



Village of East Hills Summary of Code Modifications September 2017

The proposed local laws involve the modification of the Village of East Hills Code Chapter 271 Zoning, Chapter 117 Lighting, and Chapter 223 Building Construction.

Background

In 2004, the Village of East Hills commenced a comprehensive review and update of the bulk zoning requirements set forth in Chapter 271, Zoning, and subsequently adopted revisions to many zoning law provisions¹. Prior to adoption of the new zoning provisions, the bulk requirements did not stipulate a maximum floor area ratio (FAR), though it was possible to achieve an FAR of up to 0.5 according to the maximum coverage and height allowable under the code requirements. NP&V provided supporting studies at that time, including an in-depth analysis of the character of various residential neighborhoods, prevailing lot sizes, floor area ratio (FAR) and setback requirements in the Village of East Hills, review of the zoning laws of other communities, visual massing diagrams of certain zoning law provisions, and, based on these studies, outlined recommendations to address the over-intensification of the use of properties in the Village.² NP&V worked with a committee of dedicated residents to provide input during the course of the studies, and ultimately, public hearings were held and zoning law modifications were enacted in 2005. The zoning provisions instituted FAR and maximum gross floor area and building height-setback ratios.

Over ten years have passed and there is a record of building permit issuance and home construction to provide a basis for review to determine if the zoning law provisions have adequately addressed the needs of the Village. Several specific examples of new home construction have given rise to concerns that several provisions of the zoning law do not go far enough to provide home size and lot use restrictions that achieve the intended vision for the Village, with particular concern over several of the Village's residential neighborhoods with smaller lot sizes. In response, the Village formed the Zoning and Tree Review Committee and retained NP&V to work with the committee to identify issues and potential solutions. Since mid-2012, NP&V has been working with the committee and Village Attorney, has prepared recommendations contained in a report which was updated several times with input from the committee and Board of Trustees, has made presentations to the Board of Trustees on issues and solutions, and has worked with the Village Building Department staff to prepare the

¹ [Article XXI. Residential Construction and Building Limitations](#) added 2-28-2005

² Residential Bulk Regulations Review and Study and Architectural Review Board Planning Study, both from January 2005.

recommended code modifications that are the subject of the Local Laws being considered by the Board of Trustees.

A public hearing was held on the proposed local laws on July 20, 2017 and written comments were accepted by the Village until Friday August 18, 2017. In response to the comments and input received from the Building Department, a number of refinements were made to Chapter 271 Zoning to clarify the language, add graphics, and add and modify provisions. These modifications are noted following the following three sections which provide summaries of the modified code language for Chapter 117 Lighting, Chapter 223 Building Construction, and Chapter 271 Zoning.

Chapter 117 Lighting

Chapter 117 Lighting has been modified to provide standards for lighting of homes, businesses, and provides reference to requirements in Chapter 223 for active construction sites. The intent of these additions is to reduce the impact on neighbors and to be protective of the environment and consistent with dark sky guidelines.

Chapter 223 Building Construction

A summary of the modifications to Chapter 223 Building Construction are provided below:

1. New provisions have been added to §223-12 related to the responsibilities of the design professional in the application for a building permit, including certification language to be included on the cover page of drawing sets for signature of the design professional.
2. New review provisions are provided to limit the number of incomplete or inaccurate submissions (intended to reduce the number of incomplete applications received and including provision for additional review fee requirement for more than 3 resubmissions).
3. New provision requiring certification of all construction work completed in accordance with approved plans including verification of gross floor areas.
4. New provisions for barring professionals who have been found to repeatedly submit incomplete applications, falsified calculations or deficiencies standard for design professionals.
5. Modification to §223-13 to include provisions for issuance and term of demolition permits.
6. New provisions in §223-13 for situation where a demolition permit may be issued without a pending building permit for replacement home and requirements for site stabilization and management.
7. Revised expiration terms for building and demolition permits (with exceptions for unforeseen circumstances).
8. New requirements for building permit holders are provided in §223-14 related to maintaining a safe and clean construction site for the term of the permit to safeguard the community, and maintain aesthetics of streetscape to the extent practicable.
9. New provisions replace the language in §223-14 Supervision of Construction and to codify that it is the permit holder or general contractor's responsibility to ensure that all required inspections are performed at appropriate times and in a timely fashion.

10. A new provision has been provided in §223-17 for revocation of the building permit if no work occurs and/or continues on a building site within 4 months of issuance.

Chapter 271 Zoning

The modifications to Chapter 271 Zoning include modifications to definitions and new standards to maintain the prevailing aesthetic character of the Village's residential neighborhoods in permitting reasonable sized homes commensurate with lot size to refine the modifications that were adopted in 2004. A summary of the major modifications is provided below:

1. Modernize and remove obsolete language throughout §271.
2. Simplify the code by consolidating zoning related definitions in §271-7B. Provide updated definitions and/or consolidate definitions formerly included in §271-226 and add new definitions as needed to accompany new standards and provisions.
3. Redefine how Floor Area is calculated and include new standard for calculating floor areas with ceiling heights greater than 10' (in §271-7B).
4. New provision to allow a single shed (no more than 120 SF in size) to be excluded from rear yard coverage and floor area calculations.
5. All height restrictions by district referred to §271-228 A and B (to consolidate in one place).
6. Identify a threshold for applicability of new zoning requirements ("Substantial Improvement" and "Substantial Improvement, Cumulative") (§271-7B).
7. Provide standards for driveways and garage types for each residential zoning district and figures to illustrate configurations and required setbacks, radii for side entry garages, driveway widths and landscaping requirements for various scenarios. (See §271-19 for the Residence R District).
8. Revise permit terms in §271-127 for consistency with terms found in §223 Building Construction.
9. Add exceptions to prohibition on flat roofs for one story porticos, open porches and vestibules as long as no more than 25% of overall footprint (in §271-128).
10. Adjust fees in §271-138 which had not been adjusted for several years and move fees for ARB review to this section.
11. Add a Preliminary Application Review procedure in §271-189 to provide applicants with initial feedback on proposed improvements (intent is to provide feedback on general design prior to the applicant making major expense on architectural/engineering plans and models).
12. Provide additional guidelines in §271-190 Review and Design Standards to clarify the design characteristics to achieve the objectives of the ARB Legislative Intent contained in §271-186 including architectural style, massing of walls/roofs, house numbers, encouraged and discouraged materials, mounted fixtures on roofs, design and placement of garages and driveways.
13. Provide term of expiration of ARB approval in §271-191(I) of six months from issuance.
14. Reduce permitted height for accessory building or structure in §271-228 B.

15. Provide additional flexibility in §271-230 (from 18” to 24” for certain features) for projections into required yards except within the R-4 District and add to the permitted list of encroachments for bay windows, vestibules, open porches or terraces, chimneys, stoops/entryway platforms, garbles and dormers.
16. Add new requirements related to second story setbacks for residential districts in §271-231.
17. Modify the provisions for exterior wall interruption in §271-236.
18. Provide new standards for limiting impervious surface coverage (§271-263) for substantially improved structures for each residential district.
19. Provide a new section §271-264 to provide bulk regulations and standards for detached garages, accessory buildings and structures.
20. Provide a new section §271-273 with requirements for accessory off-street parking in residential districts.
21. Update thresholds for requirement of certified sanitary system or provision of a new sanitary system for substantially improved or new homes in §271-288.
22. Attachment 1 of §271 has been revised to modify the Table of Requirements for Residential Construction and Building Limitations to correct the minimum lot area and street frontage for the R-4 District and has been renumbered as Table 1A. A new table has been prepared entitled Table of Setback Requirements for Site Accessory Features (Table 1B).

The summary of modifications to Chapter 271 above remains the same as the summary provided in July 2017, however, certain modifications have been made to address substantive comments made at the public hearing on July 20, 2017 and in written comments provided thereafter. The following provides a list of the modifications:

1. Clarify the portion of a rear yard that is used to calculate maximum impervious yard coverage by modifying definition “the linear measurement along the rear lot line of the property multiplied by the actual distance to the closest point of the dwelling” and this is also illustrated in an update to Figure 1.
2. Replacement of the illustrations that accompany the definition of “elevation points” for greater clarity.
3. Add basement area that extends beyond the footprint of the first floor to the calculation of floor area to address a loophole in the code.
4. In 271-22, clarify that stationary outdoor fireplaces are considered site accessory features and refer to Table 1B for setback requirements.

5. In 271-46, 57 clarify that garage is permitted as accessory structure in R-2 and R-3 (no habitable space) and in 271-69, that no accessory buildings are permitted in the R-4 District.
6. Provide a reference in 271-99 (standards for noise in the Industrial District) to see also Chapter 127 Noise that applies to all districts in the Village.
7. In 271-138 certain modifications of fees were made.
8. In 271-183 location of dish antennas updated to address current needs, no dish antennas to be located on the ground – and additional restrictions.
9. In 271-190 addition that house numbers shall be compliant with the most current adopted version of the International Fire Code, New York State Edition.
10. In 271-230 Projection of buildings, added for substantial improvements, encroachments of 2nd floor setbacks of less than required per §271-231 of 18” or less, can encroach to align to the existing exterior wall to remain.
11. In §271-231, for the R-2 District the minimum additional side yard setback for second story was changed from 6 to 5 additional feet from side yard first floor wall.
12. In Section 271-236, there were no provisions maintained in the recommended code for existing buildings, alterations and additions so the newer version keeps the old provisions for these situations for exterior wall interruption. Items A 2 and 3 were moved from below and the language is not changed. Also for A (for Existing Buildings) and we note that this only applies if not a substantial improvement. Otherwise there are provisions in B.
13. In 271-263, specified that impervious yard coverage restrictions would apply for new and substantial improvements.
14. In 271-269 Runoff, added following language “Use of rain gardens for storage and treatment of up to 1” of the calculated drainage storage requirement may be used as part of the drainage infrastructure. Design must be performed by a professional with experience in design, construction and long-term maintenance of rain gardens. Yearly maintenance is required to ensure proper function of this drainage option”.

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