

INCORPORATED VILLAGE OF EAST HILLS

BOARD OF TRUSTEES

LOCAL LAW NO. 2 OF THE YEAR 2024

A LOCAL LAW AMENDING CHAPTER 271-138 OF THE VILLAGE CODE WITH RESPECT TO THE REPEALING OF CERTAIN FEES BY STATUTE AND REPLACING THEM BY RESOLUTION AND OTHER CHANGES IN BONDING AND DEPOSITS FOR BUILDINGS, LAND USE, AND MISCELLANEOUS APPLICATIONS.

The Board of Trustees of the Incorporated Village of East Hills enacts, as follows:

PURPOSE

Through this Local Law, fees and deposits required or associated with buildings, zoning, land use applications, and permits will be set by resolution of a majority of The Board of Trustees, at regular or specially held meetings, instead of enacting the fees through the statutory process.

Section I. Content.

Chapter 271-138 Zoning, Article XIV, Fees, of the Code of the Village of East Hills is hereby repealed in its entirety and replaced as follows:

§ 271-138. Required fees, bonds and deposits for building, zoning, subdivision and miscellaneous other applications, permits, licenses and services: amounts to be set by resolution.

A. Intent; purpose. In order to more effectively carry out the provisions of this Village of East Hills Municipal Code, pursuant to § 10(4)(a) of the Municipal Home Rule Law of the State of New York, the Board of Trustees of the Village of East Hills shall set all fees for Village matters by resolution, including, but not limited to, fees for the application of and issuance of building permits, permit renewals and expirations, licenses, miscellaneous permits and fees and deposits related to Planning Board, Zoning Board of Appeals, Architectural Review Board and Board of Trustees applications. In order for the Village of East Hills to properly review zoning and land use applications and to preserve, protect the health, safety and welfare of the citizens of the Village, the Village may 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 and analysis should be borne directly by the applicants rather than the taxpayers of the Village at large. Bonds and deposits are required, in the amounts determined by the Board of Trustees by resolution, to guarantee the reimbursement of

such expenditures, and to guarantee that the roadways and infrastructure of the Village of East Hills are restored and maintained in their present condition.

- B. Applicability. Wherever and whenever the amount of any fees, permit charges, permit expiration and renewal schedules, deposits or bonds as provided for under Chapters 89, 145, 175, 186, 223, 239, and 271 of the Village Code shall differ in amount or application with the amounts established by resolution and incorporated into the amounts set forth in the fee schedule shall take precedence and control.
- C. 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 established and amended by resolution of the Board of Trustees. The fee schedule is on file with the Village Clerk.
- D. The fees established by resolution shall be the minimum fees and are nonrefundable.
- E. Where any construction or other work which required a permit under this Code was improperly commenced prior to the issuance of a building permit, the fee for the construction or other work shall be three times the amount or amounts required in the fee schedule or set forth in the Code Book.
- F. Permit expiration and renewals
 - 1. All permits expire in accordance with the schedule adopted by resolution of the Board of Trustees. The permit may be renewed by paying the applicable renewal fee, or by application to reinstitute the permit, together with a renewal fee as set forth in the fee schedule adopted by resolution of the Board of Trustees. The expiration schedule and renewal fee schedule are included in the Fee Schedule on file with the Village Clerk.
 - 2. The renewal schedule, fees and charges provided for in this chapter shall supersede any other schedule, fees or charges established in this Code.
- G. Bonds.
 - 1. Performance Bond(s) in such form as shall be approved by the Village Attorney or equivalent cash deposit(s) shall be posted by each applicant to guarantee the reimbursement to the Village of any damages sustained to its roadways or other property arising from or occurring during the course of construction. The responsibility to repair or replace damaged roadways or property exists at all times during the entire duration of any permit or activity. The amount of all requisite bonds or deposits shall be determined by resolution by the Board of Trustees and shall be listed on the Fee Schedule on file with the Village Clerk. Bond(s) or deposit(s) are required for:
 - (a) Demolition Permit for new dwellings

- (b) Building Permit for new dwellings
- (c) Building Permit for substantially improved structures
- (d) Building Permit for new swimming pool construction
- (e) Building Permit for excavation
- (f) Street opening permits
- (g) Temporary Certificates of Occupancy

2. The Board of Trustees may require a performance bond or may specify additional conditions and obligations to be included on that performance bond for any project not described in 271-138(G)(1).

H. Reimbursements and Deposits.

1. Reimbursements. 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 of land use, zoning or construction applications and applications before the Zoning Board of Appeals, Planning Board, or Board of Trustees:
 - (a) Advertising;
 - (b) Stenographic transcription of hearings and meetings;
 - (c) Engineering costs;
 - (d) Inspection costs;
 - (e) Legal fees in excess of routine review and representation for regular meetings by the Village Attorney or by outside counsel;
 - (f) Recording fees;
 - (g) Planning, plan review, environmental impact review, traffic, sound, landscape design, arborist review, economic or other specialized consulting services, studies and reports deemed necessary for a proper review of the application.
2. If the Architectural Review Board retains an outside consultant on an application, the applicant will be responsible for all costs and expenses incurred.
3. Deposits. A cash deposit shall be posted by each applicant to guarantee the reimbursement to the Village for costs incurred in the review and evaluation of applications by outside professionals in 271-138(H)(1). The amount of the deposit is determined by resolution of the Board of Trustees, and is listed on the Fee Schedule on file with the Village Clerk. The Board of Trustees shall establish 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.

Deposits are required for:

- (a) Subdivision applications
- (b) Applications for Change of Zone

- (c) Application for a Zoning Overlay District or Senior Residence District (SRD)
 - (d) Application for conditional use permit, special use permit or special exception, other than for residential uses
 - (e) Application for Site Plan Review
 - (f) Application for zoning interpretation or variance associated with nonresidential applications
 - (g) Any application involving review and consideration of a draft or final environmental impact statement under the New York State Environmental Quality Review Act
 - (h) Any other construction, planning or scoping project where the Board of Trustees has determined that a deposit will be required and the amount of deposit is set by resolution
4. The deposit established in § 271-138(G)(1) and 271-138(H)(3) 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 incurred under § 271-138H(1), and in the event the deposit required under § 271-138H(3) 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 cost and expenses at the conclusion of the application, the unused portion of the deposit shall be returned to the applicant within six months. All unclaimed deposits shall be deemed to be abandoned property and treated as such under the laws of the State of New York.
5. No action shall be taken by any Village Board on any application unless and until all costs and expenses set forth in § 271-138H(1) have been paid in full. Any costs and expenses under § 271-138H(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 a hearing is requested by the applicant within 30 days of the mailing of the notice of deficiency.
6. In the event that any reimbursable cost, expense or deposit established in this section creates an economic or other hardship, an application may be made to the Board of Trustees, which is authorized to modify such cost and expenses and/or deposit in its legislative discretion after appropriate hearing.
7. The Board of Trustees 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.

Section II. Implementation.

Any and all other provisions set forth in Chapter 271, Zoning, and Chapters 89, 145, 175, 186, 223, and 239 remain in full force and effect.

Section III. Separability.

If any section or provision of this local law shall be adjudged to be invalid or ineffective by any Court or competent jurisdiction, such judgment shall not affect, impair or invalidate any other part of this local law or its remainder, and shall be confined in its operation to the section or provision or part of this local law which is directly involved in the controversy in which a judgment was rendered.

Section IV. Effective Date.

This local law shall take effect on immediately upon filing with the New York Secretary of State.