes during which it was observed and the products added.
- C. Maximum permitted emission of smoke. The emission of smoke shall not exceed the density of No. 1 on the Ringelmann Smoke Chart and shall not exceed five smoke units in one hour.
- D. Maximum permitted emission of dust.

- (1) Related to combustion for indirect heating. The emission into the atmosphere of dust related to combustion for indirect heating from any source shall not exceed 0.50 pounds in plants producing heat input of 10,000,000 or fewer British thermal units per hour and 0.15 pounds in plants producing a heat input of 10,000,000,000 or more British thermal units per hour. All intermediate values shall be determined from a straight line plotted on log graph paper.

- (2) Related to processes. The emission into the atmosphere of process dust or other particulate matter which is unrelated to combustion for indirect heating or incineration shall not exceed 0.50 pounds per hour for 100 pounds of process weight or 50 pounds per hour for 100,000 pounds of process weight. All intermediate values shall be determined from a straight line plotted on log graph paper.

~~D.E.~~ Prevention of windblown air pollution. All storage areas, yards, service roads or other untreated open areas developed within the boundaries of an industrial zoned plot shall be improved with appropriate landscaping, screening, paving, oiling, sprinkling or any other means of permissible improvement, so that there shall be no dust or other type of air pollution borne by the wind from such sources.

~~E.F.~~ General control over smoke and other particulate matter. In addition to the performance standards of regulating smoke and other particulate matter, the emission of such matter shall be so controlled in manner and quantity of emission so as not to be detrimental to or endanger the public health, safety, comfort or other aspects of the general welfare or cause damage or injury to property.

## § 271-102. Performance standards for odor.

No odor emanating from the building in which the use is conducted shall be perceptible at any lot line of the premises on which the building is situated.

## § 271-103. Performance standards for toxic or noxious matter.

For the purpose of this section, "toxic or noxious matter" is defined as any solid, liquid or gaseous matter, including but not limited to gases, vapors, dusts, fumes and mists containing properties which by chemical means are inherently harmful and likely to destroy life or impair health or likely to cause injury to the well-being of persons or damage to property. No use shall be permitted which will cause any dissemination of toxic or noxious material beyond lot lines in concentrations detrimental to public health, safety or comfort or capable of causing damage or injury to property.

## § 271-104. General standards for air pollution.

In addition to the performance standards set forth in this article for regulating and controlling the emission into the open air of smoke, dust, odorous, toxic and noxious matter, no "vent," herein defined as an opening in an enclosed structure or other enclosed system for discharging substances to the open air, shall be so located nor matter emitted of such characteristics or in such quantities as to be detrimental or dangerous to the public health, safety, comfort or other aspects of the general welfare or to cause damage or injury to property. No open fire, the combustion air for which is uncontrolled in quantity and direction, shall be permitted. No incineration or burning of waste solids shall be permitted.

## § 271-105. Performance standards for ionizing radiation.

A. As used in this section, the following terms shall have the meanings indicated:

### IONIZING RADIATION or RADIATION

Any alpha particle, beta particle, gamma ray, X-ray, high-speed electron, high-speed proton and any other atomic-particle-producing ionization, but not any sound or radio wave or visible, infrared or ultraviolet light.

### RADIATION INSTALLATION

A location where radioactive sources are used, operated or stored.

## **RADIATION SOURCE**

Any radiation equipment or radioactive material.

## **RADIOACTIVE MATERIAL**

Any material in any form that emits ionizing radiation spontaneously.

- B. No person may engage in the manufacture or processing of radioactive materials.
- C. No person may possess, use or store radioactive sources in an uncontrolled manner.
- D. No person may transfer, receive, possess or use any radiation source or maintain any radiation installation within the Village except as provided for by law by the State Department of Health, the State Department of Labor, the State Public Service Commission, the United States Coast Guard, the United States Civil Aeronautics Board, the United States Interstate Commerce Commission or the United States Post Office Department, whichever is applicable.
- E. The holder of any license issued by the State Department of Health or the State Department of Labor shall register the license number, the name of the license holder, the location of the radiation source, and the date of license expiration with the Village Clerk.

## **§ 271-106. Performance standards for flammable or explosive materials.**

For the purpose of this section, the storage of flammable, combustible and explosive materials shall conform to the most recent Nassau County Fire Prevention Ordinance, as amended.

## **§ 271-107. Performance standards for humidity and heat.**

No activity producing humidity in the form of steam or moist air or producing heat shall be conducted in such a manner that the steam humidity or heat is perceptible at any lot line of the lot upon which such activity is conducted.

## **§ 271-108. Performance standards for electromagnetic interference.**

No use, activity or process shall be conducted which produces perceptible electromagnetic interference with normal radio or television reception in any area within the Village.

## **§ 271-109. Accessory buildings and uses.**

Accessory buildings or uses on the same lot with and customarily incidental to any permitted use will be allowed.

## **§ 271-110. Fences.**

Fences shall not exceed seven feet in height.

## **§ 271-111. Signs.**

- A. There shall be permitted one sign advertising the business conducted on the plot, which shall not exceed 30 square feet in area. All signs shall be deemed to be structures for the purpose of this article. Signs which are permitted to be erected, installed or maintained shall be of a rigid material and so affixed to the premises ~~as to which~~ prevents ~~the same~~ them from moving, waving, flapping or turning.
- B. The Board of Appeals may, on application and after notice and public hearing, as a special exception and upon such conditions, restrictions and safeguards as it may deem necessary, permit not more than three such signs on a plot advertising the business conducted thereon, one of which such signs may have an area not exceeding 100 square feet. No ~~such~~ sign shall be illuminated except as shall be approved by the Board of Appeals. \_

## § 271-112. Height restrictions.

- A. Except as provided in Subsection B, no portion of any building shall exceed a height above a plane between an elevation of 25 feet above the subgrade of the center line of the Long Island Rail Road (Oyster Bay Branch) and an elevation of 260 feet above mean high water according to the United States Geological Survey along a line 600 feet from and parallel to the mean of the easterly right-of-way line of the Long Island Rail Road (Oyster Bay Branch) and in no event higher than said elevation of 260 feet above mean high water.
- B. No building on any premises or site abutting on North Hempstead Turnpike shall exceed 35 feet in height or extend above an elevation of 260 feet above mean high water according to the United States Geological Survey, except that roof structures occupying an area of not more than 10% of the roof may extend an additional 10 feet.  
[Amended 7-20-1998 by L.L. No. 9-1998]

## § 271-113. Minimum required site area.

No industrial building, including accessory buildings, shall be erected on a plot or lot having an area of less than seven acres.

## § 271-114. Lot coverage; location of structures.

- A. The total coverage of buildings or structures on any plot or site shall not exceed 50% of the plot area, which coverage shall include off-street loading and unloading facilities. The remaining 50% shall be divided among areas for landscaped parks, sidewalks and accessory parking of vehicles. The area required to be provided for accessory parking of vehicles shall provide parking space for a number of vehicles equal to at least one parking space for every three of the maximum number of employees for which the plant is designed in the conduct of the business or industry on the plot. The Planning Board in approving the site plan shall determine the location of areas to be set aside for the parking of vehicles and the open spaces to be provided for landscaping, sidewalks and roadways. In the event that the parking area for the number of employees for which the plant is designed shall exceed 50% of the plot area, then the building area shall be reduced accordingly, as shall be determined by the Planning Board. Each building shall have adequate off-street loading and unloading facilities, which shall be shown on the plot plan to be approved by the Planning Board, and provision for the same shall be made in a location that will not interfere with accessory building areas and means of ingress and egress ~~therefrom~~.
- B. No building shall be erected on a plot within 50 feet of another building on the ~~same~~ plot.
- C. No building or structure shall be erected on a plot without the approval of the Planning Board, which approval shall be by a report made to the Building Official. The Planning Board in approving the erection of a building or structure on the plot shall consider the architectural design of such building and



structures and their relationship to the affected and surrounding properties and buildings so that building and property values shall be conserved and that the most appropriate use of land throughout the Village shall be encouraged, and the Planning Board in so acting shall give consideration to the following:

- (1) Access of light and air to the premises and adjoining property.
- (2) Traffic problems.
- (3) Transportation requirements and facilities.
- (4) Hazards from fire.
- (5) The size, type and kind of buildings and structures in the vicinity.

## § 271-115. Setback or building lines.

- A. There shall be a minimum front yard depth of 100 feet from the present line of North Hempstead Turnpike and a minimum setback of 50 feet from any other street except where the property on the other side of the street is in another district, in which case there shall be a minimum setback of 100 feet.
- B. The Planning Board in approving the site plan may permit a parking area for vehicles owned by executives to project from the building area into the front yard a distance of not more than 25 feet where the front yard has a depth of not less than 75 feet, to accommodate not more than 20 vehicles.

## § 271-116. Side and rear yards.

- A. Each lot shall have side and rear yards of not less than the depths and widths following.
  - (1) Side yard width: each, 50 feet.
  - (2) Rear yard depth: 50 feet.
- B. Notwithstanding Subsection A, where a plot abuts property situated in another district, the distance of any building, structure or parking area from the side and rear property lines shall be not less than 75 feet.
- C. Notwithstanding Subsection A, where a side or rear property line abuts North Hempstead Turnpike, the width or depth of such side yard or rear yard shall be not less than 100 feet.

## § 271-117. Parking areas.

- A. No parking space, except as provided in § 271-115B, shall project into a front, side or rear yard.
- B. No access to any parking area shall be nearer than 100 feet from North Hempstead Turnpike.
- C. No parking area or space shall be used for any purpose other than the accessory parking of automobiles or other vehicles. In no case shall any storage, servicing or dismantling of automobiles or other vehicles or loading and unloading be permitted in the parking area.
- D. No part of any parking area shall be used for the storage or abandonment of any article.
- E. All parking areas shall be screened with evergreens or with similar shrubbery so that ~~such the~~ area shall be obscured from the view of adjacent property as specified by the Planning Board.
- F. When a plot abuts on North Hempstead Turnpike, there shall be provided a marginal roadway of 50 feet in width with no more than one entrance from ~~said~~ marginal roadway to North Hempstead Turnpike.

However, the Planning Board in approving the site plan may waive the requirement of this section, provided that entrances and exits from parking areas and to buildings on the plot shall be to a Village street either in existence or for which irrevocable offers of dedication have been filed with the Board of Trustees and the Board of Trustees has agreed to accept the same by resolution setting forth the conditions of acceptance, which conditions shall have been complied with before the site plan shall be approved.

## § 271-118. Sewage disposal.

All buildings used for manufacturing purposes not connected with a municipal sewerage system shall be equipped with an independent sewerage system and disposal facilities approved by the Nassau County Department of Health.

## § 271-119. Storage and removal of garbage, rubbish and refuse.

Suitable storage space shall be provided for the storage of garbage, refuse, rubbish, etc., but shall be approved as to size and location by the Board of Trustees. This power of approval may be specifically delegated by resolution to the Building Inspector. Removal of all garbage, refuse and rubbish shall be under private contract by the owner and at the owner's sole cost and expense.

## § 271-120. General criteria.

- A. All buildings and structures, roads, walks and parking areas authorized under the provisions of this article shall conform to all applicable laws, regulations and ordinances relating to construction, operation and maintenance.
- B. No building permit shall be issued by the Building Official for any use provided in this article unless there ~~is shall be~~ filed with the Building Official and accompanying the application for the building permit, a certified copy of a report or resolution of the Planning Board approving the site plan and the general building plan. The term "general building plans" shall be deemed to mean the plans showing the exterior elevations of the buildings, the exterior design and all super structures, the linear and horizontal dimensions, the square footage of the floor area and the cubic foot content of the building.
- C. An application for the approval of the site plan by the Planning Board must be in writing, verified by the owner of the plot and be accompanied by a site plan and general building plans showing the design, location and the uses of buildings, structures, parking areas, loading areas, driveways, sidewalks, screening, planting, open spaces and such other details as required by this article, Village ordinances, and which may be required by the regulations for filing plats of the Planning Board. Such application and site plans shall be in triplicate and filed in the office of the Village Clerk. On the filing of the application for the approval of the Planning Board, there shall be paid a minimum of \$150 for the first seven acres and \$10 for each additional acre shown on the site plan.
- D. The Planning Board is hereby empowered to approve the site plan in accordance with the provisions of this article, which approval shall be by resolution.
- E. All buildings and structures, roads, driveways, walks and parking areas shall conform to all applicable laws, ordinances, rules and regulations relating to construction, operation and maintenance.
- F. The Planning Board shall approve or disapprove the site plan and general building plans within 45 days of the filing of the same in the office of the Village Clerk. In disapproving the site plan or the general building plans, or both, the Planning Board shall state in its report the reasons for such disapproval. The owner, within 30 days of the filing of the report of the Planning Board disapproving the site plan or general

building plans, may appeal to the Board of Trustees of the Village. The Board of Trustees shall, within 20 days of the filing of such an appeal, review the action of the Planning Board disapproving the site plan or the general building plans and shall, within 10 days thereafter, either affirm, modify or reverse the action of the Planning Board, and the resolution of the Board of Trustees shall have the same effect as the report of the Planning Board.

## § 271-121. Temporary structures.

A. The Board of Trustees, upon written application, may, after a public hearing, permit the erection and maintenance of a temporary structure or structures to be used for storage purposes only in connection with and accessory to the then use of any permanent building or buildings already erected upon the subject parcel; provided, however, that no chemicals or flammable liquids of any kind or nature shall be kept, stored, placed in or maintained in any such temporary structure.

B. "Temporary structure" is hereby defined as a structure which is designed, erected, built or maintained other than in full compliance with the Building Code<sup>[1]</sup> of the Village and which is intended to be maintained and used by the applicant for a period not in excess of two years. The application for such temporary structure shall state the period of time for which such temporary structure is intended to be used.

[1] *Editor's Note: See Ch. 223, Building Construction.*

C. The application for a temporary structure shall be accompanied by the following:

- (1) A survey of the entire parcel, which shall contain thereon the location and description of all buildings and improvements presently thereon, together with the location (in broken lines) of the temporary structure or structures proposed to be erected.
- (2) The written consent of each owner and occupant of the subject parcel.
- (3) The materials proposed to be stored in such the structure.
- (4) A detailed description of the material or materials of which such the structure or structures is to be constructed.
- (5) The cost of construction of said proposed structure or structures.
- (6) A certification by a licensed professional engineer that such the proposed structure or structures are safe and will not be dangerous to any person in or in any area within 1,000 feet of such proposed structure.
- (7) The dimensions of such the structure or structures. The longest horizontal dimension of such the structure shall be deemed to be the front of such the structure or structures. If such structure shall be other than four-sided, then the front length shall be deemed to be 1/2 of the total outside dimensions, perimeter or circumference of said the structure.
- (8) Certification by the Fire Marshal of Nassau County that said structure or structures will not constitute a fire hazard to person or property and an approval of the material to be used in the construction thereof.
- (9) The sum of \$200, no part of which shall be refundable regardless of the action taken by the Board of Trustees on such the application.
- (10) The written consent of the owner and occupant of the parcel to the effect that, during the maintenance or use of said structure or structures, the Village by any of its officers, agents or employees may, at any time during normal business hours and without prior notice, enter upon said property and into the structure or structures for the purpose of inspection and that, within 10 days

after the expiration of the permit granted therefor, said structure or structures will be wholly removed and the land restored to its prior condition and that, upon failure to so remove ~~such the~~ structure or structures, the Village may enter upon ~~such the~~ property and remove ~~such the~~ structure or structures and dispose of ~~the same it~~ as rubbish and that the applicant will reimburse the Village for all costs and expenses in connection therewith and will indemnify the Village and save it harmless against the claims of any and all persons for injury to person and property.

D. No permit granted by the Board of Trustees shall be for a period in excess of six months and shall expire six months from the date of issuance, unless sooner terminated by reason of the violation of any condition set forth in said permit; provided, however, that the Board of Trustees, upon further application made to it not later than 45 days prior to the expiration of any permit, may extend the same, without further public hearing, for additional periods of six months each, but in no event shall the total period of the permits, including the initial permit, be for a period in excess of two years. Every application for an additional permit shall be accompanied by a payment of \$200, which sum shall be refunded in the event that the application for ~~such the~~ additional permit is denied.

E. In granting an application for a permit or an additional permit, the Board of Trustees shall impose such terms and conditions as it shall, in its judgment, deem reasonable and proper and shall, among other things, take into consideration:

- (1) Accessibility of the structure or structures for fire and police protection.
- (2) Access of light and air to the premises and adjoining property.
- (3) Traffic problems.
- (4) Transportation requirements and facilities.
- (5) Hazards from fire, explosion and the elements.
- (6) Hazards created by noise vibration and odors.
- (7) The size, type and kind of buildings and structures in the vicinity, together with their use.
- (8) The effect of such proposed structure or structures on the safety, health and welfare and on the property values in the vicinity of such proposed structures.
- (9) The sight lines of such proposed structure or structures and their aesthetic effect.

F. Within 45 days after the completion of the public hearing, the Board of Trustees shall grant or deny the application. If ~~such the~~ application shall be granted, the Building Inspector shall, upon written application, issue a building permit for ~~such the~~ construction and erection upon payment of the fees provided for in Article XIV, § 271-138B(3) of this chapter. If ~~such the~~ permit shall not be applied for within 30 days after the application shall have been granted by the Board of Trustees, then the granting of ~~such the~~ application shall be of no force and effect, and it shall be conclusively deemed that ~~such the~~ application had been denied. No building permit shall be issued unless at the time of the application the applicant ~~shall~~ submit a bond or undertaking by a surety company licensed to do business in the State of New York, conditioned upon the observance and compliance by the applicant of all of the terms and conditions of this section and of the terms and conditions of the resolution of the Board of Trustees granting the application, including applications for additional periods of use. The Board of Trustees shall fix the amount of ~~such the~~ bond or undertaking in ~~such the~~ amount as it shall deem advisable, but which amount shall not exceed the cost of the structure or structures.

G. All of the structure(s) shall comply fully with all of the provisions and conditions of this article of this chapter with respect to setbacks and proximity to other buildings on the same parcel; area coverage of all buildings, which shall include the temporary structure or structures; and size of plot. No such temporary structure or structures shall contain any toilet, electrical installation (other than for illumination, operation of doors and permitted heat equipment), plumbing, interior heating equipment or

cooking installations, apparatus or facilities, nor shall any person use the ~~same facilities~~ for any living or sleeping purposes. The height of any such structure or structures shall not, at its highest point, be greater than 10 feet less than the height of any building on the property, and there shall be no outside lights used in connection with or attached to such structure or structures. ~~Such The~~ structure or structures shall not be used or occupied by any person before 8:00 a.m. or later than 9:00 p.m. on any day.

F.H. No ~~such~~ structure or structures shall be used in any manner whatever until a certificate of occupancy shall have been applied for and obtained from the Village Building Inspector and the fees ~~therefor~~ paid in accordance with the provisions of Article XIV, § 271-138B(7).

G.I. ~~Upon issuance of the certificate of occupancy The assessment of the structure or structures may be adjusted throughout the construction process, the structure or structures shall be added to the assessment rolls of the Village.~~

H.J. In the event that the owner or occupant of the property shall fail to comply with the provisions of this section or of any terms or conditions contained in the resolution of the Board of Trustees granting the application for ~~such a~~ temporary structure or structures, then the Board of Trustees may, at any meeting held by it, revoke ~~such the~~ resolution and permit, and ~~thereupon then~~ the use of ~~such the~~ structure or structures shall be terminated and ~~such the~~ structure or structures shall be forthwith removed. Notice of ~~such a~~ hearing and intended action shall be given to ~~such the~~ owner or occupant by registered or certified mail or in person upon any of its agents, officers or employees at least five days before ~~such the~~ meeting, and ~~said the~~ owner or occupant shall be entitled to appear, including counsel, and present such facts and evidence as may be material to any issues or questions involved. The Board of Trustees may, in its discretion, require any witness to be sworn.

## Article XI. Provisions Applicable in All Districts

### § 271-122. Continuation of nonconforming uses.

- A. Any nonconforming use existing at the effective date of this chapter may be continued, and any existing building designed, arranged, intended or devoted to a nonconforming use may be reconstructed and structurally altered and the nonconforming use therein changed, subject to the following regulations:
- (1) The cost of structural alterations made in such building shall in no case exceed 50% of its reproduction cost, nor shall the building be enlarged unless the use ~~therein~~ is changed for a conforming use.
  - (2) No nonconforming use shall be extended at the expense of a conforming use.
  - (3) In a residence or business district, no building or premises devoted to a use permitted in a zone of lower classification shall be changed into a use not permitted in such zone of lower classification.
  - (4) No nonconforming use, if once changed to a use permitted in the district in which it is located, shall ever be changed back to a nonconforming use.
  - (5) No nonconforming use which shall have been discontinued for a period exceeding 12 months shall be resumed, nor shall it be replaced by any other nonconforming use.
- B. Whenever a district shall hereafter be changed, any then existing nonconforming use therein may be continued or changed to a use of a similar or higher classification, provided that all other regulations governing the new use are complied with.

### § 271-123. Location of accessory buildings.

- A. No accessory building or structure shall exceed 12 feet in height measured from the grade plane at the perimeter to the mid-height of the vertical dimension from the eave to the ridge. In no case shall a detached garage exceed 18 feet in height to the ridge. ~~If any accessory building is over 1½ stories high, it shall be distant at least 15 feet from all lot lines, and it shall in no case be over 2½ stories or 30 feet in height.~~ An accessory structure is also subject to the height setback ratio (see Section 271-231).
- B. On corner lots, accessory buildings shall be located as far as possible from all street lines while conforming to the requirements of the last above subsection.

## § 271-124. (Reserved)

- [1] *Editor's Note: Former § 271-124, Projection of buildings, amended 4-21-1980 by L.L. No. 21-1980, was deleted 2-28-2005 by L.L. No. 3-2005. See now Art. XXI, Residential Construction and Building Limitations.*

## § 271-125. Applicability to construction work in progress.

Nothing herein contained shall require any change in the plans, construction or designated use of a building under construction, provided that at the effective date of this chapter the construction shall have proceeded to the completion of the foundations and the setting of the first-floor beams, and provided, further, that the work thereon shall be diligently prosecuted to completion within one year from the effective date of this chapter. The Board of Appeals may, in its discretion, due to the size or nature of the building or any special circumstances which, in its judgment, are sufficient, extend the date of completion beyond the one year above fixed.

## § 271-126. Exceeding lot coverage.

In no event shall the building area in any district be exceeded by reason of the deduction of yard areas required leaving a greater percentage of lot area, nor shall the yard areas in any district be decreased by reason of the permitted building area.

## § 271-127. Permit certifying compliance.

- A. No building shall be erected until the Building Inspector shall issue a permit certifying that the proposed building and use complies in every respect with this chapter, and all applications for such permits shall be in writing and accompanied by a plot plan in duplicate, drawn to a scale showing the actual dimensions of the lot, the dimensions of all open spaces, the setback lines observed by buildings within the block, and such other information as may be necessary to provide for the enforcement of this chapter.
- B. Such-A permit shall be issued for a period of one year from the date thereof it is issued. In the event, however, of a change of the provisions of this chapter or of the map accompanying the same it during such period of six months, which change or changes would prevent the issuance of such-the permit if then applied for, and the Building Inspector shall determine that work has not begun under the such permit, he or she shall revoke said-the permit and immediately send notice of revocation thereof to the holder thereof at the address given in the application therefor. The Building Inspector is also authorized at any time during the life of such-a permit to revoke same-it if it shall satisfactorily appear to him or her that any material statement in or any portion of the application therefor is untrue or inaccurate. Within 10 days prior to the expiration of such permit and upon a showing of sufficient cause therefor and in the event that no

~~changes in this chapter or in the map accompanying the same have been made to prevent it, the Building Inspector may extend the permit for a further period of six months, but such extended permit shall be liable to all of the provisions of this section and any amendment thereof to the date of such extension. A copy of this section shall be printed upon each permit or extended permit issued by the Building Inspector. Before the issuance of such building permit, there shall be paid to the Building Inspector a fee therefor of \$25. See Chapter 223 Building Construction of Village Code for additional provisions related to Building and Demolition permits, expirations and renewals, whichever is stricter shall apply per the determination of the Code Official.~~



## § 271-128. Restrictions on flat roofs.

Flat roofs shall not be permissible for any residential building except for one-story ~~extensions, and the total area of such flat roof extensions shall not exceed 50% of the total area of the building portico, one story open porches and one story vestibules.~~ In no instance, can the size of flat roof exceed the value of 25% of the footprint of the residence.

### § 271-128.1. Height of Utility Poles.

[Added 9-15-1997 by L.L. No. 6-1997; amended 1-26-1998 by L.L. No. 1-1998]

No pole, erected or installed in connection with the transmission of electrical, telephone or other utility lines, shall exceed a height of 25 feet above grade, including any attachment, appurtenance or addition to ~~such a~~ pole.

### § 271-128.2. Signs in Residence Districts.

[Amended 1-26-1998 by L.L. No. 2-1998; 2-24-1998 by L.L. No. 3-1998]

A. No sign shall be erected, posted or displayed on any property located within a residence zone district of the Village, except:

- (1) advertising that such property is available for sale, in conformance with the provisions of this section;
- (2) A professional nameplate sign in conformance with the provisions of § 271-7B;
- (3) A sign posted in conformance with the provisions of § 141-11B of this Code; and
- (4) A sign posted in conformance with the provisions of § 161-3E of this Code.

Asign

B. No sign shall be erected, posted or displayed on any property for the purpose of advertising that such property is available for sale, except that no more than one such sign may be erected, posted or displayed, provided that it:

- (1) Shall be no larger in area than two square feet.
- (2) Shall be limited in content to the words "For Sale by Owner"; followed by a telephone number for contact purposes.
- (3) Shall not be illuminated, directly or indirectly.
- (4) Shall be of rigid, nonreflexive material.
- (5) Shall not be attached to the exterior of any dwelling or building or to any tree or fence.
- (6) Shall be attached to a ground post or placed inside a first-floor window of the dwelling or building.
- (7) Shall not exceed five feet in height, measured from grade to the top of the sign.

C. No ~~such~~ sign shall be erected without first obtaining a permit therefor from the Building Department. The application for such permit shall contain such information as may be required by the Building Department, including a sketch or rendering of the proposed sign. The fee for such permit shall be as fixed from time to time by the Board of Trustees.

### § 271-128.3. Steep slopes.

[Added 7-19-2004 by L.L. No. 6-2004]

Development or alteration of any slope, as defined in §271-7B, with a gradient of 20% or greater is prohibited.

## Article XII. Board of Appeals

### § 271-129. Appointment.

- A. A Board of Appeals shall be appointed by the Board of Trustees, pursuant to the Village Law.
- B. In addition to the powers granted to the Board of Trustees under Article 7 of the Village Law and §271-130 of this chapter relating to the establishment of a Board of Appeals, which provisions are incorporated herein by reference, the Board of Trustees is hereby empowered to appoint up to four ad hoc members to the Board of Appeals when, due to disqualification, absenteeism, unavailability, conflict of interest or any other reason, a quorum of members is not present to conduct the business of the Board of Appeals. No more than two such ad hoc members may attend and serve at the same meeting of the Board of Appeals. In all other respects, the powers of the Board of Trustees as provided in Article 7 of the Village Law are not diminished, enlarged or revoked by this subsection.

[Amended 10-7-1991 by L.L. No. 2-1991; 8-14-1995 by L.L. No. 2-1995]

## § 271-130. Powers.

The Board of Appeals may, in appropriate cases, after public notice and hearing and subject to appropriate conditions and safeguards, and in harmony with the general purpose and intent of this chapter, in addition to the powers and duties set forth in the Village Law of the State of New York and ~~such the~~ powers as are ~~heretofore provided~~ in this chapter ~~given to it~~:

- A. Vary the application of the regulations ~~herein~~-established and establish appropriate requirements for irregular lots or lots less than the required area in any district existing at the effective date of this chapter.
- B. Vary the application of the regulations ~~herein~~-established and modify the requirements ~~hereof~~ in cases of exceptional topography under ~~such~~ conditions as will safeguard the neighborhood.
- C. Grant temporary and conditional permits of limited duration for nonconforming uses and buildings in undeveloped sections.
- D. Determine and establish the true location of district boundaries in any disputed case.
- E. Where a zone boundary line divides a lot in a single ownership at the effective date of this chapter, permit a use authorized on either portion of such lot to extend to the entire lot, but not more than 25 feet beyond the boundary line of the greater restricted zone.
- F. Permit the extension of a nonconforming use of a building upon the lot occupied by ~~such the~~ use of a building at the effective date of this chapter.
- G. Vary side and rear yard restrictions in Residence R-4 Districts, as provided in Article VII, § 271-65, ~~hereof~~.
- H. Vary side yard restrictions for buildings other than dwellings in Residence R, Residence R-1, Residence R-2, Residence R-3 and Residence R-4 Districts.
- I. Vary the height regulations in any district to permit church spires, belfries, towers designed exclusively for ornamental purposes, flag staffs, chimneys, flues or scenery lofts and parapet walls extending not more than three feet above the height permitted by these regulations.
- J. Vary the application of the regulations herein established, and establish appropriate requirements for the location, number and size of signs in any district.

## § 271-131. Special exceptions; procedure.

- A. When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Board of Appeals may, in a special case after public notice and hearing and subject to appropriate conditions and safeguards, and provided that the same is in harmony with the general purpose of this chapter, authorize as a special exception churches, parochial schools, private schools and clubs not operated for profit. Before the authorization of ~~such the~~ uses, the owner shall file a verified petition with the Board of Appeals, which petition shall set forth ~~such the~~ facts as shall be required by the Board of Appeals and shall also be accompanied by plans of all buildings and structures intended to be erected upon the premises and plans showing the location of the intended buildings and structures upon the property affected and ~~such~~ other details as the Board of Appeals may require. The Board of Appeals shall require that the applicant provide an off-street parking area of such size as in the judgment of the Board of Appeals shall be adequate for the number of persons who may be accommodated in such building and structures and as shall promote the health, safety and welfare of the inhabitants of the Village.
- B. When, in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently impaired, the Board of Appeals may, in a special case after public notice and hearing and subject to appropriate conditions and safeguards, and provided that the same is in harmony with the general purpose of this chapter, authorize as a special exception in a Business B District automobile service stations or public garages. Before such use is authorized, the owner shall file a verified petition with the Board of Appeals, which petition shall set forth ~~such the~~ facts as shall be required by the Board of Appeals. Accompanying said petition shall be the survey of the plot showing the location of all proposed structures, tanks, signs and such other details as shall be required by the Board of Appeals and shall also be accompanied by the written consent of 80% in number of the owners and mortgagees of all property within 200 feet of any portion of the lot or plot on which the automobile service station is to be erected; such consent shall not be limited to property owners within the Village but shall include all property owners, whether within or without the Village. A Zoning Board application fee ~~as per Article XIV of \$100~~ shall accompany ~~said the~~ application and be paid to the Village Clerk. No application shall be accepted, nor shall any action be taken by the Board of Appeals, unless it shall comply with the provisions of the conditions precedent. This section shall not apply to a Business A District planned business community or any other planned business zoning area hereafter created by ordinance.
- C. The erection or enlargement of a public garage or automobile service station or the conversion of any premises not so used to be used for such purposes, if otherwise allowed, shall not be permitted if any point or part of the lot or plot is situated at a distance of 200 feet from any point of a lot or plot upon which any of the following enumerated buildings are located. The buildings above referred to are:
- (1) A public school.
  - (2) A duly organized school other than a public school, conducted for children under 16 years of age and giving regular instruction at least five days a week for at least eight months a year.
  - (3) A hospital maintained as a charitable institution. A
  - (4) church.
  - (5) A theater containing at least 300 seats. A
  - (6) public library.
- D. When in its judgment, the public convenience and welfare will be substantially served and the appropriate use of neighboring property will not be substantially or permanently injured, the Board of Appeals may, in a special case after public notice and hearing and subject to appropriate conditions and safeguards, and provided that the same is in harmony with the general purpose of this chapter, authorize as a special

exception the installation and maintenance of a dish antenna. Before such accessory structure is authorized, the owner shall have filed a verified petition with the Board of Appeals, which petition shall set forth such facts as shall be required by the Board of Appeals and as set forth in Article XIX of this chapter.

[Added 6-12-1989 by L.L. No. 2-1989]

## § 271-132. Power to adjourn or continue public hearings.

Whenever the Board of Appeals shall conduct a public hearing, it shall have the power to adjourn or continue such public hearing from time to time, and in connection with such adjournment or continuation, it shall determine whether any further notice of such continued or adjourned hearing shall be required to be published or notice given.

## § 271-133. Procedural rules ~~and regulations~~.

The Board of Appeals shall have the power to adopt such rules ~~and regulations~~ for the conduct of its hearings, proceedings and procedures and may amend the same, from time to time; provided, however, that they shall not be inconsistent with or contrary to the provisions of this chapter or of the Village Law of the State of New York.

## Article XIII. Administration and Enforcement

## § 271-134. Interpretation and application.

In their interpretation and application, the provisions of this chapter shall be held to be the minimum requirements adopted for the purpose set forth in the Village Law of the State of New York. It is not intended by this chapter to repeal, abrogate, annul or in any way to impair or interfere with any existing provisions of law or ordinances other than zoning ordinances or any rules, regulations or permits previously adopted or issued or which shall be adopted or issued pursuant to any law relating to the use of buildings or premises; provided, however, that where this chapter imposes a greater restriction upon the use of buildings or land or upon the height of buildings or requires larger yards or other open spaces than are imposed or required by such existing provisions of law or ordinances or by such rules, regulations or permits, the provisions of this chapter shall control.

## § 271-135. Amendments authorized.

This chapter, including the Zoning Maps, may from time to time be amended, supplemented, changed, modified or repealed by the Board of Trustees, by proceeding for any ~~such requested~~ purpose and giving hearing and notice thereof according to the provisions of the Village Law.

## § 271-136. Certificates of occupancy.

- A. It shall be unlawful to use or permit the use of any land or part thereof or of any building or structure or part thereof hereafter erected, constructed, reconstructed, altered, repaired, changed or converted, wholly or partly, in its use or structure until a certificate of occupancy to the effect that the building, structure or land or the part thereof so erected, constructed, reconstructed, altered, repaired or used and the proposed use thereof conforms to the provisions of this chapter shall have been issued by the Building Inspector. In ~~any such this~~ case, it shall be the duty of the Building Inspector to issue a certificate of occupancy within 10 days after request ~~for the same shall have been~~ that it was filed in his office by any owner of a

building or land affected by this chapter, provided that said building or land or the part thereof so erected, constructed, reconstructed, altered, repaired or used and for the proposed use hereof conforms with all the requirements herein set forth.

- B. Upon written request from the owner, the Building Inspector shall issue a certificate of occupancy for any building, structure or land existing at the effective date of this chapter, certifying, after inspection, the use of the building, structure or land and whether such use conforms to the provisions of this chapter.

## § 271-137. Enforcement; legal remedies; penalties for offenses.

- A. The provisions of this chapter shall be enforced by the Building Inspector.
- B. In case any building or signboard or sign or structure is erected, constructed, reconstructed, altered, repaired, converted, maintained or used or any land is used or any hedge, tree, shrub or other growth or a fence is maintained in violation of this chapter or of any regulation made pursuant hereto, in addition to other remedies provided by law, any appropriate action or proceeding, whether by legal process or otherwise, may be instituted or taken to prevent such unlawful erection, construction, reconstruction, alteration, repair, conversion, maintenance or use; to restrain, correct or abate such violation; to prevent the occupancy of said building, structure or land; or to prevent any illegal act, conduct, business or use of any kind or nature in or about such premises.
- C. For any and every violation of the provisions of this chapter, the owner or general agent or contractor for a building or premises where such violation has been committed or shall exist and the lessee or tenant of an entire building or entire premises or part thereof where ~~such a~~ violation has been committed or shall exist and the owner, general agent, architect, building contractor lessee, tenant or any other person who knowingly commits, takes part or assists in any violation or who maintains any building or premises in which any such violation shall exist shall be liable for a fine not exceeding ~~\$1,000~~\$2,500 per day of the violation or by imprisonment not exceeding 15 days in the County Jail, or both, for each and every offense, and whenever such person shall have been notified by the Building Inspector or by service of a summons or in any other way that he is committing such violation of this chapter, each day that he shall continue such violation after such notification shall constitute a separate offense subject to like penalty. Such penalties shall be collected as like penalties are now by law collected. Such violations shall also be disorderly conduct punishable by a fine of not more than \$5,000 or imprisonment for not more than six months, or both.

[Amended 11-22-2004 by L.L. No. 12-2004]

- D. If any offender is found guilty of violating the same provision of a local law three times within a twelve- month period and tickets were issued, the fine provided by statute shall be doubled. If an offender is found guilty of violating the same local law four or more times within a twelve-month period and tickets were issued, then the fine provided by statute shall be tripled.

[Added 2-26-2001 by L.L. No. 2-2001]

## Article XIV. Village Fees and Deposits

### § 271-138. Required fees and deposits for building, zoning, subdivision and miscellaneous other applications, permits, licenses and services.

[Last amended 6-23-2011 by L.L. No. 3-2011]

- A. Intent; purpose. In order for the Village of East Hills to properly review zoning and land use applications and to thereby preserve, protect and further the health, safety and welfare of the citizens of the Village,

the Village oftentimes must retain outside consultants to provide it with independent advice and guidance in such diverse areas as engineering, planning, environmental impact review, traffic, sound, landscape design, economics, law and other specialized disciplines. The Board of Trustees finds that it is desirable that the costs associated with such reviews should be borne directly by the applicants rather than the taxpayers at large of the Village. To that end, while the Village Code currently provides for the reimbursement of certain review expenses, the Board of Trustees finds that these sections require revision in order to be more comprehensive in their scope and to provide for the reimbursement for Village consultants and to allow for deposits, in certain instances. These current sections also require revisions to include requirements that applicants make deposits with the Village to cover reasonable and necessary anticipated costs and expenses for consultants to the Village. Accordingly, it is the intention of this article to expand the scope of costs covered under the current provisions of the Village Code and to establish fee deposit requirements to ensure reimbursement of various reasonable and necessary costs incurred by the Village in considering zoning and planning applications.

- B. Fees established. All fees are required and shall be paid for conducting any business, activity or obtaining any permit in the Incorporated Village of East Hills and shall be payable upon the filing of the application unless otherwise specifically stated. Fees shall be as follows:

- (1) Filing plats: ~~\$1,000~~ \$1,200.
- (2) Application for change of zone: ~~\$10,000~~ \$12,000 and all other application costs, fees and deposits as set forth below.
- (3) Building permit:
  - (a) New construction: ~~\$100~~ \$200, plus an additional 1.5% of the estimated cost of alteration (\$15 per \$1,000 of the estimated cost).
  - (b) Alterations or additions to existing buildings: ~~\$100~~ \$200, plus an additional 1.5% of the estimated cost of alteration or construction (\$15 per \$1,000 of estimate cost). ~~However, from the effective date of the implementation of this amendment to this provision of the section up to and including March 31, 2013, there shall be no fee charged, including but not exclusively the fees required for a building permit, together with the certificate of completion fee of \$100 to install a generator or other alternative source of power in a residence, provided that all work and the installation is successfully completed by March 31, 2014. If the application for a generator or alternative source of electricity is not filed by March 31, 2013, with the work successfully completed by March 31, 2014, then all fees regularly charged prior to under this provision of the section shall be imposed on the homeowner. The fees shall include both the full application fee and building permit fee.~~  
~~[Amended 12-4-2012 by L.L. No. 6-2012; 6-26-2013 by L.L. No. 10-2013; 1-22-2014 by L.L. No. 1-2014]~~  
~~[1] There shall be no fee charged for a renewal of building permit to install a permanent generator which becomes due from January 1, 2014, up to March 31, 2014, provided that the application for the permanent installation of a generator was submitted between the dates of December 4, 2012, and March 31, 2013. All fees prior to and after these dates remain in effect for renewals, except as provided in Subsection B(3)(b)[2] below.~~  
~~[2] The date of March 31, 2014, as set forth in this section, pursuant to Subsection B(3)(b) and B(3)(b)[1] will be automatically extended beyond March 31, 2014, for any time that an electrical contractor who is performing the services for the installation of a permanently installed generator is subject to a stop-work order by the Village.~~
  - (c) Amendment to permit: ~~\$100~~ \$200 plus an additional 1.5% of the estimated cost of amended portion of construction (\$15 per \$1,000 of estimated cost).



(d) Renewals of building permit: ~~for all building permits issued on or after January 1, 2008:~~  
~~First renewal: for a length of one-year period or part thereof, \$200.~~  
~~Second renewal: for a length of one-year period or part thereof, \$500. Each renewal thereafter: for six months in length or part thereof, \$500.~~  
~~For all building permits issued prior to January 1, 2008: a fifty-dollar renewal fee for each six-month extension applies. A building permit may be renewed before it expires for a period of one year for a fee of \$200. Building permits are limited to one renewal.~~

(e) Expired Building Permits: Application to reinstitute a building permit which expired 2 years or less, a fee of 0.75% of the estimated cost of alteration shall be charged, but in no event shall the fee for the reinstitution exceed \$9,500. Moreover, provided the expired building permit is 2 years or less, an application is made pursuant to this Section, the application is approved, and the fees paid, then Sections 271-138 B (3)(a) and (b), together with Section 271-13B(34) do not apply. (Added February 15, 2017, LL# 01-2017).

(f) Fence permit or renewal of fence permit: ~~\$75~~\$90.

(g) Pre-submission site plan review conference: ~~\$400~~ \$120 per

(h) conference. Cesspool and/or septic tank application and

(i) inspection: ~~\$450~~\$180 each.

(j) Swimming pools: same as in Subsection B(3)(a).

Cost of construction calculated as follows: For new construction and substantial improvements, the cost of construction is based upon \$200 per square foot; and for additions and alterations which are not defined as substantial improvements the cost of construction is based upon \$175.

(4) Plumbing permits.

(a) Plumbing fixtures: ~~\$75~~\$100, plus an additional ~~\$25~~\$50 for each fixture installed.

(b) Gas (LPG or natural): ~~\$400~~\$120, plus an additional ~~\$25~~\$50 for each

(c) fixture. Oil: ~~\$400~~\$120, plus an additional ~~\$25~~\$50 for each fixture.

(d) Oil tank (new installation or replacement): ~~\$400~~\$120 for each tank.

(5) Building demolition: ~~\$400~~\$200 plus an additional 1.5% of the estimated cost of demolition (\$15 per \$1,000 of estimated cost).

(6) Excavation permit: ~~\$400~~\$120, plus an additional 1.5% of the estimated cost of excavation (\$15 per \$1,000 of the cost).

(7) Certificate of occupancy/certificate of compliance.

(a)



- (b) New dwelling: 1% (\$10 per \$1,000 or each fraction thereof) of the estimated cost of such building. For purposes of this section, a new dwelling is defined as any new construction or new
- (c) alteration(s) which exceed 70% of the existing dwelling.

- (d) Alteration or addition to dwelling: ~~\$100~~\$120.

New stores or commercial buildings: ~~\$500~~\$600.

- (e) Stores or commercial building: alterations, additions or change of occupancy: ~~\$200~~\$240 in addition to any other fees pursuant to Subsection B(7)(c).

Swimming pool: ~~\$100~~\$120.

(8) Plumber license.

- (a) Original: ~~\$100~~\$120.

- (b) Renewal: ~~\$100~~\$120.

(9) Electrician license.

- (a) Original: ~~\$100~~\$120.

- (b) Renewal: ~~\$100~~\$120.

- (10) Lawn sprinkler permit: ~~\$100~~\$120; provided, however, that no such permit shall be issued unless the applicant shall first have obtained the written approval of the Roslyn Water District for such installation, which approval shall be attached to this application for a permit.

(11) Sign permit: ~~\$400 plus \$3 per square foot of sign area~~ 500.-

(12) Street openings:

[Amended 11-18-2015 by L.L. No. 2-2015]

(a) Street openings, including curb cuts: a fee of ~~\$250-300~~ plus a deposit in cash or bond equal to:

[1] For up to 100 square feet or part thereof: ~~\$1,000~~ 200.

[2] For all areas which exceed 100 square feet, the sum of ~~\$1,000~~ 200, plus ~~\$250-300~~ for each additional 100 square feet or portion thereof.

(b) Community-wide utility expansion project: a single, comprehensive fee of ~~\$50,000~~ 60,000 shall be paid prior at the outset of a comprehensive project, plus a deposit in cash or bond equal to ~~\$500,000~~ 600,000.

[1] The single, comprehensive fee is for a community-wide expansion project and includes up to 500 connection pit openings.

[2] A "connection pit opening" is defined as street openings, whether on private or public property.

[3] The fee covers up to 500 connection pit openings completed on a community-wide utility expansion project within 15 months from the date of the submission to the Village of an application to perform the work.

[4] If, for any reason, the number of connection pit openings exceeds 500 for a community-wide utility expansion project, on or before 15 months from the date of the submission of the application to the Village for work to be performed, then an additional fee of \$100 per connection pit opening shall be charged for each additional connection pit opening over 500, up to and including the 15 months from date of the submission of an application to perform the work.

[5] On and after 15 months from the date of the submission to the Village of an application to perform the work on a community-wide utility expansion project, the sum of ~~\$250-300~~ per shall be charged for each connection pit opening.

- (13) Board of Zoning Appeals applications: ~~\$500~~\$600, payable at the time of application, plus legal and stenographic costs and all other application costs, fees and expenses incurred in the review of the application.
- (14) Any and all other Planning Board applications not listed in this section: ~~\$500~~\$600 payable at the time of application, and all other application costs, fees and deposits as set forth below.
- (15) Special meeting of the Planning Board or Board of Zoning Appeals: ~~\$500~~\$600 in addition to all other fees and charges provided for in this chapter and any other Village ordinance and, additionally, all legal and stenographic costs and costs of site plan review, where applicable, and all other application costs, fees and expenses incurred in the review of the application.
- (16) Subdivision application: ~~\$3,500~~\$4,200, payable at the time of the application, and all other application costs, fees and deposits as set forth below.
- (17) Business use license: none required.
- (18) Vending and soliciting license: each driver or solicitor of named employer: ~~\$200~~\$240.
- (19) Duplicate tax bill: ~~\$2,500~~\$3.00.
- (20) Special pickup: A minimum fee of ~~\$30~~\$40 shall be charged. An additional cost shall be assessed depending on the size and weight of the materials to be picked up and disposed of for the resident. An additional ~~\$40~~\$15 will be added if a pickup is needed on other than on the designated day for special pickup.
- (21) Death certificate: ~~\$40~~\$15 per certified copy.
- (22) Passport processing: ~~\$30~~\$40 per submission.
- (23) Assessment search: ~~\$30~~\$40 per property search.
- (24) Returned check: ~~\$25~~\$30.
- (25) Recycling bucket: ~~\$20~~\$25.
- (26) Copies of building plans: ~~\$25~~\$30, plus ~~\$20~~\$25 for the first page, ~~\$40~~\$15 for each additional page.
- (27) Copies: ~~\$0-25~~\$30 per copy.
- (28) Landscaper license: ~~\$52~~\$65 for the first truck and ~~\$21~~\$25 for each additional truck.
- (29) Certificate of occupancy and certificate of completion searches: ~~\$75~~\$90 for an original document and ~~\$30~~\$40 for each additional copy.
- (30) Tag sale permit: ~~\$25~~\$30.
- (31) Swimming pool renewal fees. A renewal permit fee shall be charged each year for a swimming pool, whether or not the swimming pool is or will be used at a residence. The annual permit fee is ~~\$50~~\$60.

- (32) Application for conditional use permit, special use permit or special exception, other than for residential uses, including, but not limited to, residential swimming pools, in the amount of ~~\$3,500~~\$4,200, payable at the time of the application, plus all other application costs, fees and deposits as set forth below.
- (33) Application for site plan review (non-residential), in the amount of ~~\$3,500~~\$4,200, payable at the time of the application, and all other application costs, fees and deposits as set forth below.
- (34) Where construction or other work requiring a permit under this Code was commenced prior to the issuance of a building permit, the fee for such construction or other work shall be three times the amount or amounts otherwise provided for in this section.
- (35) The fees and charges provided for in this chapter shall supersede any other fees or charges ~~heretofore~~ established with respect to the particular item provided for unless otherwise provided in this chapter.

C. Processing costs, expenses and deposits for applications for subdivision approval.

- (1) On all applications to the Village Planning Board for subdivision approval, the applicant shall be liable to the Village and shall pay the following costs and expenses which may be incurred by the Village in the review and processing the application:
  - (a) Advertising;
  - (b) Stenographic minutes of hearings and meetings;
  - (c) Engineering costs;
  - (d) Inspection costs;
  - (e) Legal fees;
  - (f) Recording fees;
  - (g) Planning, environmental impact review, traffic, sound, landscape design, economic or other specialized consulting services, studies and reports deemed necessary for a proper review of the application.
- (2) In addition to payment of the filing fees required under this chapter, an applicant for subdivision approval shall deposit with the Village a sum on a per-lot basis to defray the anticipated costs and expenses listed in § 271-138C(1) in the amount of ~~\$2,000~~\$2,400 per lot up to a maximum of \$50,000. If the proposed subdivision involves the review and consideration of a draft or final environmental impact statement under the New York State Environmental Quality Review Act, an additional deposit of ~~\$25,000~~\$30,000 shall be required up to a total maximum deposit in any application of ~~\$75,000~~\$90,000.
- (3) The deposit established in § 271-138C(2) shall be made in a non-interest-bearing trust account established by the Village with a trustee or escrow agent designated by the Village. The deposit shall ~~in no way not~~ be construed as a limit on the applicant's liability for costs incurred under § 271-138C(1), and in the event the deposit required under § 271-138C(2) is reduced to 25% or less of the initial deposit amount, the applicant shall be required to replenish the deposit to the initial deposit amount. This shall be done as often as required until the conclusion of the application. In the event that the amount of the deposit shall exceed ~~said the~~ cost and expenses at the conclusion of the application, the unused portion of the deposit shall be returned to the applicant within six months thereof. All unclaimed deposits shall be deemed to be abandoned property and treated as such under the laws of the State of New York.
- (4) No action shall be taken by the Village Planning Board on any subdivision application unless and until

all costs and expenses set forth in §271-138C(1) shall have been paid in full. Any costs and expenses under §271-138C(1) which remain unpaid more than 60 days after the date of mailing of a notice of deficiency sent to the applicant shall be added to the Village real estate tax levy and shall become a lien against the property, and the application shall be deemed abandoned. The applicant shall have an opportunity to be heard at a public hearing by the Board of Trustees, provided that such a hearing is requested by the applicant within 30 days of the mailing of the notice of deficiency.

- (5) A charge of ~~\$100~~\$120 will be added to any account owing to the Village where a tendered payment of such account was by a check or other written order which is returned for insufficient funds.
- (6) In the event that any reimbursable cost and expenses or deposit established in this section creates an economic or other hardship, application may be made to the Board of Trustees, which is ~~hereby~~ authorized to modify ~~such the~~ cost and expenses and/or deposit in its legislative discretion after appropriate hearing.
- (7) The Village Planning Board shall be authorized and empowered to adopt rules and regulations to implement the requirements of this section, including the form of a written deposit agreement for the deposit required by this section. The Planning Board shall also establish, from time to time, the amounts required for deposits pursuant to this section, based upon the experience of the Village with respect to past-incurred expenses for similar matters before the Village and in general conformity with requirements for reimbursement and deposits established by other municipalities in Nassau and Suffolk Counties, New York.

D. Processing costs, expenses and deposits for all other land use applications.

- (1) On all other land use applications to the Board of Trustees, Planning Board or the Board of Appeals not otherwise provided for under this chapter, including change of zone, conditional use permit, special use permit, site plan applications, zoning interpretations or variances associated with nonresidential applications, the applicant shall be liable to the Village and shall pay the following costs and expenses which may be incurred by the Village in processing ~~such the~~ application:
  - (a) Advertising;
  - (b) Stenographic minutes of hearings and meetings;
  - (c) Engineering costs;
  - (d) Inspection costs;
  - (e) Legal fees;
  - (f) Recording fees; and
  - (g) Planning, environmental impact review, traffic, sound, landscape design, economic or other specialized consulting services, studies and reports deemed necessary for a proper review of the application.

(2) In addition to the payment of the filing fees required under this chapter, deposits shall be established and required to defray the actual costs and expenses listed in §271-138D(1) for the following types of applications:

- a) Application for change of zone: ~~\$25,000~~\$30,000.
- b) Application for conditional use permit, special use permit or special exception, other than for residential uses, including, but not limited to, residential swimming pools: ~~\$5,000~~\$6,000.
- c) Application for site plan review: ~~\$10,000~~\$12,000.

- d) Application for zoning interpretation or variance associated with nonresidential applications:  
\$3,0003,600.
- e) An additional deposit shall be required for any application involving review and consideration of a draft or final environmental impact statement under the New York State Environmental Quality Review Act in the amount of \$25,00030,000, up to a total maximum deposit in any application of \$75,00090,000.
- (3) The deposit established in § 271-138D(2) shall be made in a non-interest-bearing trust account established by the Village with a trustee or escrow agent designated by the Village. The deposit shall in no way be construed as a limit on the applicant's liability for costs and expenses incurred under § 271-138D(1), and in the event the deposit required under § 271-138D(2) is reduced to an amount of 25% or less of the initial deposit, the applicant shall be required to replenish the deposit to the initial deposit amount. This shall be done as often as required until the conclusion of the application. In the event that the amount of the deposit shall exceed said cost at the conclusion of the application, the unused portion of the deposit shall be returned to the applicant within six months thereof. All unclaimed deposits shall be deemed to be abandoned property and treated as such under the laws of the State of New York.
- (4) No action shall be taken by any Village board on any application subject to the requirements of this chapter unless and until all costs set forth in § 271-138D(1) shall have been paid in full. Any costs under § 271-138D(1) which remain unpaid more than 60 days after the date of mailing of a notice of deficiency sent to the applicant shall be added to the Village real estate tax levy and shall become a lien against the property, and the application shall be deemed abandoned. The applicant shall have an opportunity to be heard at a public hearing by the Board of Trustees, provided that such a hearing is requested by the applicant within 30 days of the mailing of the notice of deficiency.
- (5) A charge of \$100120 will be added to any account owing to the Village where a tendered payment of such account was by a check or other written order which is returned for insufficient funds.
- (6) In the event that any reimbursable cost and expenses or deposit established in this section creates an economic or other hardship, application may be made to the Board of Trustees, which is hereby authorized to modify such cost and/or deposit in its legislative discretion, after appropriate hearing.
- (7) The Board of Trustees, the Planning Board and the Board of Appeals are hereby authorized and empowered to adopt rules and regulations to implement the requirements of this section, including the form of a written deposit agreement for the deposits required by this section. The Board of Trustees, the Planning Board and the Board of Appeals shall also be authorized and empowered to establish from time to time the amounts required for deposits pursuant to this section, based upon the experience of the Village with respect to past-incurred expenses for similar matters before the Village and in general conformity with requirements for reimbursement and deposits established by other municipalities in Nassau and Suffolk Counties, New York.-

E. Fees for the Architectural Review Board are as follows:

(1) Pre-application submission Type A: \$750.

(2) Pre-application submission Type B: \$250.

(3) Application for a new building: \$2,400.

(4) Application for a major alteration: \$600.

(5) Application for a minor alteration:

(a) For changes, alterations and construction which involve under \$2,500, an application fee of \$120 shall be charged;

(b) For changes, alterations and construction which involves more than \$2,500 and up to \$10,000, an application fee of \$180 shall be charged; and

(c) For changes, alterations and construction which involves more than \$10,000, an application fee of \$300 shall be charged

(6) Architectural Review Board resubmission review (required for more than 3 resubmissions in review of new building applications): \$900.

(7) All other Architectural Review Board applications: \$120.

F. All appeals from a decision of the Architectural Review Board relating to:

(1) Application for an appeal on a new building: \$1,200, plus transcription costs.

(2) Application for an appeal on a major alteration: \$300, plus transcription costs.

(3) Application for an appeal on minor alteration: \$150, plus transcription costs.

G. The Architectural Review Board fees provided here shall be the minimum fees and nonrefundable. If the ARB retains an outside consultant on an application, the applicant will be responsible for all costs and expenses incurred.

E.H. The fees and charges herein provided for shall supersede any other fees or charges heretofore established with respect to the particular item provided for herein, unless otherwise provided in this chapter.

## Article XV. Private Swimming and Wading Pools

### § 271-139. When permitted.

- A. A plot or parcel of land may be used and a permanent structure may be built and used upon said plot or parcel of land for a swimming pool as a special exception only when permitted by the Board of Appeals after a public hearing held upon such notice as hereinafter provided.
- B. A plot or parcel of land may be used for a plastic swimming or bathing pool subject only to the obtaining

of a permit as hereinafter provided.

- C. A plot or parcel of land may be used for a wading pool consistent with public health, safety and general welfare of the community.

## § 271-140. Definitions.

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

### **SWIMMING POOL, PERMANENT CONSTRUCTION**

Any body of water or receptacle for water having a depth at any point greater than four feet or which, regardless of depth of water, is, in whole or in part, so constructed, installed or maintained so as not to be easily and readily movable or portable or the materials of which have a gross weight in excess of 400 pounds, exclusive of water housed therein, used or intended to be used for bathing or swimming and constructed, installed and maintained in, upon or partly in and partly upon the ground outside a residential building on private property within the limits of the Incorporated Village of East Hills.

### **SWIMMING POOL, PLASTIC**

Any body of water or receptacle for water having a depth of four feet or less and which is easily and readily movable or portable and which is not of permanent construction, as defined above, used or intended to be used for bathing and swimming and installed and maintained entirely above the ground outside a residential building on private property within the limits of the Incorporated Village of East Hills.

### **WADING POOL**

Any body or receptacle for water having a depth of less than two feet, which is neither a permanent pool, as defined in this section, or a plastic pool, as defined in this section, used or intended to be used for wading, and installed and maintained entirely above the ground outside a residential building on private property within the limits of the Incorporated Village of East Hills.

## § 271-141. Required findings for issuance of permission.

The Board of Appeals, in considering an application for a swimming pool of permanent construction, shall not grant the issuance of a permit under this provision unless it finds in each case that the proposed use of the plot or parcel of land and the structure to be erected, altered, used or maintained thereon will:

- A. Not adversely affect the public health, safety and general welfare.
- B. Be used for the use of the applicant, his or her family and guests.
- C. Not depreciate the value of the property in the area immediately adjoining the land being so used.
- D. Not alter the essential character of the neighborhood.

## § 271-142. Conditions applicable to all swimming pools except wading pools.

In order to safeguard the general safety of the community, particularly the children thereof, and to ensure the public health of the community generally, the following specific conditions are hereby imposed on all swimming pools of permanent and plastic construction:

- A. Any electric wiring for lighting or otherwise, other than for lighting which is part of and enclosed in said pool structure, shall not be closer than 15 feet in height when measured vertically from a point no less than 15 feet outward from the inside edge of the pool.



- B. ~~Said A~~ pool, whether of permanent or plastic construction, shall be located not closer than 20 feet to any cesspool or dry well, excluding roof-leader dry wells, on own or adjacent property.
- C. All installations of pools, as ~~herein~~ defined in this chapter, shall be subject to any and all ordinances, rules and regulations now or hereinafter enacted by the Nassau County Department of Health or by the Health Department of the State of New York. Such pool shall be chemically treated in a manner sufficient to maintain the bacterial standards established by the provisions of the New York State Sanitary Code relating to public swimming pools.
- D. Any water from a public water supply shall be introduced into a swimming pool of permanent or plastic construction by means of a permanent rigid system of piping, having an air-gap-delivery connection of not less than six inches vertically above the flood rim of the pool and shall in every manner conform to Regulation 6 of Chapter VI of the New York State Sanitary Code.
- E. No swimming pool, whether of permanent or plastic construction, shall have a water capacity in excess of 7,500 gallons without a recirculating and filtering system of sufficient capacity to meet good public health and engineering practice.
- F. No swimming pool of permanent or plastic construction shall be installed and/or used in a front or side yard of any residential premises.
- G. Loudspeaker devices shall be prohibited, nor shall any lighting be installed in connection ~~therewith~~ with the pool which shall throw any rays beyond such property lines.
- H. Such pool cannot occupy more than 25% of the area of the rear yard.
- I. A permit, when issued, may also have endorsed thereon on it any such reasonable rules and regulations for the operation, maintenance and use of such pool as may be promulgated by the Board of Trustees.
- J. At the time when an application is made to the Board of Appeals for a special exception permit to construct a swimming pool, the applicant shall provide to ~~said the~~ Board a survey of ~~said the~~ property prepared by a licensed land surveyor or professional engineer showing the location of said pool as it has been or shall be marked or staked out. ~~Said The~~ survey shall include dimensions of ~~said the~~ pool and distances from all property lines and structures then located on ~~said the~~ plot or parcel of land. The applicant shall further state on ~~said the~~ application that the pool as located on ~~said the~~ survey does not require any change to be made due to the existence of any natural or man-made objects, including but not limited to trees, or the existence of any exceptional topographical conditions that would require the location of the proposed pool to be moved or otherwise relocated.

## § 271-143. Provisions applicable to swimming pools of permanent construction.

- A. A plot or parcel of land may be used for and there may be built upon ~~said the~~ plot or parcel of land a swimming pool of permanent construction, as a special exception, only when permitted by the Board of Appeals after a public hearing and subject to all of the following (see § 271-139):
  - 1) A fence, five feet in height, unless a different height shall be directed by the Board of Appeals, and of the chain link type shall be erected completely enclosing the pool. There shall be one opening through said fence, and this shall be by a gate or door of the same material as the fence equipped with a self-closing and self-latching device designed to keep and capable of keeping such door or gate closed at all times and locked when the owner or occupant of the premises is not present at such swimming pool. No adornment or screening of any kind or nature shall be permitted on said fence.
  - (2) No part of any pool shall be located within 20 feet of any property line.

- (3) The fence referred to in Subsection A(1) above shall be erected at least five feet from the edge of the pool. Said fence shall be at least 15 feet from any property line unless the Board of Appeals shall otherwise direct. The residence on the property shall be permitted to be one side of such fence. The term "edge of the pool" or "pool," as used in this section, shall mean the outside of the vertical walls of said pool or the outside edge of any coping around the walls of the pool.
- (4) A walkway of at least four feet in width shall be built on all sides of the pool.
- (5) All lighting accessory to said pool shall be located at a distance of at least two feet therefrom and shall conform to the Outdoor Lighting Ordinance<sup>[1]</sup> of the Village, except that underwater lighting may be part of the pool structure where so designated on the plans submitted to the Board of Appeals.  
[1] *Editor's Note: See Ch. 117, Lighting.*
- (6) Water drained from said pool shall be completely drained on the property where said pool is located and into a separate dry well, which shall not be located any closer than 20 feet to the nearest cesspool, whether on the property of the owner of said pool or on the adjoining property.
- (7) Any dry well used for the disposal of wastewater from ~~said the~~ pool shall be constructed in a manner prescribed by ordinance of the Village and the Building Code<sup>[2]</sup> of the Village with respect to cesspools and shall have a capacity of at least twice the amount of water discharged during normal backwash operation but shall in no case have less than a ten-foot vertical side wall and an eight-foot diameter. When other drains are connected, the size of such dry well shall be proportionately increased to the satisfaction of the Building Inspector. No wastewater, other than from the pool, shall discharge into such dry well, and no wastewater from any pool shall discharge into a septic tank, cesspool or other sewerage disposal system.

[2]

*Editor's Note: See Ch. 223, Building Construction.*

- (8) All applications and the plans submitted in connection ~~therewith~~ with them shall indicate the approval of the Roslyn Water District or other governmental agency having jurisdiction of the local water supply.
- (9) All plumbing work must be performed by a master plumber having a license issued by the Incorporated Village of East Hills.
- (10) Application. Every application for a permit for a swimming pool of permanent construction shall be accompanied by plans in duplicate in sufficient detail to show:
  - (a) Location and size of the plot.
  - (b) Location of all structures and improvements on the plot.
  - (c) Location of the site in relation to adjacent properties.
  - (d) Location of all cesspools within 50 feet of pool or pool dry wells.
  - (e) Size of pool, including dimensions, design and elevation thereof, drainage, sewerage, sanitary facilities, safety walkways around pool, fences and location thereof in relation to said pool and property lines.
  - (f) Location of all electrical wiring and lines.
  - (g) Computation showing percentage of land usages.
  - (h) Breakdown of estimated cost used in application.
  - (i) All heaters and filters used in or connected with the operation of the pool shall be located and placed immediately adjacent to the residence of the applicant or not closer than 75 feet from any and all other residences.

- (11) Structural plans for ~~said a~~ pool and its fixtures, equipment and appurtenances shall be submitted as part of the application. The plans must be prepared and signed by a registered architect or shall be accompanied by a certification ~~of the same~~, in writing, by a professional engineer licensed by the State of New York to the effect that he ~~or she~~ has personally examined the plans and the site, that the plans and specifications are sound and adequate and that the drainage of said pool is adequate and will not interfere with the public water supply system, with existing sanitary facilities or with the public highways.
- (12) There shall be submitted with every application a statement, in writing, by the applicant in substantially the following language: "I/We consent to the provisions of § 271-146 of the Code of the Village of East Hills and agree to ~~comply permit such~~ at all times."
- (13) Every pool shall be constructed in such a manner so as to permit the pool to be securely covered during such time as the use of said pool has been seasonally discontinued. The covering of such pool shall be by a cloth or other substance of sufficient strength to prevent the same from tearing or ripping when a weight of not more than 175 pounds is placed on any part thereof.
- (14) No change in the location of the pool or any of its equipment, fixtures or appurtenances, as shown on the application as granted, shall be made without the express written consent and approval of the Board of Appeals after a public hearing ~~is held thereon~~.
- (15) Not later than one year after the issuance of a certificate of occupancy for the swimming pool, and yearly thereafter, the owner or occupant of any parcel of property on which ~~said the~~ pool is located shall make application for a permit for the continued use of such pool. Such application shall be made on forms to be approved by the Board of Trustees and obtained from the Village Clerk and shall contain ~~such~~ information as may be requested ~~thereby~~, and every ~~such~~ application, in addition to other required information, shall state, under oath, that:
- (a) No change has been made in the structure, equipment or appurtenances of said pool, except such as were specifically permitted by a written resolution of the Board of Appeals;
  - (b) Said pool has been used only in accordance with the resolution of the Board of Appeals granting the special exception therefor; and
  - (c) Said pool and all of its equipment and appurtenances is structurally sound and in safe operating condition and meets the requirements of any and all governmental agencies' laws, rules and regulations affecting or pertaining to the maintenance, use and operation thereof.
- (16) In the event that, due to the topographical condition of the rear yard, it shall be impossible to construct any pool ~~therein~~, the Board of Appeals shall have the power, notwithstanding the provisions of § 271-142F, to permit not more than 25% of the pool area to be located in the side yard; subject, however, to all of the other restrictions and conditions contained in this chapter or any other ordinance, and subject to such other conditions as the Board of Appeals may impose. Whenever any parcel of land shall have frontage on more than one street, all portions of the yard fronting on any such street shall be considered to be front yard.
- (17) No pool shall be used or operated without a permit having been issued in accordance with the provisions of this section. Each application for a permit shall be accompanied by a fee of \$25. Upon the approval of such application and payment of the fee, the Village Clerk or Deputy Village Clerk shall issue a permit for the use and operation of said pool. Each such permit shall be for one year, beginning June 1. At any time after issuance of such permit, the Building Inspector may cause an inspection to be made of said pool, its fixtures, equipment and appurtenances, including but not limited to the fence and pool cover. If, as a result of such inspection, it shall appear that any matter set forth in the application is untrue or if the building inspector or designee shall find any unsafe, hazardous or unhealthy condition in or in connection with such pool, he or she shall cause written

notice to be mailed to the owner and/or occupant of ~~said the~~ property setting forth the findings of the inspection, together with notice that, if the matters complained of are not corrected within 10 days from the date of mailing of ~~such the~~ notice, the permit will be revoked. In any event, the Building Inspector shall cause an inspection to be made of every such pool in the Village at least once in every two-year period.

[Amended 3-15-1993 by L.L. No. 1-1993]

- (18) No pool shall at any time be used or operated contrary to the provisions hereof, and a violation of any provision or condition hereof shall be punishable by a fine of not more than \$250 against the owner and/or occupant of the property, and each day that the pool is used in violation thereof shall constitute a separate offense, and in addition thereto, each such owner and/or occupant is declared to be a disorderly person.
- (19) A fee of \$60 shall accompany the application for a swimming pool of permanent construction or for any application under Subsection A(14) hereof, plus the additional fees payable for construction of a structure under Article XIV of this chapter.
- (20) Bond. A surety bond in the sum of \$500 shall be posted by each applicant to guarantee the reimbursement to the Village for any damages sustained to its highways or other property arising out of the construction of such swimming pool.

## § 271-144. Provisions applicable to plastic swimming pools except wading pools.

The following provisions shall apply to pools of plastic construction, excluding wading pools:

- A. A fence designed to prevent small children from inadvertently wandering into the pool shall be erected completely enclosing the plastic pool or rear yard, or the pool may be securely covered when not in use. If fenced, there shall be but one opening through said fence, and this shall be by a gate or door equipped with a self-closing and self-latching device designed to keep and capable of keeping such door or gate securely closed at all times and locked when the owner or occupant of the premises is not present at such pool. When erected around the plastic pool, ~~said a~~ fence shall be at least five feet from the edge of any pool and at least 10 feet from any property line and 10 feet from any residential building, except that the applicant's house can be the fourth side of the fence.
- B. No plastic pool shall be placed closer than 10 feet to any lot line.
- C. Water drained from said pool shall be completely drained on the property where said plastic pool is located. No wastewater shall discharge into a septic tank, cesspool or other sewerage disposal system.
- D. Application. Applications for permits for pools of plastic construction, excluding wading pools, shall be accompanied by a drawing in sufficient detail to show:
  - (1) Location and size of the plot.
  - (2) Location of the plastic pool site.
  - (3) Location of all cesspools within 50 feet of the pool. Location of all
  - (4) electrical lines.
- E. A fee of \$5 shall accompany the application.

## § 271-145. Conditions applicable to wading pools.

The following provisions shall apply to wading pools:

- A. Water drained from said pool shall be completely drained on the property where said wading pool is located.
- B. No wading pool shall be placed closer than 10 feet to any lot line.
- C. Permit. No permit is required.
- D. Fee. No fee is required.

## § 271-146. Enforcement.

- A. The Building Inspector is ~~herewith~~ charged with the duty of enforcing this article, and it is ~~herewith~~ specifically provided that the Building Inspector shall have the authority to enter upon any private premises in the Incorporated Village of East Hills for the purpose of determining whether or not the provisions and requirements of this article have been complied with in the construction or maintenance of any swimming pool of permanent construction or plastic or wading pool.
- B. Any and all pools of any nature whatsoever requiring structures above ground shall be supported in a safe and substantial manner and shall conform to the Building Code<sup>[1]</sup> of the Incorporated Village of East Hills and shall be subject to approval by the Building Inspector.

[1] *Editor's Note: See Ch. 223, Building Construction.*

## § 271-147. Penalties for offenses.

The violation of this article shall be punishable as provided in Article XIII, § 271-137, of this chapter, as it presently provides or as ~~hereafter~~ amended.

## Article XVI. Nonresidential Swimming Pools

### § 271-148. Where permitted.

In any residence district, a plot or parcel of land, ~~hereinafter~~ referred to as the "property" or the "land," having an area of more than one acre, ~~now or hereafter~~ used principally as a church or similar place of worship, in connection with which such use a school for the religious instruction of children is regularly maintained and operated or which such property is used principally as an elementary or secondary parochial school under the supervision of the Board of Regents of the State of New York, and in connection with which such principal use a day camp is operated and maintained by such church, house of worship or parochial school, may, as a special exception, but only when permitted by the Board of Appeals after a public hearing held upon ~~such~~ notice as ~~is hereinafter~~ provided, construct, maintain and use on such property a swimming pool and/or a wading pool and/or a bathhouse, subject to the limitations hereinafter set forth.

### § 271-149. Definitions.

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

#### BATHHOUSES

A building or structure, permanent or temporary, constructed of materials in accordance with any other ordinance of the Village of East Hills pertaining to structures and being in all respects a safe structure in the opinion of the Building Inspector of the Village of East Hills and containing ~~therein~~ lockers, dressing compartments, showers and sanitary facilities.

## CHILDREN

Male or female persons not younger than three years of age and not older than 16 years of age.

## DAY CAMP

A summer camp for children operated, used, conducted and maintained by an elementary or secondary parochial school, church or similar place of worship, the principal purpose of which camp is the physical, moral and religious education and development of the children enrolled in such day camp. Nothing herein contained shall be deemed to limit the enrollees of such camp to any race, creed or color nor membership in any church or similar place of worship.

## SWIMMING POOLS

Any body of water or receptacle for water of permanent construction and having a depth at any point greater than four feet, used or intended to be used for bathing or swimming, and constructed and installed so that no part or portion of the same shall, at any point, extend more than 12 inches above grade.

## WADING POOLS

Any body of water or receptacle for water of permanent construction and having a depth which does not, at any point, exceed three feet, used or intended to be used for bathing or swimming and constructed and installed so that no part or portion of the same shall, at any point, extend more than six inches above grade.

## § 271-150. Required conditions.

The Board of Appeals, in considering an application for a swimming pool, wading pool or bathhouse, shall not grant the issuance of a special exception therefor unless it shall find, in each instance, that the proposed use of said property for such purposes will not:

- A. Adversely affect the public health, safety and general welfare.
- B. Depreciate the value of the property in the area immediately adjoining the property being so used.
- C. Alter the essential character of the neighborhood.

## § 271-151. Prohibited conditions.

The application for such special exception shall state and the special exception, if granted, shall provide that:

- A. A day camp is operated and maintained and will continue to be operated and maintained by the applicant for the purposes provided for in § 271-148.
- B. The number of children enrolled in such day camp shall at no time exceed 500 in number.
- C. No ~~such~~ pool or bathhouse shall, at any time, be used by any person or persons other than children duly enrolled as day campers and the persons then employed for and at such times engaged in supervising such children as are then actually using such pool or bathhouse.
- D. No pool or bathhouse shall be operated, used or maintained in a manner contrary to any federal, state, county, town or water district law or ordinance having jurisdiction over the same, but no such law or ordinance shall extend or permit the use of the same beyond the limitations herein provided for.
- E. No pool or bathhouse shall be used more than five days in each week, Saturdays and Sundays excluded, and the hours of use shall be not earlier than 9:00 a.m. nor later than 5:00 p.m.
- F. No pool or bathhouse shall be used prior to June 15 nor later than Labor Day in any year.



- G. No pool or bathhouse shall be erected or connected upon the property within 50 feet of any side or rear property line or within 100 feet of any front line and shall not be placed closer than 100 feet from any building, except a bathhouse building, and no part of any pool or bathhouse shall be constructed or erected in or project into any side yard.
- H. The Board of Appeals may impose such additional limitations or restrictions as, in its discretion, it may deem necessary or appropriate.

## § 271-152. Inspections.

As a condition precedent to the granting of any special exception ~~hereunder~~, the applicant shall file, together with the application, an irrevocable consent, in form and content satisfactory to the Board of Trustees, giving to said Board of Trustees and any person so designated by said Board the right to enter upon the property for the purpose of inspecting the property and its use for such day camp or pool and the investigation of any complaint made with respect ~~thereto~~ to the day camp.

## § 271-153. Term of exception; revocation.

Any special exception granted pursuant to this article shall be for a period of one year from the date of granting and shall thereafter continue from year to year unless the Board of Trustees shall, for good cause, revoke or cancel the same. Violation of any provision, prohibition, condition or limitation contained in this article shall, in and of itself, constitute good cause for revocation or cancellation. The Board of Trustees shall give notice of a revocation or cancellation hearing, which hearing shall be held on not less than 10 days' notice to the then owners or user of the property, and which notice shall be in writing and shall set forth the grounds for such proposed revocation or cancellation, and such notice shall be sent by registered or certified mail, return receipt requested, and shall be mailed not later than 10 days prior to the hearing date therein specified.

## § 271-154. Safety precautions.

In order to safeguard the general safety of the community and particularly the children thereof and the children using said pool or pools and to ensure the public health of the community generally, the following additional, specific conditions are hereby imposed on all pools:

- A. See § 271-142A.
- B. No such pool shall be closer than 30 feet from any cesspool, septic tank, sanitary sewer line or dry well, excluding roof-leader dry wells of any bathhouse.
- C. See § 271-142C.
- D. Any water from a public water supply shall be introduced into a pool by means of a permanent, rigid system of piping, having an air-gap-delivery connection of not less than six inches vertically above the flood rim of the pool and shall in every manner conform to Regulation 6 of Chapter VI of the New York State Sanitary Code.
- E. Every pool shall have a recirculating and filtering system of sufficient capacity to meet good public health and engineering practice, and no pool shall be used during any time that such filtering system is not in operation.
- F. See § 271-142G.
- G. No pool, pools or bathhouse, either singly or in combination, shall occupy more than 10% of the area of the rear yard.



- H. A fence at least five feet in height and of the chain link type shall be erected, completely enclosing the pool or pools. There shall be only one opening through ~~said the~~ fence, and this shall be by a gate or door equipped with a self-locking and self-latching device designed to keep and capable of keeping such gate or door securely closed at all times and locked when the pool is not in actual supervised use. ~~Said The~~ fence shall be erected at least 10 feet from the edge of any pool and at least 40 feet from any property line. Adornment of any nature shall not be permitted on any part of ~~such the~~ fence, nor shall shrubs or plantings be permitted which would, in any way, screen the view of any ~~such~~ pool.
- I. A cement walkway of at least 10 feet in width shall be built on all sides of any pool.
- J. All lighting, accessory to any pool, shall be located at a distance of at least five feet therefrom and shall conform to the Outdoor Lighting Ordinance<sup>[1]</sup> of the Village.  
[1] *Editor's Note: See Ch. 117, Lighting.*
- K. Water drained from any pool shall be completely drained on the property where such pool is located and into a dry well which shall not be located any closer than 20 feet to the nearest cesspool, septic tank or sanitary waterline, whether on the property of the owner of such pool or on the adjoining property.
- L. See § 271-143A(5).
- M. See § 271-143A(6).
- N. See § 271-143A(7).

## § 271-155. Application procedure.

- A. Every application for a special exception for a swimming pool, wading pool or bathhouse, whether singly or in any combination, shall be in writing and shall be accompanied by proof of service of written notice to all property owners in the Village of East Hills owning property within 200 feet of any property line of the applicant's property, together with plans in duplicate in sufficient detail to show:
  - (1) Location and size of the entire plot.
  - (2) Location of the site in relation to owners of property within 200 feet of the said property.
  - (3) Location and size of all existing buildings and structures on the property.
  - (4) Location of all cesspools, septic tanks and sanitary sewer lines within 50 feet of any pool or pool dry well.
  - (5) Size and location of pool or pools, constructions and additions, including dimensions, design and elevation thereof, drainage, sewerage, sanitary facilities and safety walkway around pool, fences and location thereof in relation to such pool.
  - (6) Location of all electrical wiring and lines.
  - (7) Computation showing percentage of land used.
  - (8) Breakdown of estimated cost used in the application.

- B. Any and all plans must be prepared or approved and signed by a registered architect and shall be accompanied by a certification by a professional engineer, licensed by the State of New York, that the drainage of any pool is sufficient and will not interfere with the public water supply system or with existing sanitary facilities or with the public highways.

## § 271-156. Fees.

Fifty dollars shall accompany the application for each pool and each additional structure, plus the additional fees payable for construction of a structure, including pools, established by Article XIV of this chapter.

## § 271-157. Bond.

A surety bond in the sum of \$~~500~~750 shall be posted by each applicant to guarantee the reimbursement to the Village for any damages sustained to its highways or other property arising out of the construction of any pool or bathhouse.

## § 271-158. Enforcement.

The Building Inspector is ~~hereby~~ charged with the duty of enforcing this article, and it is herewith specifically provided that the Building Inspector shall have the authority to enter upon any private premises in the Incorporated Village of East Hills for the purpose of determining whether or not the provisions and requirements of this article have been complied with in the construction, use or maintenance of any pool or bathhouse.

## § 271-159. Aboveground structures.

Any pool or bathhouse requiring any structure above ground shall be supported in a safe and substantial manner and shall conform to the Building Code<sup>[1]</sup> of the Incorporated Village of East Hills and shall be subject to approval by the Building Inspector.

[1] *Editor's Note: See Ch. 223, Building Construction.*

## § 271-160. Penalties for offenses.

Violation of this article shall, in addition to any remedies or penalties hereinbefore provided for, also be punishable as provided in § 271-137 and all subsections ~~thereof~~, as it presently provides or as may ~~hereafter~~ be amended.

## § 271-161. Notice of hearing.

Notice of public hearing on an application for any special exception, as herein provided for, shall be given by the Village Clerk by the publication of a notice in the official newspaper of the Village specifying the time when and the place where such hearing will be held and in general terms describing the application. ~~Such~~ The notice shall be published once at least seven days prior to the date specified for such hearing. In the event that ~~such~~ the hearing shall not be concluded on the day so noticed or if such public hearing shall be adjourned, no further notice or publication shall be required.

## Article XVII. Athletic Courts

## § 271-162. When permitted.

[Amended 11-17-2003 by L.L. No. 4-2003]

In a residence district, a plot or parcel of land improved with a single-family residence may be used for the construction, use and maintenance of one athletic court, as a special exception, only when permitted by the Board of Appeals, after a public hearing and subject to all of the following.

## § 271-163. Application procedure.

[Amended 11-17-2003 by L.L. No. 4-2003]

Every application for an athletic court shall be accompanied by a plot plan, drawn to scale, together with plans in duplicate, in sufficient detail to show:

- A. Location and size of the plot.
- B. Location of the site of the proposed athletic court in relation to adjoining properties.
- C. Computation showing percentage of land proposed to be used for the athletic court and existing improvements.
- D. Breakdown of estimated cost used in application.
- E. Location and size of all existing improvements on the plot.
- F. Nature and type of materials to be used for the playing surface of the athletic court.
- G. A fee of ~~\$250~~ \$350 plus the additional fees payable for the construction of a structure as set forth in Article XIV of this chapter.
- H. A surety bond in the sum of \$1,000 shall be posted by the applicant to guarantee reimbursement to the Village for any damage sustained to its highways or other property arising out of or in connection with the construction of the athletic court.
- I. At the time when an application is made to the Board of Appeals for a special exception permit to construct an athletic court, the applicant shall provide to the Board a survey of the property prepared by a licensed land surveyor or professional engineer showing the location of the athletic court as it has been or shall be marked or staked out. The survey shall include dimensions of the athletic court and distances from all property lines and structures then located on the plot or parcel of land. The applicant shall further state on the application that the athletic court as located on the survey does not require any change to be made due to the existence of any natural or man-made objects, including but not limited to trees, or the existence of any exceptional topographical conditions that would require the location of the proposed athletic court to be moved or otherwise relocated.

## § 271-164. Criteria for issuance of approval.

[Amended 11-17-2003 by L.L. No. 4-2003]

The Board of Appeals, in considering an application for an athletic court, shall not grant the application unless it finds, in each instance, that the proposed use of the plot or parcel of land and the fence to be erected will:

- A. Not adversely affect the public health, safety and general welfare.
- B. Not depreciate the value of the property in the area immediately adjoining the land being so used.
- C. Not alter the essential character of the neighborhood.
- D. Be used solely for the use of the applicant, his family and guests.
- E. Not interfere with the use and enjoyment of the adjoining properties by the owners or occupants thereof.

## § 271-165. Limitation on number of courts.

[Amended 11-17-2003 by L.L. No. 4-2003]

Only one athletic court shall be permitted on the subject premises.

## § 271-166. Location.

[Amended 11-17-2003 by L.L. No. 4-2003]

The athletic court and any fence enclosing any part of the athletic court shall be located entirely within the rear yard. Where any parcel or plot has frontage on more than one street, any yard facing that street shall be deemed to be a front yard.

## § 271-167. Setbacks from rear or side lot lines.

[Amended 11-17-2003 by L.L. No. 4-2003]

No part of the athletic court or any fence enclosing any part of it shall be located within 20 feet of any rear or side lot line.

## § 271-168. Fences.

The tennis sports court shall be enclosed by a chain link fence, and the fence fabric shall be covered with a green plastic coating. Such part of the fence as is parallel to or follows generally the rear house line may have such opening or openings as the owner may deem appropriate. The fence shall have a height of not less than eight feet nor more than 10 feet above the natural grade of the land at the places where erected. The end and corner posts of the fence shall be two-and-one-half-inch-inside-diameter galvanized pipe with a wall thickness of not less than 0.203 of an inch. Line posts shall be two-inch-diameter galvanized pipe with a wall thickness of not less than 0.154 of an inch. There shall be three horizontal rails running between the vertical pipes situated at the top, center and bottom of the chain link fabric, and said rails shall be one-and-one-fourth-inch-inside-diameter galvanized pipe having a wall thickness of 0.14 of an inch. The distance between posts shall not exceed 10 feet. No covering or decoration of any kind shall be attached to any fence other than living plants.

## § 271-169. Landscaping.

[Amended 11-17-2003 by L.L. No. 4-2003]

The athletic court and all fencing surrounding the athletic court shall be completely screened from adjoining properties by a living screen of evergreen trees which shall have a height of at least eight feet when planted and shall be planted five feet on center between the fencing enclosing the athletic court, and all the lot lines of the plot on which the athletic court is located, except only that side of the athletic court which faces the dwelling. The trees shall be maintained and replaced so long as the fencing remains on the premises.

## § 271-170. Drainage.

[Amended 11-17-2003 by L.L. No. 4-2003]

The height of the playing surface of the athletic court shall not be above the existing mean level of the ground immediately adjoining the athletic court area prior to its construction, and the athletic court shall be so constructed and maintained so as to prevent any drainage or surface water from flowing onto any adjacent properties or streets.

## § 271-171. Restrictions on use.

[Amended 11-17-2003 by L.L. No. 4-2003]

The athletic court shall be used only by the residents of the dwelling on the subject property and their guests. Said athletic court shall not be used prior to 9:00 a.m. of any day nor later than sunset of any day. No lights or other illumination of any kind shall be installed, used or maintained in connection with the use or maintenance of the athletic court, nor shall any loudspeaker or sound-amplification device or system be permitted.

## § 271-172. Enclosure of courts prohibited.

[Amended 11-17-2003 by L.L. No. 4-2003]

The athletic court shall be an outdoor athletic court only, and no part of the same shall be housed or enclosed by any enclosure, covering, roof or any other device, whether of a temporary or permanent nature.

## § 271-173. Control of noise required.

It shall be the duty of the occupant of the premises to avoid and prevent any noises, whether made by people or any other means, which may disturb the peace and tranquility of the neighborhood or interfere with the repose and comfort of the occupants of any adjoining or abutting dwelling.

## § 271-174. Proof of notice to adjacent owners required.

[Amended 11-17-2003 by L.L. No. 4-2003]

Not later than seven days prior to the public hearing, the applicant shall file with the Village Clerk proof of service of written notice to the owners of all parcels of land within a radius of 200 feet from all the boundary lines of the applicant, which notice shall be given by registered or certified mail, return receipt requested, and shall state the date of the hearing and the nature of the application.

## § 271-175. Publication of notice.

Notice of public hearing on any application for a special exception as herein provided shall be given by the Village Clerk by the publication of a notice in the official newspaper of the Village specifying the time when and the place where such hearing will be held and in general terms describing the application. ~~Such a~~ notice shall be published once at least seven days prior to the date specified for ~~such the~~ hearing. In the event that ~~such the~~ hearing ~~shall is~~ not ~~be~~ concluded on the day so noticed or if ~~such the~~ public hearing shall be adjourned, no further notice or publication shall be required, provided that the adjourned or continued date be announced at ~~said the~~ hearing.

## Article XVIII. Conditional Uses in Light Industrial District

[Added 10-21-1985 by L.L. No. 5-1985; amended 4-6-1987 by L.L. No. 1-1987]

## § 271-176. Applicability.

The provisions of this article shall apply to the Light Industrial District.

## § 271-177. Recreation complexes.

In the Light Industrial District, a building may be erected, altered or used or a lot or premises may be used for a recreational complex consisting of indoor or outdoor facilities, including, but not limited to, swimming pool,

gym and health club facilities, tennis, squash, handball, racquetball and badminton courts, together with related community service facilities, meeting room facilities, provided that the same is operated by an association, not-for-profit corporation or membership corporation not operating as a gainful business, and shall be a tax-exempt organization pursuant to the Internal Revenue Code as evidenced by a ruling or determination from the Internal Revenue Service.

## § 271-178. Procedures and standards.

The Village Board of Trustees, in addition to the powers and duties set forth in the Village Law and as ~~hereinafter~~ set forth in this article, may in a specific case, after public notice and hearing and subject to appropriate conditions and safeguards, authorize the issuance of a conditional use permit in harmony with the general purpose and intent as provided for ~~herein~~ in the provisions which follow.

- A. In the consideration and determination of applications for conditional uses, the Board of Trustees shall consider the following general standards applied to the specific application:
- (1) The purposes of zoning as set forth in the Village Law of the State of New York and uses permitted in the district in which the property is located.
  - (2) Whether the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties, and that ~~the same~~ is landscaped and appropriately buffered.
  - (3) Whether the proposed use will provide a desirable service, facility or convenience to the area or otherwise contribute to the proper growth and development of the community and to its general welfare, and that environmental compatibility is assured.
  - (4) Whether the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of persons or vehicles, proximity to travel routes or congregations of children or pedestrians.
  - (5) Whether the proposed use will be ~~of such nature as to be~~ objectionable to nearby residential dwellings by reason of noise, lights or other factors of impact.
  - (6) Whether the proposed use will be a harmonious use in the district in which it is ~~to be~~ situated and will not hinder or discourage the appropriate use and development of adjacent uses or impair the value ~~thereof~~, and that all of the structures on the site are and shall be readily accessible to fire and police services, and that said structures comply with the Village Building Code and the State of New York

Building and Fire Code.<sup>[1]</sup>

[1] *Editor's Note: See Ch. 223, Building Construction.*

- B. In addition ~~to the foregoing~~, the Board of Trustees shall either by its own study and investigation or based upon study and investigation and recommendation of the Village Planning Board determine the nature and intensity of the proposed use, the proposed site layout and its relation to adjacent properties, street access, vehicular traffic flow, sight distance and pedestrian traffic pattern in order that traffic and other hazards be controlled to provide maximum safety.
- C. If the Board of Trustees shall determine that the conditional use provided in this article will conform to the general character of the neighborhood to which the proposed use will apply and that the public health, morals, safety and general welfare of such neighborhood will be secure by the granting of ~~such the~~ use, subject to safeguards imposed by the Board, then the Board shall authorize the issuance of a permit pursuant to this article. Such permits may be granted for a temporary period or permanently, as determined by the Board, and if granted for a temporary period, application for extension ~~of same~~ shall be subject to public hearing as required in the original application.
- D. Before an application for a conditional use may be heard by the Board, a complete and accurate list of the names and addresses of the owners of all the lands within a radius of 200 feet of the property affected by such application as appear on the latest completed assessment roll of the County of Nassau shall be submitted simultaneously with the application, the applicant shall send, by registered or certified mail, to each owner shown on said list, not less than 10 days nor more than 20 days before the date set for a hearing upon this application, a notice addressed to such owners generally, signed by the applicant, identifying the property affected ~~thereby~~ and setting forth the use requested and the date, hour and place fixed by the Board of Trustees for the hearing thereon. Before such case may be heard by the Board, the applicant must file with the Clerk of the Board, not later than five days prior to the hearing date, an affidavit of the mailing of such notices as ~~herein~~ provided in these provisions, said affidavit to be made on forms to be provided by the Board. The provision shall ~~likewise also~~ apply to any application for the extension of a temporary conditional use.
- E. If the Board of Trustees finds that an application for the conditional use provided in this article or proposed and requested in ~~said the~~ application will not conform to the general character of the neighborhood to which the proposed use will apply and that the public health, morals, safety and general welfare of such neighborhood will not be secured by granting such conditional use, then the Board shall deny such application, anything in this article to the contrary notwithstanding.
- F. If upon an application for extension of a conditional use permit the Board finds that the applicant has violated the conditions imposed in the granting of same or if the Board finds that, because of a change in the general character of the neighborhood, the public health, safety, morals and general welfare will be adversely affected by the extension of such conditional use, then the Board may deny an application for extension of such conditional use, anything in this article to the contrary notwithstanding.

## Article XIX. Dish Antennas

[Added 6-12-1989 by Ord. No. 2-1989]

### § 271-179. Intent and purpose.

The Board of Trustees of the Incorporated Village of East Hills has become concerned about the effect dish antennas could have on the welfare and safety of the Village. The Board finds that, unless regulated, dish antennas can be installed in a manner which would have an adverse impact on the use and enjoyment of surrounding properties, including a diminution of property values. If improperly installed, dish antennas could create a safety hazard. The intent and purpose of this article is to establish a procedure and criteria to avoid the adverse impacts of the installation and maintenance of dish antennas and to preserve the character, safety and general welfare of the municipality.



## § 271-180. Definitions.

For the purpose of this article, the terms used ~~herein~~ are defined as follows:

### DISH ANTENNA

Satellite antennas, parabolic discs, hemispheric discs or other similar antennas, the purpose of which is to receive television, radio and/or microwave or other similar signals.

## § 271-181. Special exception accessory structures.

Dish antennas shall be special exception accessory structures under the East Hills Zoning Law. No person shall cause, suffer or permit the erection, construction, installation, relocation and/or maintenance of any dish antenna in the Incorporated Village of East Hills without first applying for and obtaining a special exception accessory structure permit as set forth in this chapter.

## § 271-182. Application for permit; issuance.

Application for a special exception accessory structure permit shall be made to the Board of Appeals. Plans and sketches shall be submitted by the owner or his designated representative only. ~~Said~~ The plan shall show the location of all structures and other physical improvements on the subject premises, the proposed location of the dish antenna with proposed screening and the distance of the antenna from the structures and improvements and all property lines. Any proposed new landscaping shall be depicted. The applicant shall present documentation of the possession of any required license by any federal, state or local agency. No building permit shall be issued by the Building Inspector for the installation of any dish antenna; except, after an approval is obtained under this chapter from the Board of Appeals, § 271-131 shall also apply.

## § 271-183. General conditions.

- A. The dish antenna shall be considered an accessory structure requiring compliance with all minimum setback and other requirements of the Zoning Code of the Village and the Uniform Fire Prevention and Building Construction Code.
- B. No more than one dish antenna shall be erected constructed, installed or maintained on a single lot or premises.
- C. Location.
  - (1) All dish antennas shall be located on the ground.
  - (2) No dish antenna shall be located on any trailer or portable device.
  - (3) No dish antenna shall be connected to or placed on any roof, building or part ~~thereof~~ roof or building.
  - (4) All dish antennas shall be located in rear yards only, unless practical difficulty, severe economic hardship or detriment to the character of the neighborhood is proved.
- D. All dish antennas shall be screened from the roadway and adjoining property owners with fencing or foliage or a combination ~~thereof~~, of such height and density so as to screen the antennas from the roads and adjoining property owners during the entire year. The Board of Appeals may condition any approval on receipt and approval of a separate landscaping plan.
- E. A dish antenna shall not at any point, nor shall any part of the antenna, including any platform or structure upon which it is mounted or affixed, be elevated to or reach a height of more than six feet above the natural grade of the subject premises. In no event shall the natural grade be changed by any means in order to increase the elevation of the dish antenna.

- F. The diameter or width of a dish antenna shall not exceed four feet.
- G. The use of any illumination for a dish antenna is strictly prohibited.
- H. All connections to a dish antenna shall be made so that any wiring or supporting cables will not be visible from the street.
- I. All dish antennas shall meet all manufacturer's specifications, be noncombustible and of corrosive-resistant material, be erected in a secure wind-resistant manner and be adequately grounded for protection against a direct strike of lightning.
- J. Anything ~~herein~~ contained to the contrary notwithstanding, any other provision of this Code applicable to any accessory structure which is more specific or restrictive shall supersede the provisions of this article and apply in place thereof.

## § 271-184. Penalties for offenses.

Upon conviction of any violation of this article, the penalties provided for in § 1-3 of this Code shall apply.

## Article XX. Architectural Review Board Requirements and Review

[Added 2-28-2005 by L.L. No. 2-2005]

## § 271-185. Title; purpose.

The purpose is to protect and preserve the character of the community as specified in the language of the statute which is incorporated into the local law. This article shall be known as and may be cited as the "Architectural Review Act, Code of the Incorporated Village of East Hills."

## § 271-186. Legislative intent, policies and findings.

- A. It is the purpose of this article to preserve and promote the character, appearances and aesthetics of the Village, to conserve the property value of the Village by providing procedures for an Architectural Review Board (also referred to as the "ARB") review of the exterior of new construction and of certain alterations, additions, reconstructions and site utilizations, and to promote the following objectives:
  - 1) To encourage beneficent building design and appropriate appearances, and to relate such design and appearances to the sites and surroundings of buildings;
  - 2) Preserve the prevailing aesthetic character of the neighborhood and its environs, and to enhance the character of the Village by ensuring compatible buildings;
  - 3) Promote and encourage the finest quality of architectural design and utilization of land when new buildings and new exteriors are constructed or erected, reconstructed, refurbished and altered;
  - 4) Assure the design and location of any proposed building, or the addition, alteration or reconstruction of any existing building, is in harmony with the existing topography of its site and the existing building as well as the neighboring properties;
  - 5) Discourage and prevent any design that would adversely affect or cause the diminution in value of

- neighboring property, whether improved or unimproved; and
- 6) Prevent design and appearances which are unnecessarily offensive to visual sensibilities, which impair the use, value, aesthetics or desirability of neighboring properties and/or the general welfare of the community at large

B. The Architectural Review Board is established to address the following:

- (1) Construction or alteration of buildings that may be visually offensive or inappropriate by reason of poor exterior design, monotonous similarity or striking visual discord, or dissimilarity in relation to their site or surroundings which would mar the appearances of their areas and would adversely affect the desirability of the immediate area and neighboring areas;
- (2) Construction or alteration of buildings that may discourage and prevent the most appropriate development and utilization of land throughout the Village; and
- (3) Construction or alteration of buildings that may impair the use, enjoyment, desirability and stability of both improved and unimproved property and can be detrimental to the character of neighborhoods, produce degeneration of the values of real property with attendant deterioration of conditions affecting the functioning, economic stability, prosperity and welfare of the inhabitants of the Village, and destroy a proper relationship between the taxable value of real property and the cost of municipal services provided.

- C. It is therefore the purpose of this article to prevent these and other harmful effects and thus to promote the general welfare of the community.

## § 271-187. Definitions; word usage.

- A. For the purposes of this Article XX, words used in the present tense include the future, words in the singular tense include the plural, and words in the plural tense include the singular; the word "shall" is mandatory; the word "lot" includes the word "plot."
- B. As used in this article, the following terms shall have the meanings indicated:

### COMMERCIAL/INDUSTRIAL FACADE ALTERATION

Applications to construct, reconstruct or otherwise alter the facade of any building in a Business Zone A, Business Zone B or Light Industrial Zone.

### INTERIOR ALTERATION

Any renovation or change which is made solely to the interior of a building, excluding repairs as defined in §271-7B.

### MAJOR ALTERATION (FOR THE PURPOSE OF ARB REFERRALS ONLY)

An application which involves (A) more than a twenty-percent addition either to the surface area of a facade or to the floor area of a building or structure, and/or (B) more than a fifteen-percent revision of either the surface area of the front elevation (inclusive of roof area) or the facade of an existing building or structure which faces the street. However, in calculating the percentages in (A) and (B) in this subsection, the size of any addition or revision made to the residence within the two years preceding the date of the application for a permit for such addition or revisions shall also be aggregated and included within these limits.

### MINOR ALTERATION (FOR THE PURPOSE OF ARB REFERRALS ONLY)

Each and every other residential application which is made and which is not a major alteration or new building construction, except for ordinary maintenance, replacement made with same materials and/or repairs to the building.

### NEW BUILDING CONSTRUCTION (FOR THE PURPOSE OF ARB REFERRALS ONLY)

An application to build a new building, structure, or to build an accessory building which is more than ~~80~~ 120 square feet in size, in all residential and commercial zones.

## § 271-188. Architectural Review Board composition and members.

- A. The Board of Trustees hereby creates an Architectural Review Board, which shall also be referred to as the "ARB."
- B. The Architectural Review Board shall consist of five members and three alternates, who shall serve without compensation and who shall be appointed by the Mayor. Each member of the Architectural Review Board shall be a resident of the Village of East Hills. The Mayor shall annually appoint one of the members as the Chairperson, and the Chairperson may, from time to time, appoint one or more deputy chairpersons, to act on behalf of the Chairperson. A secretary to the ARB will be appointed by the Mayor to keep minutes and provide authorizing signature on approved plans.  
(Amended November 2016).
- C. The terms of the members first appointed to the vacancies in the Architectural Review Board shall be fixed so that the term of three members and one alternate shall expire at the end of the

Village official year in 2016, and the terms of the remaining two members and two alternates shall expire at the end of 2017. At the expiration of the initial terms of each member and each alternate first appointed, his or her successor shall be appointed for a term of two years. (Amended November 2016).

- D. Any member of the Architectural Review Board who fails to attend more than four monthly meetings of the Architectural Review Board in any Village year shall be deemed to have unconditionally submitted his or her resignation from the Architectural Review Board to the Board of Trustees, effective as of the date of such member's last failure to attend a monthly meeting. In the event any such resignation is not accepted by the Board of Trustees, any future failure to attend an Architectural Review Board meeting during that Village year shall be deemed to be a new unconditional submission of his or her resignation from the Architectural Review Board to the Board of Trustees, effective as of the date of such member's last failure to attend a monthly meeting.
- E. Vacancies which occur shall be filled by the Mayor for the unexpired term of any member whose place has become vacant.
- F. Members shall endeavor at least once per annum with the Board of Zoning Appeals and Planning Board to exchange ideas, discuss pertinent issues, and critique the efforts of each of the bodies.

## § 271-189. Board meetings and procedures.

- A. Meetings of the Architectural Review Board shall be held monthly as determined by the Chairperson of the ARB and at such other times as the Chairperson shall establish. Five members of the ARB shall constitute a quorum for the transaction of business. The Chairperson may also create one or more subcommittees of the ARB and may delegate all or any part of the authority and responsibilities of the ARB to such subcommittee(s). The Chairperson shall appoint a subcommittee chairperson for each subcommittee, together with a secretary. Each subcommittee shall be comprised of three members and one alternate, and a quorum shall require three members present.
- B. An approved plan shall bear the signed seal of the Architectural Review Board or engineer who submitted it and shall bear the legend "Approved by Architectural Review Board, Incorporated Village of East Hills," with the date of approval and the signature of the Secretary of the ARB.
- C. Except as provided in § 271-191, no building permit shall be granted by any individual, department, board or other body of the Village without the prior approval of the Architectural Review Board which involves the following:
  - (1) A change in the exterior appearance of a building or other structure, as "structure" is defined in § 271-7 of this chapter (whether by means of a major alteration, minor alteration or commercial/industrial facade alteration), except for ordinary maintenance performed, replacement made with same materials and repairs made to the property.
  - (2) The demolition of a structure, other than an accessory structure which involves less than 1,000 square feet of floor area.
  - (3) The ARB shall not review applications that involve solely interior alterations.

- D. When a complete and accurate application, in final form, including all requisite plans, elevations, other documents, information required by the Architectural Review Board, and all of the requisite fees and deposits to the Village have been received, the Village Administrator shall forward ~~such~~the application to the Architectural Review Board.
- E. The Architectural Review Board shall have the following enumerated powers, in addition to such other powers as are set forth in §271-185 et seq.:
- (1) To propose modified procedures with regard to the procedure of its meetings.
  - (2) To propose modified procedures with regard to the information, documents and other submissions required of applicants, including, in its discretion, but not limited to, site plans, elevations, surveys, including topographic surveys and landscape plans, stormwater retention plans, samples of materials and colors, renderings, computer simulations, and photographs of the site, adjacent sites, and relevant other sites within the Village.
  - (3) To propose modified procedures with respect to minor alterations, including, without limitation, the waiver of the requirement of ARB approval of certain minor alterations, as shall be determined by the ARB from time to time.
  - (4) To either grant, grant with modifications, or deny permission to build, improve, construct or alter any structure which because of its architectural elements, colors, design, building materials, height, bulk, lack of setbacks, or insufficient landscaping, will be excessively similar, dissimilar or inappropriate in its design or in its exterior appearance in relation to the prevailing appearance of buildings in the vicinity thereof or adverse to the desirability of the immediate area or of neighboring areas for residential and commercial purposes.

F. Preliminary Application Review

It is the intent of a pre-application review procedure to provide the applicant with feedback regarding two Types of actions listed below. All other actions require a formal application to the ARB as defined in all parts of this Article.

(1) An applicant, prior to the submission of a formal application, shall have the opportunity to appear before the ARB for an informal "pre-application review". The intent of this procedure is to obtain feedback from the ARB on any proposed improvements and the applicable ARB review process. The informal pre-application process categorizes these informal submissions into two types – A or B, as follows:

- (a) Type A is limited to the review for a new dwelling. This will be for a pre-design precedence presentation to the ARB. A Type A pre-application presentation is to get feedback, not approval or guarantee, from the ARB an understanding of the neighborhood, key features, and address any concerns or questions that the ARB may have with the development of the structure, and an understanding of the type of architecture the applicant proposes for the dwelling. This is to assist in the predictability of the process and timing of new application.
- (b) Type B is limited to minor changes to features previously approved, and to amend the prior approval. If the Plans Examiner determines the modifications are minor, the ARB may approve the modification without public notice.

(2) Materials to be submitted for preliminary application review must be received by the building department at least five (5) business days prior to the ARB meeting at which time it will be heard. The following materials shall be submitted:

(a) For Type A preliminary application review:

- [1] Six (6) sets of: current pictures of the dwelling, including pictures of subject taken from across the street to illustrate general topography, foliage, and overall pictures of each of the five (5) nearest and adjacent residences (on same street as applicant);
- [2] Pictures of examples of type of home and style/classification intended to be designed for subject property;
- [3] Classification of style of home as defined in "A Field Guide to American Houses" by Virginia Savage McAlester (hereafter referenced as the McAlester book);
- [4] Design professional presentation explaining the site, style, and goals for the new dwelling;
- [5] Contextual, scalable and accurate color rendering, minimum size of 18 inches x 24 inches (optional).

(b) For Type B preliminary application review:

- [1] Six (6) sets of: updated renderings or exhibits and copies of the prior approved product and drawings, current pictures of the dwelling with enlargements of the item(s) under consideration, overall pictures of each of the five (5) nearest and adjacent residences (on same street as applicant), and cut sheets for the intended new materials/ products.



## § 271-190. Review and design standards.

- A. In considering an application, the Architectural Review Board shall take into account natural features of the site and surroundings, exterior design and appearances of existing structures, and the character of the neighborhood and its peculiar suitability for particular purposes, with a view to conserving the values of property and encouraging the most appropriate use of land.
- B. The Architectural Review Board may approve any application if the ARB finds that the building, structure or alteration, if constructed, erected, reconstructed or altered in accordance with the submitted plan, would be in harmony with the purpose of this chapter and the zoning laws, would not be visually offensive or inappropriate by reason of poor quality of exterior design, monotonous similarity or striking visual discord in relation to the sites or surroundings, would not mar the appearance of the area, would not impair the use, enjoyment and desirability and reduce the value of properties in the area, would not be detrimental to the character of the neighborhood, would not prevent the most appropriate utilization of the site or of adjacent land, and would not adversely affect the functioning, economic stability, prosperity, health, safety and general welfare of the entire community.
- C. In approving any application, the Architectural Review Board may impose appropriate conditions, requirements, covenants, warranties and safeguards designed to prevent the harmful effects set forth in § 271-186B.
- D. The Architectural Review Board may disapprove any application for a permit, provided that the Architectural Review Board has afforded the applicant an opportunity to confer at least one time with respect to suggestions for change of the plan or map, and provided that the Architectural Review Board finds and states that the structure or building for which the permit was requested would, if erected, constructed, reconstructed or altered as indicated, create one or more of the harmful effects set forth in § 271-186B hereof by reason of:
  - (1) Monotonous similarity to any other structure or building located or proposed to be located in the same subdivision or located within 200 feet of the lot on which the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:

- (a) Substantially identical facade, including color;
  - (b) Substantially identical size and arrangement of either doors, windows, porticos, porches or garages or other openings or breaks or extensions in the facade, including reverse arrangements; or
  - (c) Other substantially identical features, such as, but not limited to, setbacks from street lines, heights, widths and lengths of elements of building design, and exterior materials and treatments.
- (2) Striking dissimilarity, visual discord or inappropriateness with respect to other structures or buildings located or proposed to be located in the same subdivision or located within 200 feet of the lot on which the structure for which a building permit is requested, in respect to one or more of the following features of exterior design and appearance:
- (a) Facade, including color;
  - (b) Size and arrangement of doors, windows, porticos, porches or garages or other openings, breaks or extensions in the facade;
  - (c) Other significant design features, such as, but not limited to, heights, widths, length of elements of design, roof structures, exposed mechanical equipment, service and storage areas, retaining walls, landscaping, signs, light posts, parking areas, fences; or
  - (d) Exterior materials and treatments. The following exterior materials and treatments shall generally be considered to be dissimilar and inappropriate: aluminum used for exterior surfaces other than windows, door frames, garage doors and/or soffits, and acrylic stucco or nonacrylic stucco (or similar material), glass block, artificial brick or artificial stone, provided that a majority of the members of the ARB present at a meeting at which there is a quorum of at least five members present may determine otherwise in a particular case.
- (3) Visual offensiveness or other poor qualities of exterior design, including, but not limited to, excessive divergences of the height or levels of any part of the structure or building from the grade of terrain, harmony or discord of color, or incompatibility of the proposed structure, building, refurbishing, reconstruction, alteration or addition with the terrain on which it is to be located, the failure of the exterior design to complement and enhance the natural beauty of its site in regard to landscape, topography, surrounding structures and the scenic character of roadways when visible from said roadways.

(4) The Applicant's design professional is strongly encouraged by the ARB to request Preliminary application review of the architectural style of the new construction/major substantial improvement/major alternation submission (Type A) as described in §271-189 F.

(5) The following guidelines are intended to facilitate and expedite the design review process by encouraging design characteristics that are deemed appropriate in achieving the objectives set forth in §271-186. In rendering its decision, the Board retains discretion to waive the standards (as described below), for purposes of ensuring the objectives of this Article are met.

(a) Architectural style.

1) In general, adjacent structures shall not be identical to, or mirror images of, one another.

- 2) The massing and style chosen for the buildings should be suitable and appropriate within the context of adjacent existing buildings, if deemed appropriate by the ARB.
- 3) With any submitted design, the massing, size and shape of all openings, decorative trim, and ornamentation should be stylistically consistent.
- 4) A garage, whether detached or attached, shall be consistent with the style, color, and materials of the dwelling.

(b) Massing, roofs and walls.

- 1) Large undifferentiated volumes and/or wall surfaces must be avoided and must fit into the established style of architecture chosen.
- 2) Abrupt transitions between volumes and wall surfaces of a building must be avoided if they are not in keeping with the style of the dwelling.
- 3) Single-family dwellings shall be designed with pitched roofs.
- 4) Pitched roofs should consist of at least two sloped surfaces, except when adjoining higher vertical surface (i.e. shed roofs in select areas when warranted by the style chosen for a dwelling). Neither sloped surface should be less than 1/3 the length of the longer side.
- 5) There shall be no shed roof on the main dwelling as the main roof, only as a minor architectural feature complementary to the approved architectural style chosen.
- 6) Siding on a dwelling shall be horizontal. Vertical and diagonal siding shall not acceptable.
- 7) House numbers style shall be compatible with the style of dwelling. All houses require numbers compliant with local code for emergency response.
- 8) The location of the dwelling on the premises shall be consistent with the dwellings on either side of it.

(c) Materials.

- 1) Designs should rely on the limited palette of materials for the main body of the building appropriate to the style of architecture identified, such as full-depth standard-sized brick, natural stone, wood clapboard, wood shingle, cementitious prefinished clapboard, cementitious prefinished shingle, faux-slate roof shingle or suitable combination thereof. These surfaces should be relieved by their trim, trim color, and decorative elements, including shutters, molding and other decorative molding. Non-natural material moldings (such moldings manufactured with uniform color throughout, no urethane discoloration accepted) shall be installed per manufacturer's recommendation to hide joints and must be installed uniformly for year-round uniform performance as if it were a natural product.
- 2) The Board strongly encourages the use of durable and enduring materials with proven performance. In particular, cladding and roof systems will be reviewed for durability and the quality of their technical design, as well as for their appearance.
- 3) The Board strongly discourages the use of inferior materials such as three-tab asphalt shingle roofing, aluminum or fiberglass siding, artificial stucco systems (EIFS), faux wood, cementitious stucco, chrome, anodized aluminum, galvanized metal or thin wrought iron railings, ornamental storm doors on front doors, 'ornate' front doors not fitting to the architectural style of the residence, faux brick, or manufactured stone veneer systems. In no case, shall an all-brick façade be permitted. Relief of other

accepted materials may be proposed and acceptable to the Board if same are congruous with the declared architectural style of the building.

- 4) The Board strongly discourages the use of inferior windows, particularly those utilizing full vinyl systems or which have excessively large frames in comparison to surface glass area.
- 5) Applicants shall utilize planting or brick or natural stone to clad/screen any concrete foundation exposed above grade as required by other sections of this code.
- 6) Second floor balconies greater than 50 SF of any style facing rear yard or of any style or size in the side or front yard are strictly prohibited.
- 7) New second floor decks, occupiable flat roofs, or similar are strictly prohibited, unless previously listed on the Certificate of Occupancy which will permit replacement in kind, without expansion of area.-

(d) Mounted fixtures on roofs. Roof mounted lighting or electrical fixtures should not be visible from the street when standing directly in front of the house unless the fixture will not have a negative impact as determined by the Board. If approved by the Board, said fixture shall require a permit before it is mounted.

(e) Garages and Driveways:

- 1) In no case shall more than two (2) single vehicle width garages be permitted on any parcel, except in the R or R-1 Zoning District, where up to three (3) are permitted, where they shall be side yard facing only, or a combination as illustrated in Figures 3A-3F (see figures provided in §271-19).
- 2) Garage doors must be congruous with the building style of architecture.
- 3) No garage door can exceed eight (8) feet in the vertical dimension.
- 4) No garage (interior dimension) can be wider than twelve (12) feet per car area.
- 5) For a garage located in the front elevation (or side elevation of a corner lot facing the street), the garage door(s) shall not have a total horizontal dimension which exceeds 50% of the horizontal dimension of the front elevation of the dwelling.
- 6) No garage facing a public right of way shall extend beyond the front wall without a porch or other architectural feature that is appropriate for the style of home, unless it is facing the secondary front yard and the driveway is only from the secondary front yard to the street.
- 7) The width of a single garage door for a single car garage must be no less than eight (8) feet high and no more than ten (10) feet wide.
- 8) A two (2) car garage shall be served by two garage doors separated by an 18-inch pier, or by a single double garage door, the width of which shall be no less than 16 feet and no more than 18 feet wide.
- 9) A three-car garage is allowed in the R and R-1 districts only. All garages must be contiguous. No more than 2 garage doors can face the street. Where a three-car garage is permitted, and where all garage doors are facing the side yard, two garage doors shall be on the same plane, with the third offset by at least 2 feet farther from the side lot line. In addition, the single garage door shall be closer to the front yard as to shield the second and third garage.
- 10) No more than three garage doors are permitted.

11) Driveway dimensions, layout and arrangement shall comply with requirements as illustrated in the diagrams provides as Figures 3A-3F (see figures provided in §271-19).

## § 271-191. Submissions.

Note: See §271-189 F for Pre-Application Review submission requirements.

### A. Minor alteration:

- (1) Every application to the Architectural Review Board with respect to a minor alteration shall include the following documents:
  - (a) A completed application as prescribed by and furnished by the Village containing information on the address, the owner, the architect, the contractor and all such other required information; and
  - (b) All other documents as may be required in the discretion of the Architectural Review Board.

- (2) Unless an applicant for a minor application is notified of a concern, issue or request for additional documents or information by certified mail with return receipt requested and postmarked no later than 10 business days after the application is received, the application shall be deemed approved.

B. Major alteration or new building application. Every application to the Architectural Review Board with respect to a major alteration or new building shall include the following documents:

- (1) A completed application as prescribed by and furnished by the Village containing information on the address, the owner, the architect, the contractor and all such other required information.
- (2) A survey which contains all information, details and computations that are customarily shown on a survey, including but not limited to all structures, equipment, paved areas, utility lines, and easements. The survey must be no more than two years old, and the owner must certify that the survey is a true and accurate depiction of the site as it presently exists; provided, however, that a new survey must be submitted in connection with any new foundation or addition to the foundation of a structure. If the certificate is not true, the matter shall be adjourned until a proper survey is submitted. Nine copies of the survey must be submitted with the application.
- (3) Floor plan which is shown in one-fourth-inch scale. Nine copies of the floor plan must be submitted.
- (4) Drawings of all affected elevations and details shown in one-fourth-inch scale. Nine copies must be submitted.
- (5) Topographical survey certified by a licensed surveyor with a grid at two-foot intervals. Nine copies must be submitted.
- (6) Site grading and drainage plan for sites which require changes in topography. Nine copies must be submitted.
- (7) Nine copies of the proposed site plan must be submitted.
- (8) Landscaping plan, including existing trees and trees proposed to be removed on the property with a trunk diameter of four inches or more at a point 54 inches above the ground, and all proposed plantings. Nine copies must be submitted.
- (9) Other documents and submissions required in this article and the zoning laws.
- (10) Other documents as may be required in the discretion of the Architectural Review Board.

C. Commercial/industrial facade alterations. Every application to the Architectural Review Board with respect to a commercial/industrial facade alteration shall include the following documents:

- (1) A completed application as prescribed by and furnished by the Village containing information on the address, the owner, the Architectural Review Board, the contractor and all such other required information.
- (2) A survey which contains all information, details and computations that are customarily shown on a survey, including but not limited to all structures, equipment, paved areas, utility lines, and easements. The survey must be no more than two years old, and the owner must certify that the survey is a true and accurate depiction of the site as it presently exists; provided, however, that a new survey must be submitted in connection with any new foundation or addition to the foundation of a structure. If the certificate is not true, the matter shall be adjourned until a proper survey is submitted. Nine copies of the survey must be submitted with the application.
- (3) Drawings of all affected elevations and details shown in one-fourth-inch scale. Nine copies of the drawings must be submitted.
- (4) Topographical survey certified by a licensed surveyor with a grid at two-foot intervals. Nine copies must be submitted.
- (5) Site grading and drainage plan for sites which require changes in topography. Nine copies must be submitted.
- (6) Nine copies of the proposed site plan must be submitted.
- (7) Landscaping plan, including existing trees and trees proposed to be removed on the property with a trunk diameter of four inches or more at a point 54 inches above the ground, and all proposed plantings. Nine copies must be submitted.
- (8) Other documents and submissions required in this article and the zoning laws.
- (9) Other documents as may be required in the discretion of the Architectural Review Board.

D. The Architectural Review Board may also request the following documents be submitted in connection with any application which involves a major alteration, new building or a commercial/industrial facade alteration:

- 1) Samples of all proposed materials and color samples of sufficient size to indicate the materials used on the exterior of the building, including, but not exclusively, materials used for roofing, siding, brick and masonry. The Village shall be free to discard the materials and samples at the time of the issuance of the certificate of occupancy.
- 2) Color photos, 8 1/2 inches by 11 inches, mounted on two-feet-by-three-feet foam boards, showing the existing house and all other structures and premises, and showing the houses, other structures and premises on the adjacent properties and nearby homes (within 4 houses and across the street) from the structure for which the building permit is requested (and within 1,000 feet of such lot in the case of a building or a commercial/industrial facade alteration), with a statement which clearly identifies the property shown in the photo.
- 3) Photographs or illustrations of the style of the proposed project. Actual photographs from other communities are encouraged.
- 4) A landscaping plan, which shall include existing trees and trees proposed to be removed on the property with a trunk diameter of four inches or more at a point 54 inches above the ground, and all proposed plantings. Nine copies must be submitted.

- 5) Narrative and noted diagrams that illustrate features, materials, massing standards for the desired type of architecture.
- 6) Reference to accepted printed materials, such as the McAlester book or other books on American architecture, shall be required. It is the intent that the applicant should illustrate the design knowledge required to design a structure of a particular style and willingness to design within the context of the rules, massing, material types of the style chosen and the application/effect of the style on the site and neighborhood, and communicate this with the Board and receive input, prior to preparation of the full application.

E. Additionally, every application to the Architectural Review Board which involves a new building shall also comply with the following requirements and submit the following documents:

- (1) Not less than three weeks before the scheduled hearing date, all buildings, driveways and curb cuts must be clearly staked out and clearly marked with ribbon or paint by a licensed surveyor.
- (2) Proposed stormwater drainage plans must be submitted not less than three weeks before the scheduled hearing date. Nine copies must be submitted.
- (3) Color renderings. Nine copies must be submitted.
- (4) A model, at the option of the Architectural Review Board, may be required.
- (5) Not less than three weeks before the scheduled hearing date, all trees must be clearly tagged and numbered to match submitted landscaping plans indicating which trees are to be removed and which trees are to remain.

F. All filings required under this and any other section of the Code of the Village of East Hills must be completed and submitted to the Building Inspector not less than three weeks prior to the scheduled hearing date for the Architectural Review Board.

G. In the event that the Architectural Review Board requests changes to a proposed plan, the changes may be submitted not less than two full weeks prior to the next Architectural Review Board meeting at which the amended application is to be considered, unless the Architectural Review Board grants a dispensation on the submission date required under this section.

H. The Architectural Review Board may, by majority vote of those members present at any meeting at which there is a quorum, waive any of the foregoing requirements if, in its discretion, it deems it fair,



appropriate, or necessary due to a matter of hardship or dire circumstances.

- I. All approvals of the Architectural Review Board are valid for a period of six months from issuance.

## § 271-192. Building facades in Commercial A, Commercial B, and Light Industrial Zones.

- A. Except for ordinary maintenance performed and repairs made to property, no person may construct, reconstruct or otherwise alter the facade of any building in a Commercial A, Commercial B or Light Industrial Zone without obtaining a facade permit from the Village's Building Inspector. An application for a facade permit shall be made on such forms as are established by the Building Inspector and shall be accompanied by a fee of \$500. An application for a facade permit shall be processed in the same manner as an application for a building permit, except that the standards of this section shall be applicable to the Architectural Review Board's review of the facade in the place and stead of the standards set forth in § 271-190. Where an application involves a construction, reconstruction or alteration ~~to which under~~ § 271-190 is applicable and to which this section is also applicable, the application must conform to the requirements of both sections before any permit shall be granted.
- B. It is the purpose of this section to prevent excessive uniformity, dissimilarity or poor quality of design in the exterior appearance of building facades, since such conditions adversely affect the desirability of the immediate and neighboring areas, impair the benefits of occupancy of existing developed property, undermine the stability and value of both improved and unimproved real property in such areas and prevent the most appropriate development of such areas.
- C. The Architectural Review Board may determine that a building facade does not meet the requirements of this law in the event that it finds the building facade would, if erected, be so detrimental to the desirability of the property values or development of the surrounding area as to produce one or more of the harmful effects set forth in this section by reason of the following:
  - (1) Excessive similarity to any other building facade existing or for which a permit has been issued or to any other building facade included in the same facade permit application, facing upon the same street and within 1,000 feet of the proposed site, in respect to one or more of the following features of exterior design and appearance:
    - (a) Apparently identical facade, including color.
    - (b) Substantially identical size and arrangement of either doors, windows, porticos or other openings or breaks in the facade facing the street, including reverse arrangements.
    - (c) Other significant identical features, provided that a finding of excessive similarity shall set forth the facts showing not only that such similarity exists, but shall further set forth such facts showing that it is of such a nature as to be expected to produce one or more of the harmful effects set forth in this section.
  - (2) Poor quality of design or excessive dissimilarity in relation to any other building facade existing or for which a permit has been issued, or to any other building facade included in the same facade permit application, facing upon the same street and within 1,000 feet of the proposed site, in respect to one or more of the following features:
    - a) Materials of which the facade is constructed, including color.
    - b) Height of the facade.
    - c) Lines of the facade.
    - d) Plane of the facade.
    - e) Texture of the facade

- (f) Other significant design features, such as materials used in construction or nature of architectural design, provided that a finding of poor quality of design or excessive dissimilarity shall set forth facts showing that such poor quality of design or excessive dissimilarity exists, but shall further set forth facts showing that it is of such a nature as to be expected to produce one or more of the harmful effects set forth in this section.

## § 271-193. Scheduling of meetings.

- A. As required under the provisions of the statute, no less than three weeks prior to the regularly scheduled Architectural Review Board meeting, all completed applications shall be distributed to the Building Inspector. In addition, the applicant must, prior to the submissions of the completed applications, have staked out and properly marked, as required, all trees proposed to be removed.
  - (1) If the application is not deemed "complete" by the Building Inspector, the Building Inspector shall notify the applicant and specify in writing the basis for the determination that it is incomplete.
  - (2) The Building Inspector shall review all zoning, landscaping and stormwater issues to the extent relevant.
- B. Not less than two weeks prior to the regularly scheduled Architectural Review Board meeting, the complete application, ready for review, together with the comments of the Building Inspector, shall be distributed to the members of the Architectural Review Board.

## § 271-194. Agenda items.

- A. Procedures
  - (1) Applications for minor alterations should be heard first at the meeting. The matter may be adjourned if the owner is not present or not represented by a professional authorized to act on behalf of the owner. Applicants for minor alterations may appear on their own behalf or be represented by a lawyer, architect, design professional or other agent.
  - (2) Presentations involving major alterations or new buildings construction or commercial/industrial facade alteration shall be presented by the owner's architect and shall not exceed 30 minutes. Either of these requirements may be waived by majority vote of the Architectural Review Board members present at a meeting if there is a quorum of the Architectural Review Board.
  - (3) The Architectural Review Board may hold a hearing to elicit community response and input when it deems it to be in the public interest.
  - (4) At least three members of the Architectural Review Board shall inspect every site and the adjacent premises prior to the meeting at which the application is scheduled to be heard.
  - (5) Prior to the issuance of a certificate of occupancy, the Building Inspector and a representative of the Architectural Review Board shall review the plans, materials, colors, plantings and all other aspects of the approved decision to ensure that the construction and all other aspects of the approved decision and the conditions imposed have been fully complied with.

## § 271-195. Prerequisites to issuance of permits and certificates of occupancy.

- A. No permit which is required shall be granted or certificate of occupancy shall be issued for any building or other structure unless it and the entire premises upon which it is located conform to the resolution

adopted by the Architectural Review Board approving the application. Such conformity shall include, but not be limited to, such requirements, if any, as may have been imposed with regard to landscaping, final grades, and stormwater retention. However, nothing contained in this provision shall prevent the ARB from providing additional time for the applicant to comply, if the ARB specifically provides for the extension in its resolution.

B. No building permit which is required shall be issued for any work which has not been approved by the Architectural Review Board or for work that is not in accordance with a prior approval of the Architectural Review Board.

C. No demolition permit shall be issued for any demolition unless such demolition has been approved by the Architectural Review Board.

D. After an approval of the plans by the ARB, but before a Certificate of Occupancy has been issued, the Building Inspector shall have the right, in his or her sole discretion, to approve minor amendments to the previously approved plans. If approved, the Building Inspector will stamp the modification requested as approved, provide the date it was approved and sign each modification, which shall then immediately become an amendment to the Building Permit. The amendments which may be approved by the Building Inspector include, for example, but not exclusively, changes to exterior colors of walls or roofs, changes in the location of doors, or the determination of what is "like" or "similar materials". There shall be a \$100 fee charged for each application considered by the Building Inspector. Any application that the Building Inspector does not approve, under this section of the Code of East Hills may be submitted for full review by the Architectural Review Board, with a separate fee as required, paid by the applicant. (Pending filing with State, approved in November 2016).

## § 271-196. Appeals.

Any applicant aggrieved by any decision of the Architectural Review Board may appeal to the Zoning Board of Appeals of the Village, in the same manner and upon the same criteria as is provided for use variances. Such appeal shall be taken within 30 days after the filing of the decision with the Village Administrator. The Zoning Board of Appeals, after proceeding in the same manner as is provided for use variance applications, may reverse, modify or affirm the action of the Architectural Review Board.

## § 271-197. Fees.

All fees for the Architectural Review Board are ~~as follows~~provided in Article XIV.:

- (1) ~~Application for a new building: \$2,000.~~
- (2) ~~Application for a major alteration: \$500.~~
- (3) ~~Application for a minor alteration.~~
  - (a) ~~For changes, alterations and construction which involve under \$2,500, an application fee of \$100 shall be charged;~~
  - (b) ~~For changes, alterations and construction which involves more than \$2,500 and up to \$10,000, an application fee of \$150 shall be charged; and~~
  - (c) ~~For changes, alterations and construction which involves more than \$10,000, an application fee of \$250 shall be charged;~~

A.—~~All appeals from a decision of the Architectural Review Board relating to:~~

- (1) ~~Application for an appeal on a new building: \$1,000, plus transcription costs.~~
- (2) ~~Application for an appeal on a major alteration: \$250, plus transcription costs.~~
- (3) ~~Application for an appeal on minor alteration: \$125, plus transcription costs.~~

~~B.—On all other applications: \$100.~~

~~C.—The fees provided for shall be the minimum fees and nonrefundable. If the ARB retains an outside consultant on an application, the applicant will be responsible for all costs and expenses incurred.~~

## § 271-198. Penalties for offenses.

The penalty for failure to file or failure to receive full and proper authorization required under the sections of this article, including, but not exclusively, §§ 271-185 to 271-198, shall result in a fine of up to \$5,000.

## § 271-199. (Reserved)

## § 271-200. (Reserved)

## Article XXA. Residence R-A District

[Added 10-16-1995 by L.L. No. 5-1995]

## § 271-201. Applicability.

The provisions of this article shall apply in an R-A District.

## § 271-202. Permitted uses.

- A. No building or land shall hereafter be used or occupied and no building or part thereof shall be erected, used or altered unless in conformity with the regulations herein specified and except for the purposes set forth in this article and for no other purpose.
- B. Permitted uses shall be as follows:
  - (1) A single-family detached dwelling.

## § 271-203. Fences.

See §271-14.

## § 271-204. Height restrictions.

- A. The height of any principal building shall not exceed 35 feet.
- B. The height of any accessory building shall not exceed 20 feet.
- C. The height of any boundary line fence shall not exceed four feet.

## § 271-205. Required lot area.

- A. The principal building, as ~~herein~~ defined, or any part ~~thereof~~ shall be erected, constructed, reconstructed, altered, repaired or used on a plot containing an area of not less than two acres contained in one plot.
- B. There shall not be more than one principal building or portion thereof to each two acres contained in a plot.

## § 271-206. Lot coverage.

All buildings, including accessory buildings, shall not cover more than 12.5% of the area of the lot.

## § 271-207. Required floor area.

No main dwelling shall be erected unless it has a habitable floor area of at least 3,600 square feet to be completed prior to occupancy.

## § 271-208. Yards.

Each lot shall have front, side and rear yards not less than the depths or widths of the following.

- A. Front yard depth: 75 feet.
- B. Side yard width: two side yards, one on each side of the principal building, the aggregate widths of which shall be at least 100 feet. Neither side yard shall be less than 40 feet in width.
- C. Rear yard depth: 50 feet.
- D. Corner lot: A building shall not be required to comply with Subsection A hereof, but the depth of yard from any street line shall not be less than 65 feet.

## § 271-209. Street frontage required.

No lot shall have a street frontage of less than 225 feet.

## § 271-210. Projection of buildings.

See §271-21.

## § 271-211. Accessory buildings and uses.

- A. Accessory buildings or structures shall not occupy more than 10% of the rear yard. The yard area occupied by accessory buildings or structures shall be included in computing the maximum percentage of the lot area which may be utilized for buildings.
- B. Unless otherwise provided in this article, accessory buildings and structures shall be located in the rear yard and shall not be less than 15 feet distant from the main building, not less than 15 feet distant from the rear lot line and not less than 15 feet distant from any side line, with the exception of boundary line fences and walls which may be located on the lot lines.

## § 271-212. through § 271-223. (Reserved)

## Article XXI. Residential Construction and Building Limitations

[Added 2-28-2005 by L.L. No. 3-2005]

### § 271-224. Title; purpose.

The purpose of this article is to protect and preserve the character of the community as specified in the language of the statute which is incorporated into the article. The article shall be known as and may be cited as the "Fair Residential Building Reform Act" of the Code of the Incorporated Village of East Hills.

### § 271-225. Legislative intent, policy, applicability and findings.

- A. The unique character of residential neighborhoods in the Village of East Hills rests on the distinct style and design of houses as well as the general uniformity in the scale of houses located on similarly sized lots in neighborhoods throughout the community. The recent trend of tearing down existing houses and replacing them with expansive houses or building extremely large additions to existing houses threatens the appearance, integrity, health, safety, welfare and quality of life of residents in East Hills.
- B. This article responds both to the desire and needs of residents to enlarge their homes to meet the needs of their families and to preserve neighborhood character by requiring houses to appear to be of similar scale to others in the neighborhood. It is the intent of this article to allow new houses and expansions or alterations to existing houses which are consistent with the general character of the community.
- C. The provisions of this article are intended to supersede, supplement, augment, be applied consequently and compatibly together with other provisions of the Village Code, including but not limited to the provisions for lot coverage and other dimensional requirements.
- D. The regulations as established are intended to apply only to residential property within the Village of East Hills.

### ~~§ 271-226. Definitions and word usage.~~

~~A. — For purposes of this article, definitions in §271-7 are incorporated in this article except where explicitly~~

~~stated below, in which case such definitions below shall supersede the definitions in § 271-7.~~

~~B.—For purposes of this article, certain terms and words are specifically defined. Words used in the present tense include the future, words in the singular include the plural, and words in the plural include the singular; the word "shall" is mandatory; the word "lot" includes the word "plot."~~

~~C.—For purposes of this article, the following words and terms are defined as follows:~~

#### **~~BASEMENT~~**

~~That portion of a building that is partly or completely below grade. (See also "story above grade.")~~

#### **~~BUILDING HEIGHT~~**

~~The vertical distance from the average elevation of the finish grades, taken at the four corners of the building, to the highest point of the roof. Except as otherwise provided in this chapter, no appurtenant structures or mechanical devices, other than chimneys and flues, shall be permitted to extend above the highest point of the roof.~~

#### **~~CELLAR~~**

~~For purposes of calculating floor area, the word "cellar" is synonymous with "basement."~~

#### **~~DECK~~**

~~An exterior floor system, without a roof, supported on at least two opposite sides by an adjoining structure and/or posts, piers or other independent supports, attached to a building structure.~~

#### **~~ELEVATION POINTS~~**

~~For purposes of calculating height/setback ratio:~~

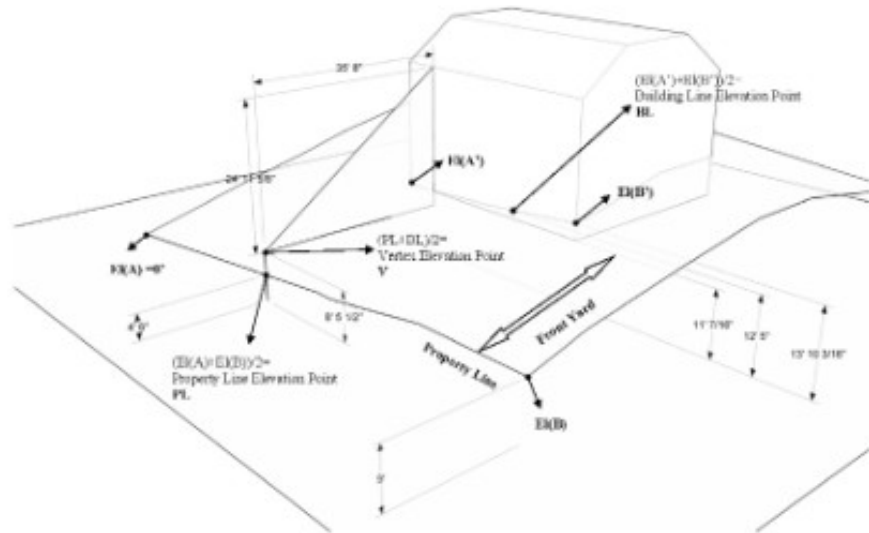
- ~~(1) Building line elevation point ("BL") shall be an elevation which is the average of the finish grade elevations of the two principal corners of a building wall for which the height/setback ratio is~~



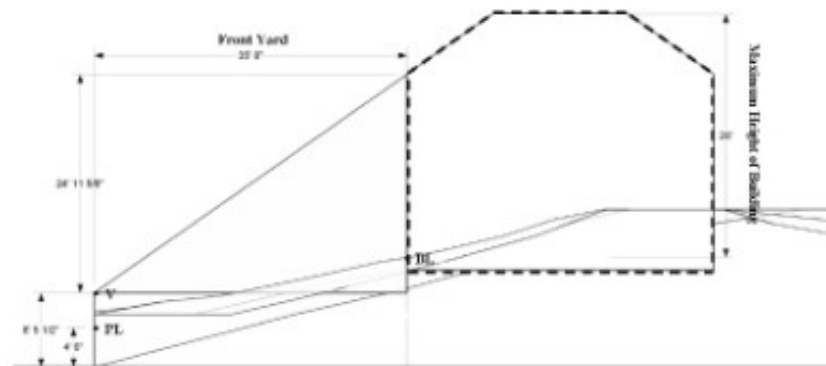
being calculated.

- (2) Property line elevation point ("PL") shall be an elevation which is the average of the finish grade elevations of two points on a property line which are at the closest proximity to the principal corners of a building wall for which the height/setback ratio is being calculated.
- (3) Vertex elevation point ("V") shall be an elevation located above, on or below a lot line which is the average of the building line elevation point and the property line elevation point.

APPLICATION EXAMPLE OF HEIGHT/SET BACK RATIO: PERSPECTIVE VIEW  
EXAMPLE OF FRONT YARD HEIGHT/SETBACK RATIO OF (.7) AS IN R-2 DISTRICT



APPLICATION EXAMPLE OF HEIGHT/SET BACK RATIO: SIDE VIEW  
EXAMPLE OF FRONT YARD HEIGHT/SETBACK RATIO OF (.7) AS IN R-2 DISTRICT



## FLOOR

Any horizontal structure intended to support loads.

## FLOOR AREA

The sum of the horizontal areas of the floors in each story of a building or buildings (having a floor

or floors) measured from the exterior of the outside walls of such building or buildings without exclusion of any areas on the floors being measured whatsoever (i.e., including attached garages, closets, bathrooms, stairwells and other open areas, and all accessory buildings), except that basements shall be excluded. For half stories (including storage areas over garages and one-story areas, etc.), horizontal areas that contain no habitable space, where the vertical distance between the floor joists and the roof rafters or ridge (not ceiling joists, collar ties or truss cords, etc.) above is less than seven feet and where the outboard end of the rafters rests directly on the bottom plate, shall be excluded. Where more than one roof structure covers this area, the vertical measurement shall be taken from the higher of the two structures. Further, for horizontal areas where the first-story floor to second-story ceiling height is 14 feet or greater, twice the horizontal area shall be included, and for horizontal areas where the first-story floor to second-story ceiling height is greater than 10 feet and less than 14 feet, 1 1/2 the horizontal area shall be included. This applies whether or not a second floor structure exists.

[Amended 7-21-2008 by L.L. No. 3-2008; 6-24-2015 by L.L. No. 1-2015]

### **FLOOR AREA RATIO**

A ratio which produces the proportion of maximum allowable floor area to total lot area.

### **GRADE**

For purposes of measuring the building height and for calculating the height/setback ratio, grade is the finished grade, as defined in § 271-7, elevation from which the height of a building or structure is measured.

### **HEIGHT/SETBACK RATIO**

One of the criteria used in setting building and construction limitations on a residential lot. It is a ratio which produces an inclined plane beginning at a property line rising towards a principal building or structure, starting at a vertex elevation point. Except as otherwise provided in this chapter, no appurtenant structures or mechanical devices, other than minor architectural features not covering more than 10% of the roof area, such as chimneys, flues, skylights and dormer windows, shall be permitted to extend above the inclined plane of the height/setback ratio. A demonstration of a

height/setback ratio measurement is shown below as Figure No. 1. <sup>[1]</sup> (note Figure no. 1 is now no. 2)

### **LOT AREA**

The total horizontal area within the property lines and or lot lines of a plot.

### **LOT LINE**

A legal boundary of a lot.

### **PATIO**

Any ground area covered by concrete, brick or other impervious material, excluding walkways 48 inches or less in width, which is without a roof structure and not elevated above the surface of the ground in any matter. Patios do not include driveways in front yards.

### **PORCH, OPEN**

Any open-sided roofed structure, without screens or other enclosures, attached to the outside of a building.

### **PORCH, ENCLOSED**

Any nonconditioned, roofed structure, enclosed with screens or other similar enclosures, attached to the outside of a building.

### **PORTICO**

Any open-sided roofed structure, without screens or other enclosures, attached to the entrance of a building.

## **PROPERTY LINE**

Any lot line dividing a lot of one owner from a lot of different owner.

## **STORY ABOVE GRADE**

Any story having its finished floor surface entirely above grade, except that a basement shall be considered as a story above grade where the finished surface of the floor above the basement is: more than six feet above grade plane; or more than six feet above the finished ground level for more than 50% of the total building perimeter; or more than 12 feet above the finished ground level at any point.

## **STREET**

Any highway or thoroughfare which affords the principal means of access to abutting properties, whether designated as a street, avenue, road, crescent, lane, terrace, way, place or otherwise, and whether public or private.

## **STREET LINE**

The dividing line between a lot, tract or parcel of land and a contiguous street. For purposes of this chapter, a street line and a right-of-way line are the same.

## **STRUCTURAL ALTERATIONS**

Any change in the supporting members of a building, including but not limited to bearing walls or partitions, columns, beams, headers or girders or any substantial change in the roof or in the exterior walls.

## **STRUCTURE**

Any construction or combination of materials or any production or piece of work artificially built up or composed of parts joined together in some definite manner, including but not limited to play structures (but excluding basketball hoops, basketball nets and basketball backboards, whether mounted on a building or on poles, so long as the height of the top of the backboard does not exceed 16 feet and there is not more than one backboard on the premises), platforms, pools, tennis courts (including the backstops, surfaced area and net posts thereof), radio towers, parabolic or hemispheric dishes or other similar convex or concave antennas (the purpose of which is to receive television, radio and/or microwave or other similar signals from satellites or ground stations which transmit satellite signals, but excluding conventional television and radio aerials), sheds, fences, walls and display signs.

## **YARD, REAR**

A yard extending the full width of the lot opposite (and approximately parallel to) the principal front yard between the main building and the rear lot line, unless said yard would otherwise be a secondary front yard. A rear yard may abut a street or right-of-way when the lot has a front and/or a secondary front yard.

## **YARD, SECONDARY FRONT**

All front yards that are not principal front yards.

## **YARD, SIDE**

All yards between the main building and the lot lines that are not front yards or rear yards.

[4] *Editor's Note: Figure No. 1 is included as an attachment to this chapter.*

## **§ 271-227. Reconstruction of destroyed building.**

Nothing in this chapter shall prevent the restoration of a building destroyed by fire, explosion, act of God or act of a public enemy to the extent of not more than 50% of its reconstruction cost, or part thereof, as such use existed at the time of such destruction in such building or part thereof, or prevent change of such existing

use under the limitations provided by this chapter. But any building destroyed to an extent exceeding 50% of its reconstruction cost at the time of such destruction may be reconstructed and thereafter used solely only in full conformity with all provision of this chapter. Nothing in this chapter shall prevent the restoration of a wall declared unsafe by the Building Inspector.

## § 271-228. Building height.

All building heights shall be restricted to the following limitations:

A. The height of all residential building heights shall be limited to:

Zone	Maximum Permitted Height (feet)
R	30
R-1	30
R-2	28
R-3	28
R-4	28

B. No ~~accessory structure shall exceed 15 feet in height~~ accessory building or structure shall exceed 12 feet in height measured from the grade plane at the perimeter thereof to the mid-height of the vertical dimension from the eave to the ridge. In no case shall a detached garage exceed 18 feet in height to the ridge.

## § 271-229. Exception to building height provisions.

- A. The height provisions of this chapter shall not include chimneys or flues, which may project no more than five feet above the inclined plane of the height/setback ratio or above the maximum allowable building height. In addition, height provisions of this chapter shall not include use of "Dutch clips" within the front yard, provided this item qualifies as a design element of the specific style of architecture chosen.
- B. Accessory buildings, including but not limited to sheds, which are excluded from the floor area for the purpose of calculating floor area ratio, shall not exceed a height of 10 feet from the adjacent finished grade to the highest point of its roof.

## § 271-230. Projection of primary buildings.

- A. No building or part of a building shall be erected in or shall project into the required rear yard, front yard or side yard, with the following exceptions:
- 1) Cornices, eaves, gutters or chimneys projecting not more than ~~48~~24 inches, except in the R-4 zoning district where the projection shall not exceed 18 inches.
  - 2) At first-floor level, one-story bay windows projecting not more than five feet in any event and, if such projections are into a side yard, not more than three feet into the side yard. No foundation wall or structure shall be erected under any part of such bay window projecting into any required side yard.
  - 3) One-story open porches/porticos or enclosed entrance doorways, which shall project into a front yard not more than five feet.

- 4) Bay windows which are not more than 7 feet-6 inches wide, no more than one story high, and which do not project into the required yard more than three (3) feet (and where the eave does not extend more than 12 inches beyond) and which are not supported vertically by a foundation or pier (cantilevered only) and only if the style of architecture permits.
- 5) A one story vestibule, no more than eight (8) feet wide and which does not project more than 3 feet and 6 inches deep into the front yard or six (6) feet wide and may not project more than 5 feet into the side yard (and where the eave does not extend more than 12 inches beyond) and only on a parcel without a driveway of any style located between the vestibule and street, except the foregoing projection shall not be permitted within the side yard of the R-3 or R-4 Districts.
- 6) One story open porches or terraces, which do not project more than two (2) feet into the required side or rear yard (and where the eave does not extend more than 18 inches from the face of column). Front yard porches cannot be more than sixty percent (60%) of the overall front width of the dwelling. The foregoing projection shall not be permitted within the side yard of the R-3 and R-4 zoning districts.
- 7) Fireplace chimneys, attached to the building, which do not encroach more than two (2) feet into a required yard and no greater than six (6) feet wide.
- 8) Stoops/entry steps/platforms with steps provided same does not project more than five (5) feet, is no greater than six (6) feet in width, and which do not have a roof that extends beyond 12 inches of the exit platform (closest to the dwelling).
- 9) Multi-story bay windows projecting not more than three (3) feet and that do not increase the floor area, except that the foregoing shall not be permitted with the side yard in the R-3 or R-4 zoning districts.
- 10) A gable can encroach into a yard, provided it does not encroach vertically more than four (4) feet and the roof has a minimum slope of 6/12.
- 11) "Doghouse" dormers or similar roof minor dormers, provided it is customary to the style as defined by the McAlester book, and where it extends no more than five (5) feet, is not wider than three (3) feet, and is approved by the ARB. In no case, shall a dormer be used for light and ventilation for attic space use. Additionally, a doghouse dormer or similar and cannot have a top plate height greater than 6'-6", and must be significantly lower than the ridge of the roof plane it occupies.

B. All of the above exceptions are subject to the restrictions found elsewhere in this article.

## § 271-231. Height/setback ratio Requirements and Additional Side Yard Setback Requirements for Second Stories requirements.

### A. Height/setback ratio requirements.

No part of a principal building on a residential lot shall exceed the following height limitations for all of the following: front yard, the side yard and the rear yard, based upon the distance of that portion of such building from the subject property line.

B. Additional side yard setback requirements for second stories.

(1) In the R District:

- a. Minimum additional side yard setback for second story: additional 8 feet from side yard first floor wall.
- b. If the residence is to have one side elevation as a two-story single plane, then the two-story side will have a minimum side yard of 25 feet with an aggregate of 50 feet.
- c. If the residence is to have each side elevation as a two-story single plane, each side yard will require a minimum side yard of 25 feet with an aggregate of 60 feet.
- d. Subsections a, b, and c apply, unless:
  - (1) less than 75% of the second floor (height) is built within the roof structure with the eave of the roof located at a height no greater than the point that is a dimension defined by half the height of the second floor; or,
  - (2) if the second floor (along the side elevation) is less than 75% of the depth of the first floor along the side elevation and does not have a two-story wall in the front or rear elevation. This requirement is applicable to the first 12 feet of each side of the two-story element of the second floor. (See Figure 4A below).

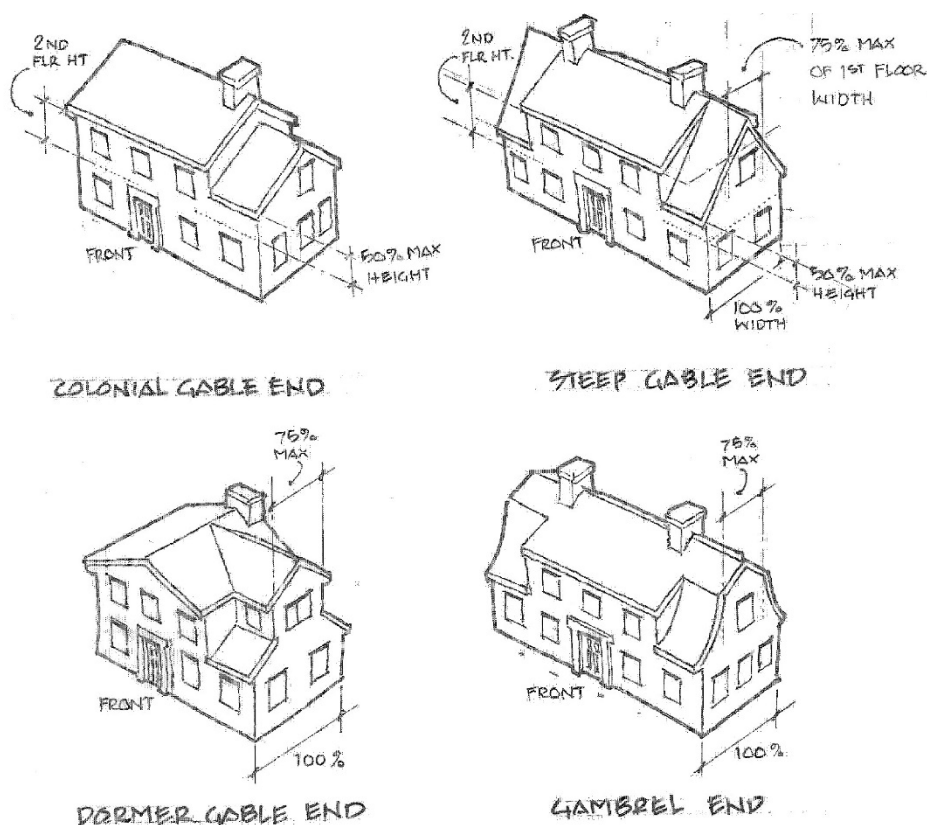


Figure 4A. Examples of reduced second floor side setback.

2 In the R-1 District:

- a. Minimum additional side yard setback for second story: additional 6 feet from side yard first floor wall.
- b. If the residence is to have one side elevation as a two-story single plane, then the

two-story side will have a minimum side yard of 18 feet with an aggregate of 40 feet.

c. If the residence is to have each side elevation as a two-story single plane, each side yard will require a minimum side yard of 20 feet with an aggregate of 45 feet.

d. Subsections a, b, and c apply, unless:

(1) less than 75% of the second floor (height) is built within the roof structure with the eave of the roof located at a height no greater than the point that is a dimension defined by half the height of the second floor; or,

(2) if the second floor (along the side elevation) is less than 75% of the depth of the first floor along the side elevation and does not have a two-story wall in the front or rear elevation. This requirement is applicable to the first 12 feet of each side of the two-story element of the second floor. (See **Figure 4A** following §271-231 B(d)(2) above).

### 3 In the R-2 District:

a. Minimum additional side yard setback for second story: additional 6 feet from side yard first floor wall.

b. If the residence is to have one side elevation as a two-story single plane, then the two-story side will have a minimum side yard of 16 feet with an aggregate of 30 feet.

c. If the residence is to have each side elevation as a two-story single plane, each side yard will require a minimum side yard of 16 feet with an aggregate of 32 feet.

d. Subsections a, b, and c apply, unless:

(1) less than 75% of the second floor (height) is built within the roof structure with the eave of the roof located at a height no greater than the point that is a dimension defined by half the height of the second floor; or,

(2) if the second floor (along the side elevation) is less than 75% of the depth of the first floor along the side elevation and does not have a two-story wall in the front or rear elevation. This requirement is applicable to the first 12 feet of each side of the two-story element of the second floor. (See **Figure 4A** following §271-231 B(d)(2) above).

### 4 In the R-3 District:

a. Minimum additional side yard setback for second story: additional 6 feet from side yard first floor wall.

b. If the residence is to have one side elevation as a two-story single plane, then the two-story side will have a minimum side yard of 12 feet with an aggregate of 30 feet.

c. If the residence is to have each side elevation as a two-story single plane, each side yard will require a minimum side yard of 14 feet with an aggregate of 32 feet.

d. Subsections a, b, and c apply, unless:

(1) less than 75% of the second floor (height) is built within the roof structure with the eave of the roof located at a height no greater than the point that is a dimension defined by half the height of the second floor; or,



(2) if the second floor (along the side elevation) is less than 75% of the depth of the first floor along the side elevation and does not have a two-story wall in the front or rear elevation. This requirement is applicable to the first 12 feet of each side of the two-story element of the second floor. (See **Figure 4A** following §271-231 B(d)(2) above).

**5 In the R-4 District:**

a. Minimum additional side yard setback for second story: additional 4 feet from side yard first floor wall.

b. If the residence is to have one side elevation as a two-story single plane, then the two-story side will have a minimum side yard of 7 feet with an aggregate of 15 feet.

c. If the residence is to have each side elevation as a two-story single plane, each side yard will require a minimum side yard of 7 feet with an aggregate of 17 feet.

d. Subsections a, b, and c apply, unless:

(1) less than 75% of the second floor (height) is built within the roof structure with the eave of the roof located at a height no greater than the point that is a dimension defined by half the height of the second floor; or,

(2) if the second floor (along the side elevation) is less than 75% of the depth of the first floor along the side elevation and does not have a two-story wall in the front or rear elevation. This requirement is applicable to the first 12 feet of each side of the two-story element of the second floor. (See **Figure 4A** following §271-231 B(d)(2) above).

## § 271-232. Front yard limitations.

The limitations for the front yard are as follows:

Front Yard	
Zone	Height/Setback Ratio
R	0.5
R-1	0.6
R-2	0.7
R-3	0.7
R-4	1.4

## § 271-233. Side yard limitations.

The limitations for the side yard are as follows:

Side Yard	
Zone	Height/Setback Ratio
R	1.1
R-1	1.2
R-2	1.8
R-3	1.8
R-4	3.6

## § 271-234. Rear yard limitations.

The limitations for rear yard are as follows:

Rear Yard	
Zone	Height/Setback Ratio
R	0.75
R-1	0.75
R-2	0.85
R-3	0.85
R-4	0.85

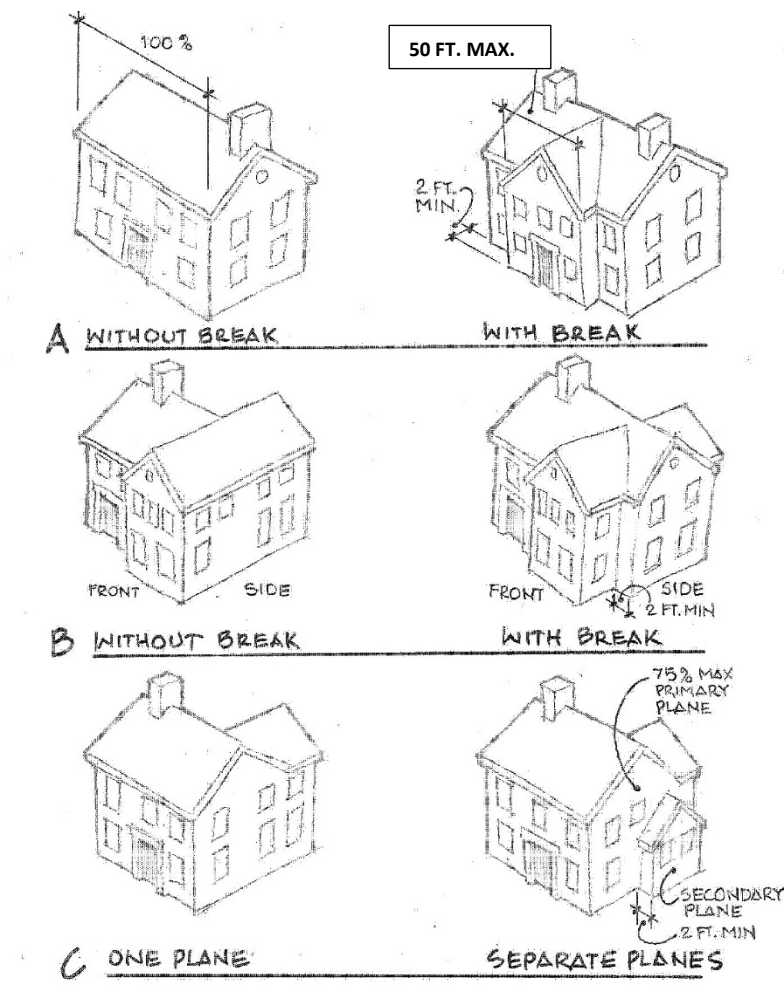
## § 271-235. Floor area ratios and maximums.

The maximum floor area ratios and allowable floor areas shall not exceed the following limits:

Zone	Floor Area Ratio (F.A.R.)	Maximum Allowable Floor Area
		(square feet)
R	0.15	7,000
R-1	0.36	6,100
R-2	0.36	4,500
R-3	0.40	3,600
R-4	0.45	3,600

## § 271-236. Exterior wall interruption.

- A.—Existing buildings or structures. Alterations and additions to existing buildings shall require that a combined new and existing front or side building wall may extend to a horizontal length of no more than 30 feet without a change or break of at least two feet, with an additional required break of at least two feet for every 25 feet of additional horizontal feet thereafter.
  - B.—New buildings or structures. New construction of buildings or structures shall require that a front or side building wall may extend to a horizontal length of no more than 30 feet without a change or break of at least two feet, with an additional required break of at least two feet for every 25 feet of additional horizontal feet thereafter.
  - C.—Irregular vertical plane. No more than 75% of a two-story front or side wall shall be constructed, altered or added in one vertical plane; the balance of said wall construction shall follow a vertical plane which is separated from the former plane by at least two feet.
  - D.—At least 10% of each and every exterior wall shall be comprised of fenestration (windows and/or doors).
- 
- A. No horizontal plane on front façade shall extend wider than 50 feet of the building front elevation width without a change or break in the plane of at least two (2) feet. Projecting chimneys or permitted encroachments shall not be considered a plane break or change. No single continuous vertical plane may be greater than 20 feet high.
  - B. No horizontal plane on a side or rear façade shall extend for more than 30 feet without a change or break in the plane of at least two (2) feet. Projecting chimneys or permitted encroachments shall not be considered a plane break or change. No single continuous vertical plane may be greater than 20 feet high.
  - C. No more than 75% or 30 feet (whichever is greater) of a two story side primary façade shall be made of one vertical plane which is separate from the secondary vertical plane(s) by at least 2 feet (See Figure 4B below).
  - D. Side or rear facades with exposed foundation walls greater than 3 feet shall be either the same as the main façade material or stone/ masonry to 12 inches from finished grade. Exposed concrete foundation walls are not permitted greater than 1 foot in height, unless it is fully blocked with foundation screening, have a concrete stucco finish, and be no greater than 3 feet exposed, as approved by the ARB. Façade siding material shall extend to minimum of 12 inches above finished grade.



**Figure 4B. Examples of minimum plane articulation.**

## § 271-237. Summary of residential construction and building requirements.

An overview of the salient requirements for residential construction and building limitations are as follows.<sup>[1]</sup>

[1] *Editor's Note: The Table of Requirements for Residential Construction and Building Limitations is included at the end of this chapter.*

## Article XXII. Business Park District

[Added 6-23-2011 by L.L. No. 4-2011]

## § 271-238. Legislative intent, purpose.

The Board of Trustees of the Village of East Hills finds that the inclusion of the Business Park District (hereinafter designated as the "BPD District") as part of Chapter 271, Zoning, of the Village Code is consistent with the Comprehensive Plan of land use as embodied in this article and all of the other provisions of the Village Code. Additionally, the Board of Trustees finds that the adoption of the Business Park District is in accord with the development policy of the Village of East Hills, as more specifically set forth in §271-2 of the Code of the Village of East Hills. Further, it is the purpose of this article and the intent of the Board of Trustees in adopting this article to control, promote and encourage the unified, comprehensive and well planned

development of large-scale office, business, commercial and medical-related facilities and uses on large tracts of land within the Village of East Hills. Currently, the Village of East Hills is comprised of nine separate zoning districts. Of the nine zoning districts, only three zoning districts (Business A, Business B and Light Industrial A) allow any type of business or industrial use. None of the current zoning districts provide appropriate guidelines for the unified development of large tracts of land for a combination of uses in a single building or group of buildings. The Board of Trustees finds that the inclusion of the Business Park District promotes appropriate development within the Village, while protecting the health safety and welfare of its residents.

### § 271-239. Definitions.

All word and terms already defined in §271-7 of the Village Code shall have the same meanings as set forth therein.

### § 271-240. Permitted uses.

A building may be erected, altered or used and a lot or premises may be used for any of the specific purposes set forth in this article and for no other purpose. All of the following uses, operations or activities shall be carried on within a fully enclosed building or structure, and there shall be no outdoor storage of materials or equipment. The following uses are permitted in the Business Park District. (NOTE: Any and all of the permitted uses set forth in § 271-240 can be made a special permit use in accordance with §§ 271-244 and 271-245 of this article.)

- A. Research and design facilities.
- B. Offices for business, professional, administrative and technology based firms and organizations.
- C. Financial services offices, including banks, brokerage firms, financial advisors and other financial institutions.
- D. Hospital-affiliated outpatient care facilities, including ambulatory surgery centers, outpatient clinics, imaging and research centers, and laboratories customarily located within such medical facilities.
- E. Professional medical offices.

## § 271-241. Prohibited uses.

All uses not set forth in this article are strictly prohibited.

## § 271-242. Accessory uses and structures.

- A. Accessory uses as set forth in this section shall be permitted, provided that the cumulative total floor area of all accessory uses within a building does not exceed 20% of the cumulative total floor area of the principal uses within that building.
  - (1) Employee restaurants and employee cafeterias, provided that ~~such the~~ uses shall be located within the main building of the use served.
  - (2) Child care, nursery school or similar facility, subject to the standards and requirements as set forth in § 271-245 of this article relating to special use permits. ~~Such~~ The facility shall be located within and accessory to the principal use on the site for the convenience of its employees.
  - (3) Meeting/conference room areas may be provided within a principal or accessory building.
  - (4) Uses clearly accessory and incidental to principal uses permitted in the Business Park District, subject to approval of the Village Board of Trustees, except that outdoor storage of materials or equipment shall not be permitted.
- B. Parking structures not to exceed 30 feet in height subject to the standards and requirements as set forth in § 271-245 of this article relating to special use permits; the lot coverage, floor area and setback requirements in §§ 271-248 and 271-249D, and provided that a parking structure shall only be constructed in such areas as approved as part of a site plan application pursuant to § 271-253 of this article.

## § 271-243. Performance standards.

All uses as set forth herein shall conform to the performance standards, where applicable, set forth in Article X, §§ 271-99 through 271-108 the Code of the Village of East Hills.

## § 271-244. Special use permits.

The following special uses may be permitted only when authorized by the Village Board of Trustees after public hearing ~~thereon~~. Prior to authorizing the issuance of a permit for any such special use, the Village Board of Trustees shall follow the procedures and make appropriate findings as set forth in §271-245B of this article. The uses requiring a special use permit are as follows:

- A. Fully enclosed, indoor filmmaking studios and/or sound stages.

## § 271-245. Procedure for consideration of special use permits.

- A. Power to grant. Upon application to the Village of East Hills for a building permit within the Business Park District, the Village Board of Trustees shall have the power to grant a special use permit for any of the uses specified in §271-245 this article.
- B. Criteria. Special use permits may be permitted in the Business Park District, provided that the Village Board of Trustees considers the following general standards as applied to a specific application:
  - (1) The purpose of zoning, as set forth in the Village Law of the State of New York, and uses permitted in the Business Park District.
  - (2) Whether the proposed use is of such character, size, location, design and site layout as to be appropriate to and in harmony with the surrounding properties.
  - (3) Whether the proposed use will provide a desirable service, facility or convenience to the area or otherwise contribute to the proper growth and development of the community.
  - (4) Whether the proposed use will be hazardous, conflicting or incongruous to the immediate neighborhood by reason of excessive traffic, assembly of persons or vehicles.
  - (5) Whether the proposed use will be of such nature as to be objectionable to nearby residential dwellings by reason of noise, light, vibration, odor, size, color or any other potential impact.
  - (6) Whether use is appropriately located with respect to transportation facilities, water supply, fire and public protection facilities, waste disposal and similar facilities.
  - (7) Whether off-street parking facilities are provided as specified in this article or, if not, that they are adequate to handle expected public attendance so as not to create a neighborhood nuisance.
  - (8) Whether the neighborhood character and surroundings and property values are reasonably safeguarded.
  - (9) In the interest of preserving the balance of businesses and ensuring the success of the proposed use, the applicant shall prepare a narrative that demonstrates the market potential for the proposed use or uses, and the location of similar-type facilities in the general area. This information shall be used to estimate the likelihood of success and potential economic viability for the new development.
- C. Procedure.
  - 1) The Village Board of Trustees shall not decide upon an application for a special use permit without first holding a public hearing.
  - 2) Notice of public hearing, including the substance of the application, shall be given by the publication in the official newspaper of the Village at least five days before the date of such hearing.

- 3) In addition to such published notice, the applicant shall cause such notice to be mailed at least 10 days, but no more than 20 days, before the hearing to all owners of property which lies adjacent to the property for which relief is sought and to each owner of all parcels of property located within a radius of 500 feet measured from all points of the subject property lines, by registered or certified mail, return receipt requested.
  - (4) For lots within 500 feet of a municipal boundary, notice shall be mailed in the above-prescribed form to the clerk of the adjacent municipality.
  - (5) The hearing date shall also be advertised by posting of a sign stating the time, date and place of the public hearing to be held on the property which is the subject of an application. The sign shall be posted at least 10 days prior to the date of the hearing. The sign shall be visible from adjacent rights-of-way. If the subject property is on more than one right-of-way, a sign shall be posted facing each right-of-way. If the sign is destroyed or removed from the property, the owner of the subject property shall be responsible for replacing it. Five days prior to the public hearing, the owner of the subject property shall execute and submit to the Building Department an affidavit of proof of the posting of the public notice sign(s) according to this subsection. If the owner of the subject property fails to submit the affidavit, the public hearing will be postponed until after the affidavit has been supplied.
- D. Conditions. Pursuant to § 7-725-b of the New York State Village Law, the Village Board of Trustees shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to the proposed special use permit. Such conditions may include, without limitation, provisions with respect to location of buildings and structures, location of drainage facilities, site layout or design, hours and methods of operation, mitigation or elimination of any adverse impact upon the community, the environment or neighboring properties, the regulation of traffic entering, leaving or within the site, and the like. Upon its granting of said special use permit, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Village.

## § 271-246. Area requirements.

No building may be erected, altered or used and no lot or premises may be used for any of the purposes set forth in this article on a lot less than 15 acres.

## § 271-247. Height.

No principal building shall exceed 50 feet in height. No accessory building shall exceed 30 feet in height.

## § 271-248. Lot coverage; floor area.

- A. The total buildings or structures on any plot or site shall not exceed 50% of the plot area.
- B. The floor area ratio of the principal building shall not exceed 0.55. The total, cumulative floor area ratio of all accessory buildings, including but not limited to parking garages, shall not exceed 0.25.

## § 271-249. Yards.

- A. There shall be a minimum front yard setback area of 75 feet for any principal building or structure.
- B. There shall be a minimum rear yard setback area of 125 feet for any principal building or structure.
- C. There shall be a minimum side yard setback area of 75 feet for any principal building or structure.



- D. There shall be minimum side and rear yard setback area of 20 feet for any accessory building or structure. Accessory buildings or structures are not permitted in the front yard setback.

## § 271-250. Parking requirements.

Notwithstanding any other provision of this chapter, no building within the Business Park District shall be erected, altered or used unless off-street parking spaces as specified below are provided for on the premises. However, during site plan review, the Board of Trustees may in its discretion determine, based on a traffic and parking study prepared by a qualified traffic engineering professional and verified by professionals retained by the Village, that the required off-street parking requirement is in excess of the projected parking generation for a proposed use, in which case, the Board of Trustees may permit a lesser number of spaces to be provided upon a finding that such number of spaces shall be sufficient to serve the projected demand and that no adverse impacts will result. The Village may also choose, during the site plan review process, to require land banking of parking spaces, with the imposition of appropriate conditions.

- A. Professional or medical offices: one space for every 250 square feet of gross floor area (not including common areas, maintenance/utility rooms, cafeterias or gym facilities for the exclusive use of the tenants).
- B. Storage space: one space for every 1,000 square feet of gross floor area.
- C. All other uses: one space for every 500 square feet of gross floor area (not including common areas, maintenance/utility rooms, cafeterias or gym facilities for the exclusive use of the tenants).

## § 271-251. Off-street loading and unloading facilities.

Provisions for off-street loading and unloading shall be made for all uses in the Business Park District in a location that will not interfere with accessory parking and means of ingress and egress thereto, and such areas shall be surfaced in the same manner as the parking areas. The area to be allocated for loading and unloading shall be at least 10 feet in width, 25 feet in length and 15 feet in clear height.

- A. Provisions for off-street loading and unloading shall be governed by the following requirements:

Use	One Loading Area for Each (square feet)
Storage space	10,000
Office/all other businesses	40,000

- B. In no case shall more than three such spaces be required.

## § 271-252. Utilities.

All wiring, feed lines, energy sources and all equipment accessory to all utilities for any building in the Business Park District shall be placed underground. The Village Board of Trustees may waive this requirement at the request of the applicant in cases where the Board of Trustees shall determine that installation or installation services will result in substantial difficulty in construction and economic hardship.

## § 271-253. Site plan approval.

- A. Any and all construction of a new building, alteration of an existing building or change of use of an existing building, as provided in this article, within the Business Park District shall require site plan approval by the Village Board of Trustees of the Village of East Hills. In any cases where any amendment

of a site plan is proposed, the applicant must also secure the approval of the amendment by the Village Board of Trustees. No building permit may be issued for the construction of a new building, the alteration of an existing building or the change of use of any existing building within the purview of this article unless and until an approved site plan or amendment of any such plan has been secured from the Village Board of Trustees in the manner as set forth in this section. The site plan shall be prepared in such detail as to show the following:

(1) Legal data.

- (a) The name and address of the owner of record.
- (b) The name and address of the person, firm or organization preparing the map.
- (c) The date, North arrow and written and graphic scale.
- (d) Sufficient description or information to define precisely the boundaries of the property, including section, block and lot number. All distances shall be in feet and tenths of a foot. All angles shall be given to the nearest 10 seconds or closer. The error of closure shall not exceed one in 10,000.
- (e) The locations and owners of all adjoining lands as shown on the latest tax records.
- (f) The locations, names and existing widths of adjacent streets and curblines.
- (g) Location, width and purpose of all existing and proposed easements, setbacks, reservations and areas dedicated to public use within or adjacent to the property.
- (h) A complete outline of existing deed restrictions or covenants applying to the property.
- (i) Existing zoning.

(2) Natural features.

- (a) Existing contours with intervals of two feet, referred to a datum satisfactory to the Village Board of Trustees.
- (b) An analysis of existing slopes indicating areas with slope in the following categories: 0% to 15%; over 15% to less than 30%; 30% or greater.
- (c) Approximate boundaries of any areas subject to flooding or stormwater overflows.
- (d) Location of existing watercourses, marshes, wooded areas, rock outcrops, isolated trees with a diameter of eight inches or more measured three feet above the base of the trunk, and any other significant existing natural features.
- (e) Profiles of existing contours at fifty-foot intervals.

(3) Existing structures and utilities.

- a) Outlines of all structures and location of all uses
- b) Paved areas, sidewalks and vehicular access between the site and public streets.
- c) Location, dimensions, grades and flow direction of any existing sewers, culverts, waterlines, as well as other underground and aboveground utilities within and adjacent to the property.
- d) Other existing development, including fences, landscaping and screening.

(4) Proposed development.

- (a) The location of proposed buildings or structural improvements.
- (b) The location and design of all uses not requiring structures, such as off-street parking, loading areas, any common space and/or recreation areas.
- (c) The location, direction, power and time of use for any proposed outdoor lighting or public address systems.
- (d) The location and plans for any outdoor signs.
- (e) The location, arrangement and materials of proposed means of access and egress, including sidewalks, driveways or other paved areas. Profiles indicating grading and cross sections showing width of roadway, location and width of sidewalks and location and size of waterlines and sewer lines. Any proposed direct pedestrian connection to public parking lots or structures will also be shown.
- (f) Any proposed screening and other landscaping, including a planting plan prepared by a qualified landscape architect or architect.
- (g) The location of all proposed waterlines, valves and hydrants and of all sewer lines or alternate means of water supply and sewage disposal and treatment, including on-site stormwater, drainage and septic systems.
- (h) An outline of any proposed easements, deed restrictions or covenants.
- (i) Any contemplated public improvements to be constructed or developed on or adjoining the property, including improvements to adjacent streets or roadways and traffic controls on or off the property.
- (j) Proposed finished grades at intervals of two feet, indicating clearly how such grades will meet existing grades of adjacent properties or the street.
- (k) Profiles of the finished contours at fifty-foot intervals (should be shown with the profiles of existing contours).
- (l) Elevations of all proposed principal or accessory structures, incorporating the design or screening of any projection from the roof.
- (m) If the site plan only indicates a first stage, a supplementary plan shall indicate ultimate development.
- (n) Any other information deemed by the Village Board of Trustees to be necessary to determine conformity of the site plan with the spirit and intent of this article.
- (o) In the case of all required improvements, a professional engineer or licensed architect is required to submit plans. Installation of such improvements must be under the direct supervision of a registered architect or licensed engineer.

## B. Procedure.

- (1) The Village Board of Trustees of the Village of East Hill shall not decide upon an application for site plan approval without first holding a public hearing.
- (2) Notice of public hearing, including the substance of the application, shall be given by the publication in the official newspaper of the Village at least five days before the date of such hearing.
- (3) In addition to such published notice, the applicant shall ~~cause such notice to be also mail notices mailed~~ at least 10 days, but no more than 20 days, before the hearing, to all owners of property that are located which lies adjacent to

the property for which relief is sought and to each owner of all parcels of property located within a radius of 500 feet measured from all points of the subject property lines, by registered or certified mail, return receipt requested.

- (4) For lots within 500 feet of a municipal boundary, notice shall be mailed in the above-prescribed form to the clerk of the adjacent municipality. The site plan shall also be referred to the Nassau County Planning Commission pursuant to New York State General Municipal Law.
- (5) The hearing date shall also be advertised by posting of a sign stating the time, date and place of the public hearing to be held on the property which is the subject of an application. The sign shall be posted at least 10 days prior to the date of the hearing. The sign shall be visible from adjacent rights-of-way. If the subject property is on more than one right-of-way, a sign shall be posted facing each right-of-way. If the sign is destroyed or removed from the property, the owner of the subject property shall be responsible for replacing it. Ten days prior to the public hearing, the owner of the subject property shall execute and submit to the Building Department an affidavit of proof of the posting of the public notice sign(s) according to this subsection. If the owner of the subject property fails to submit the affidavit, the public hearing will be postponed until after the affidavit has been supplied.

C. Conditions.

- (1) Pursuant to § 7-725-a of the New York State Village Law, the Village Board of Trustees shall have the authority to impose such reasonable conditions and restrictions as are directly related to and incidental to a proposed site plan. Such conditions may include, without limitation, provisions with respect to location of buildings and structures, location of drainage facilities, site layout or design, hours and methods of operation, mitigation or elimination of any adverse impact upon the community, the environment or neighboring properties, the regulation of traffic entering, leaving or within the site, and the like. Upon its approval of said site plan, any such conditions must be met in connection with the issuance of permits by applicable enforcement agents or officers of the Village.
- (2) The Village Board of Trustees may condition site plan approval upon the applicant's submission to the Village Clerk of a cash deposit, performance bond or irrevocable letter of credit in an amount determined after recommendation from the Village Engineer, which amount shall be sufficient to insure that all specifications of the approved site plan and, if required, all public improvements shall be completed, and to insure against damage to the infrastructure, including, but not limited to, public and private roads and drainage structures.
- (3) Any bond or irrevocable letter of credit shall be in a form and substance acceptable to the Village Attorney, and any such bond or irrevocable letter of credit shall not be accepted by the Village Clerk unless so approved by the Village Attorney.

## § 271-254. Architectural Review Board approval.

In addition to all other requirements as set forth in the article, any and all construction of a new building, alteration of an existing building or change of use as provided in this article within the Business Park District shall also require an application to and approval from the Village's Architectural Review Board pursuant to and as more fully set forth in Chapter 271, Article XX, of the Code of the Village of East Hills.

## § 271-255. Signs.

All signs in the Business Park District shall comply with the requirements of §§ 271-91 and 271-92 relating to signage in the Business B District.

## § 271-256. Conditions for the issuance of a building permit.

- A. The Board of Trustees shall have final authority to direct the Building Inspector to issue a written permit for the prosecution of the work, after determining that the plans and specifications and the prospective uses comply with the requirements of this article, the provisions of Chapter 271, Zoning, and with applicable state law, and that any retained existing construction is in good and safe condition.
- B. Notwithstanding the foregoing, the Building Inspector shall not issue any building permit for any alteration, construction, renovation or addition of any structure within the Business Park District unless the Village Board of Trustees shall have first approved a site plan in accordance with § 271-253 of this article, and unless the Village Board of Trustees shall have first approved a special use permit, where applicable, in accordance with § 271-245.

## § 271-257. Environmental review.

Any application for the construction of a new building, alteration of an existing building or change of use of an existing building, as provided in this article, within the Business Park District shall be subject to the environmental review requirements of the New York State Environmental Quality Review Act (Article 8 of the Environmental Conservation Law) and its implementing regulations (6 NYCRR Part 617) ("SEQRA").

## § 271-258. Fees.

All fees and deposits shall be required in accordance with § 271-138 of the Village Code.

# Article XXIII. Requirements and Standards for Retaining Walls

[Added 4-24-2013 by L.L. No. 5-2013]

## § 271-259. Permits.

- A. A separate retaining wall permit is required for all retaining walls which are 24 inches in height or greater.
- B. A permit is not required for improvements that involve repairs of a minor nature as determined by the Building Inspector, or a retaining wall 24 inches or less in height, unless construction of the wall will result in a material change of grade or surface water flow that may affect other properties. In that event, a retaining wall permit is required.

## § 271-260. Zoning requirements for new retaining walls.

- A. The minimum setback from a lot line for a retaining wall below grade of the public right-of-way shall be 10 feet.
- B. A minimum setback from a lot line for new retaining walls that rise above the grade of the public right-of-way shall be one foot of distance for each one foot of height.
- C. For retaining walls over 24 inches in height visible from the road or adjacent property, the use of a smooth concrete wall shall not be permitted. The exterior of all such walls shall be natural materials, decorative wall blocks or textured concrete, so as to minimize the negative visual impact of the wall. The treatment of these walls shall be indicated on the site plan and construction drawings.
- D. Retaining walls over 30 inches in height that create a walkable surface behind the top of the retaining wall shall have a guard or fence at least three feet in height at the top of the wall to ensure safety. Retaining walls that are multitiered shall have a guard or fence installed on the highest tier. Lower tiers that are

accessible shall be protected with fencing, guard, or landscaping to prohibit access at each end.

- E. Retaining walls of any height are not permitted in any utility easement.
- F. Building permit applications for new retaining walls must include, in addition to all other requirements:
  - (1) Construction drawings designed, signed and sealed by a professional engineer or registered architect duly licensed by the State of New York, indicating type of wall and construction details.
  - (2) Signed and sealed calculations showing that the wall is designed to prevent overturning, sliding, excessive foundation pressure and water uplift. Retaining walls must be designed for a safety factor of 1.5 for lateral sliding and overturning.
  - (3) A site plan indicating:
    - (a) The location of the wall on the property.
    - (b) Property lines and easements.
    - (c) The dimensions of the proposed wall.
    - (d) All drainage components.
    - (e) The location of all utilities, existing or proposed
    - (f) The direction of all surface water flow.
    - (g) Location and detail of erosion control components.
    - (h) All existing trees in or near the area of construction and including all trees to be removed and methods of protection for trees to remain.

## § 271-261. Retaining wall design.

- A. A new retaining wall or single tier of a multitiered wall shall not exceed four feet in height. The height is to be measured from the lowest point on the adjoining grade.
- B. A minimum horizontal distance of four feet is required between walls installed in a tiered installation. The area between the tiers shall be graded with no more slope than needed to facilitate shedding of surface waters and must be landscaped with natural material and be properly maintained.
- C. A retaining wall cannot exceed the height of the adjoining grade that it supports or retains.
- D. Provisions must be made to contain stormwater and prevent erosion on the subject property and to protect all adjoining properties from the same during and after construction.
- E. Permission to enter upon and/or disturb any adjoining property must be obtained from the property owner prior to the issuance of a building permit. Any adjoining property disturbed by the installation of a retaining wall must be restored to its previous condition.
- F. Retaining walls will not be permitted when the installation will destabilize or cause the removal of trees on an adjoining property, regardless of property line location, unless prior written permission is granted by the adjoining property owner and a tree removal permit is issued.
- G. Standard concrete block and untreated landscape ties are not permitted.

## § 271-262. Repairs and replacement of existing retaining walls.

- A. All repairs not minor in nature, as determined by the Building Inspector, and all repairs of an existing retaining wall of any full-height section of the wall over two feet in height shall require a permit. For all repairs over 4 feet in height, plans must be submitted, signed and stamped by a duly licensed construction design professional who may be an architect or engineer.
- B. Repairs of a minor nature include, but are not limited to, patching cracks in concrete retaining walls, replacement of rotted landscape ties that will not cause the removal of entire wall sections and correction of settlement in masonry unit walls that will not disturb the geotextile or footings.
- C. Retaining walls shall be inspected annually by the owner for signs of tipping, clogged drains or soil subsidence. If such conditions exist, they should be corrected immediately. The Building Department shall have the authority to require any necessary repairs to a retaining wall that jeopardizes public health, safety and property.
- D. Existing retaining walls may be replaced, in the existing configuration, without conforming to § 271-261A and B.

## § 271-263. Impervious Yard Coverage

The maximum impervious area (other than building area) shall not exceed 20% of the first 10,000 square feet of lot area, and 12.5% of that portion of the lot area, if any, in excess of 10,000 square feet with the maximum as described within the requirements of the zoning district (see Table 271-263-a below).

**TABLE 271-263-A**  
**MAXIMUM IMPERVIOUS YARD COVERAGE BY ZONING DISTRICT**

<u>Yard</u>	<u>R</u>	<u>R-1</u>	<u>R-2</u>	<u>R-3</u>	<u>R-4</u>
<u>Front Yard (primary)</u>	<u>16%</u>	<u>20%</u>	<u>30%</u>	<u>30%</u>	<u>35%</u>



Front Yard (secondary, for corner lots)	<u>12%</u>	<u>15%</u>	<u>20%</u>	<u>20%</u>	<u>20%</u>
Rear Yard	<u>20%</u>	<u>20%</u>	<u>25%</u>	<u>25%</u>	<u>35%</u>

(See **Figure 1** provided in §271-7B under the definition of "Coverage, Front Yard Impervious")

## § 271-264. ~~(Reserved)~~ Detached Garages, Accessory Buildings and Structures

- A. Each detached garage, accessory building and structure, except for sheds, unless expressly provided to the contrary elsewhere in this chapter, shall be located in accordance with the table above.
- B. No detached garage, accessory building or structure shall exceed 12 feet in height measured from the grade plane at the perimeter thereof to the mid-height of the vertical dimension from the eave to the ridge. In no case shall a detached garage exceed 18 feet in height to the ridge, nor shall it contain livable floor area.
- C. No detached garage, accessory building or structure shall occupy more than 20% of lot area in R and R-1, and not permitted in R-2, R-3 and R-4 and area shall be included in the total lot coverage calculation for such yard.
- D. Setbacks for accessory buildings and structures in each residential zone shall be as shown in the table below.

### ACCESSORY STRUCTURE COVERAGE AND SETBACK REQUIREMENTS

#### BY RESIDENTIAL ZONING DISTRICT

<u>District</u>	<u>Maximum Coverage</u>	<u>Minimum Distance from</u>		
		<u>Primary Structure</u>	<u>Side Yard Lot Line</u>	<u>Rear Yard Lot Line</u>
<u>R</u>	<u>20%</u>	<u>15'</u>	<u>15'</u>	<u>10'</u>
<u>R-1</u>	<u>20%</u>	<u>15'</u>	<u>15'</u>	<u>10'</u>
<u>R-2</u>	<u>15%</u>	<u>15'</u>	<u>10'</u>	<u>5'</u>
<u>R-3</u>	<u>10%</u>	<u>15'</u>	<u>5'</u>	<u>5'</u>
<u>R-4</u>	<u>10%</u>	<u>15'</u>	<u>5'</u>	<u>5'</u>

- E. Each detached garage, accessory building and structure shall be located at least 50 feet (in all zones other than R) and 70 feet in R Zone from any street line; provided, however, that with respect to any corner lot, any accessory building, structure or detached garage shall be located only in the corner of the lot farthest removed from the abutting streets, at least five feet from the two nearest property lines, and so that the two nearest property lines do not abut any street. Accessory structures cannot be located in any front yard.
- F. No lot may contain more than one detached garage.
- G. A detached garage connected to the main house by a porte-cochere or 'roof over' shall be considered part of the primary structure with respect to setbacks.
- H. Accessory structures, other than for uses such a garage or storage, shall be permitted only by special permit of the Zoning Board of Appeals, and only within the R Zoning District with a maximum size of

## Article XXIV. Standards for Stormwater Retention

[Added 4-24-2013 by L.L. No. 6-2013]

### § 271-265. Permits.

A separate stormwater retention permit, issued by the Incorporated Village of East Hills, shall be required for the installation or construction of any dry well or retention system.

### § 271-266. Construction or alteration.

Any construction or alteration upon any lot that results in an increase of impervious surface on such lot equal to or greater than 200 square feet must include facilities for on-site retention and discharge of stormwater runoff from the added area of impervious surface. Impervious surfaces include roofs, driveways, patios and athletic courts, but shall not include walkways and stoops. In instances where runoff from new rear yard patios, athletic courts and impervious surfaces, in the opinion of the Code Enforcement Official, will not have an adverse affect on adjoining or down-slope properties, the Code Enforcement Official shall have the authority to allow exceptions to these requirements.

### § 271-267. New or substantially improved structures.

All new or substantially improved structures shall provide for the on-site stormwater retention for the entire structure and all impervious surfaces on the subject property. ~~A. The terms "Substantially improved structure" and "Substantial Improvement, Cumulative" are defined as the enlargement, replacement or alteration of any structure, the cost of which equals or exceeds 50% of the market value of the preexisting structure prior to the time of the improvements, as determined by the Building Inspector of the Incorporated Village of East Hills in § 271-7.B Definitions.~~

### § 271-268. Connection of added impervious surfaces.

If added impervious surfaces are constructed in separate locations and connecting the additional stormwater areas into a single retention system is impractical, then facilities for the on-site retention and discharge of the

additional stormwater may be connected to existing areas of impervious surface, rather than to the newly constructed portions, providing that the area retained is equal to, or greater than, the combined area of the added impervious surface.

## § 271-269. Runoff.

- A. When runoff from added impervious surface will combine with runoff from existing impervious surface and discharge into the same dry well or retention system, the system shall be sized to accommodate all runoff from the entire combined surface area.
- B. When the additional impervious surface added results in an increase of more than 50% of existing impervious surface, runoff from the combined surface shall be retained on site.
- C. New on-site retention facilities required shall be designed for the on-site retention and discharge of 100% of runoff calculated on the basis of three inches of rainfall over a one-hour period.

## § 271-270. Drainage for below-grade openings.

Where drainage is needed or required for new ~~basement cellar~~ entranceways, emergency exits, window wells and other below-grade openings that have the potential for stormwater entering and flooding the ~~cellar~~basement, ~~such the~~ openings shall be provided with a dry well or retention system that is separate from all other dry wells or retention systems. This shall not prohibit combining more than one such below-grade opening on the same dry well or retention system.

## § 271-271. Required materials.

- A. All stormwater connections shall be made with SDR 35 gasketed sewer pipe. Other rigid pipe of similar quality may be used only with prior approval of the Building Inspector or Code Enforcement Official.
- B. Piping with a minimum diameter of four inches shall be used for each leader. When two or more runs of pipe are combined, continuance of such run shall be sized accordingly.

## § 271-272. Inspection and approval.

All stormwater retention systems installed which require approval under the provisions of this article shall be inspected and approved by the Building Inspector or Code Enforcement Official. In instances where, in the opinion of the Code Enforcement Official, spatial constraints, soil composition or other site conditions prevent the installation from conforming to generally accepted practices, the Code Enforcement Official may require alternate design and certification by a duly licensed design professional.

## § 271-273. Additional Requirements for Accessory Off-street Parking for Residential Districts

- A. All new and substantially improved dwellings that received approval on or after September 1, 2017, shall provide two (2) off-street parking spaces per unit, plus 1 additional space for each bedroom in excess of 3 bedrooms. Garage parking may be included as acceptable parking space. See §271-7.B for definition of "Substantial Improvement". See Table 271-273-a for number of parking spaces required.

**TABLE 271-273-A**  
**VILLAGE OF EAST HILLS RESIDENTIAL PARKING REQUIREMENTS**

<u>Number of Bedrooms<sup>(1)</sup></u>	<u>Number of Parking Areas<sup>(2)</sup></u>
<u>1, 2, 3</u>	<u>2</u>
<u>4</u>	<u>3</u>
<u>5</u>	<u>4</u>
<u>6</u>	<u>5</u>
<u>7</u>	<u>6</u>
<u>8</u>	<u>7</u>

(1) Bedrooms include rooms that can easily be converted to bedrooms. See Article XXV.

(2) Each parking areas dimensioned as 8' x 18' area and includes areas in driveways, car ports and garages.

B. Reduction of garage spaces, by application of a permit, must illustrate that all parking shall be located on-site and not trigger a need for relief from driveway regulations Figures 3A-3F (see figures provided in §271-19) or a request for relief of maximum impervious coverage (see § 271-263. Impervious Yard Coverage).

C. No accessory off-street parking shall be constructed or installed without a permit from the Building Inspector. Application for the permit shall include a parking layout plan and landscape plan for the purpose of minimizing any adverse impact on the neighborhood or community. A permit shall not be issued until a parking layout plan and landscape plan have been approved by the ARB. Unless otherwise specifically provided in the permit, the maintenance of required landscaping approved by ARB and the Building Inspector post installation shall be deemed to be a continuing condition for use of the accessory off-street parking.

§ 271-~~273~~274. through § 271-281. (Reserved)

## Article XXV. Standards for New and Existing On-Site Sanitary Systems

[Added 4-24-2013 by L.L. No. 4-2013]

### § 271-282. Permits.

- A. A separate permit is required for the installation or replacement of any new or substantially improved on-site sanitary system or component constructed.
- B. All permit applications for the installation or replacement of any sanitary system or components shall include a site plan indicating:
  - 1) The location of the system components on the property.

- 2) A written description of the component, including size and type of structure.

Property lines and easements.

- 3) The location of all utilities, existing or proposed.

- 4) All clearances from foundations, property lines, dry wells, utilities and other sanitary structures.

C. All newly installed sanitary systems shall be constructed in accordance with 10 NYCRR Appendix 75-A and the most current Nassau County Department of Health standards

## § 271-283. Required materials.

All septic connections shall be made with SDR 35 gasketed sewer pipe. Other rigid pipe of similar quality may be used only with prior approval of the Building Inspector or Code Enforcement Official.

## § 271-284. Replacement of existing sanitary system components.

When replacing an existing sanitary system component, the component being replaced must be installed in accordance with 10 NYCRR Appendix 75-A and the most current Nassau County Department of Health standards to the extent practicable. If remaining structures on the property are constructed of stacked cesspool block, all block structures must be properly abandoned and replaced as above.

## § 271-285. Requirements for new or substantially improved structures.

A. All new or substantially improved structures, ("Substantial Improvement" is defined in §271-7.B Definitions), shall include the installation of a new sanitary system. Existing systems may be utilized for new or substantially improved structures only if they conform to 10 NYCRR Appendix 75-A and the most current Nassau County Department of Health standards and were legally installed within the last 10 years.

B. When a Substantial Improvement addition or renovation requires professional certification of existing system. See Certification requirements as part of permit forms.

~~A. A "substantially improved structure" is defined to mean the enlargement, replacement or alteration of any structure, the cost of which equals or exceeds 50% of the market value of the preexisting structure prior to the time of the improvements, as determined by the Building Inspector of the Incorporated Village of East Hills.~~

## § 271-286. Conformance to required clearances and/or setbacks.

Where on-site conditions of existing structures do not allow for conformance to required clearances and/or setbacks, such clearances and/or setbacks for new on-site systems may be modified only with prior approval of the Building Inspector or Code Enforcement Official.

## § 271-287. Inspection and approval of new on-site systems.

All new sanitary system installations constructed on or after the effective date of the enactment of this article shall be inspected and approved by the Building Inspector or Code Enforcement Official. In instances where, in the opinion of the Code Enforcement Official, spatial constraints, soil composition or other site conditions

prevent the installation from conforming to generally accepted practices, the Code Enforcement Official may require alternate design and certification by a duly licensed design professional.

## **§ 271-288. Certification of existing on-site systems**

A NYS Licensed Engineer or Architect, with expertise in the design and evaluation of on-site sanitary systems, shall inspect and certify the following:

1. System located on site plan and measured from two points of the structure
2. Depth of overall system component
3. Effective depth of overall system component
4. Diameter of each component
5. Material description of components
6. Volume calculation for capacity of system
7. Information required by Permit Application
8. Information requested by Code Enforcement Official

If the system is not built out of precast concrete structures, replacement is required regardless of capacity.

## **§ 271-289. through § 271-296. (Reserved)**

## **Article XXVI. Requirements and Standards for Property Maintenance: Leaves**

[Added 4-24-2013 by L.L. No. 3-2013]

### **§ 271-297. General provisions.**

- A. Lawns, driveways, walkways and paved or cultivated areas must be maintained and kept reasonably free of leaves, fallen branches and other landscaping debris.
- B. Prior to December 1 of each year, all fallen leaves must be cleaned and removed from all lawns, driveway and walkways and from paved or cultivated areas.

### **§ 271-298. Exceptions.**

Notwithstanding any provisions contained in § 271-297 above, nothing contained in the provisions of this section shall require property owners to remove leaves from areas that remain in a natural, wooded state, provided that leaves fall naturally into an area and are not dumped, blown or otherwise deposited by human activity. All natural areas shall be kept free and clean of all garbage, litter and other similar debris.

### **§ 271-299. Compost.**

Leaves and other organic wastes that will remain on property for the purpose of producing compost to be used on the property shall be contained in a bin, cage or other similar enclosure designed for such purpose.