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Rec'd
12-13-17

INTRODUCTORY LOCAL LAW NO. ____ OF 2018

**A LOCAL LAW ADDING ARTICLE X ENTITLED
"FLOOR AREA RATIO"
TO CHAPTER 98 OF THE CODE OF THE TOWN OF CHESTER**

Be it enacted by the Town of Chester in the County of Orange, as follows:

Section 1. Title

This Local Law shall be referred to as "A Local Law Adding Article X, Entitled "Floor Area Ratio", to Chapter 98, entitled "Zoning", of the Code of the Town of Chester.

Section 2. Floor Area Ratio

A new Article X entitled "Floor Area Ratio" is hereby added to Chapter 98 entitled "Zoning" of the Town of Chester Municipal Code, to read as follows:

98-41. Purpose and Applicability

- A. The unique character of residential neighborhoods in the Town of Chester rests on the diversity in the 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 larger houses or building large additions to existing houses threatens the appearance and impacts the health, safety, welfare and quality of life in the Town of Chester.
- B. It is the intent of this local law to establish a maximum floor area ratio (FAR) for all homes and in the Town of Chester. It responds to the desire of residents to enlarge their homes to meet the needs of their families and to preserve the neighborhood character by requiring houses to appear to be of the same or similar scale to others in the neighborhood. It is the further intent of this local law to encourage both new houses and expansions or alterations to existing houses to have a consistent scale with the nearby residences on both sides of the street. The FAR provisions are intended to be applied together with other provisions of the Town of Chester Zoning Code, including the provisions for lot coverage and resource protection.

98-42. Definitions

A. Decks, Patios, Unenclosed Porches and Porticoes

- (1) All space in unroofed structures, such as decks and patios, shall be excluded from the calculation of FAR.
- (2) All space in unenclosed porches and porticoes shall be excluded from the calculation of FAR. For the purpose of FAR calculation, "unenclosed" shall mean those porches or porticoes that are open and not permanently, seasonally or temporarily enclosed.

B. Basements, Cellars and Basement Garages. Where exposed exterior wall or walls of basement, cellar or basement garage(s) facing the front yard(s) is less than three feet (measured from the lower of existing grade prior to construction or grade after construction to the bottom of the floor above the basement), the proportionate share of the basement, cellar or basement garage(s) shall be excluded from the calculation of FAR. All of the remaining portions of the floor area basement, cellars or basement garages, where the height (as defined herein) of the exterior exposed wall or walls facing the front yard is three feet or more, shall be included in FAR.

NOTE: *The proportionate share is defined as the relationship between that portion of the basement, cellar or basement garage(s) with an exposed exterior wall of less than three feet to the entire length to such exterior wall.

C. Attics. Attics shall be calculated as follows:

- (1) Attics with access through a drop stair or hatch, with a height of less than seven feet six inches, shall be excluded from the calculation of the FAR.
- (2) Attics with access through a drop stair or hatch, with a height of seven feet six inches or greater, shall count as 50% of the FAR.
- (3) An unfinished attic, with access from a staircase or door, with a height of less than seven feet six inches, shall count as 50% of the FAR.
- (4) Attics, unfinished or finished, with access from a staircase or door, with a height of seven feet six inches or greater, shall count as 100% of the FAR.
- (5) A finished attic shall count as 100% of the FAR.

D. Garages. Garages shall be calculated as follows:

- (1) On lots measuring 9,999 square feet or less, the lesser of 250 square feet or the total floor area contained within one-story garages, either detached or attached to the principal structure, shall be excluded from the calculation of FAR.
- (2) On lots measuring 10,000 square feet or greater, the lesser of 400 square feet or the total floor area contained within one-story garages, either detached or attached to the principal structure, shall be excluded from the calculation of FAR.
- (3) In those instances where an additional story is provided above a garage, whether detached or attached to the principal structure, such floor area or the garage floor area, up to the limits set forth herein as defined by lot size, shall be excluded from the calculation of FAR.
- (4) Notwithstanding the above, this section shall not apply to basement garages.

98-45. Procedures for Floor Area Ratio Review of Houses

- A. Upon receipt of a building permit application for a house, or upon submission of an application for site development plan approval or waiver of site development plan approval, the Building Inspector shall determine whether the proposed application exceeds the allowable FAR prescribed under §98-43.
- B. Houses at or below the maximum FAR. If an application does not exceed the maximum FAR, the Building Department shall proceed with the building permit application and/or process the application for site development plan approval or waiver of site development plan approval for consideration by the Planning Board.
- C. Residences above the maximum FAR. Applications for building permits, site development plan approval or waiver or site development plan approval for residences whose total floor area exceeds or is seeking approval for an application or permit which will exceed the maximum permitted FAR, shall be required to seek a variance from the Zoning Board of Appeals in accordance with Article VII of this Chapter. In considering the variance application, the Zoning Board of Appeals shall consider, among other factors, any design guidelines set forth in the Town of Chester Code. The Zoning Board of Appeals may also, at its discretion, refer the application to the Board of Architectural Review for an advisory opinion. Any application for a variance for FAR for a residence or project

shall require the submission of the following additional materials, if available, in addition to those required for a building permit:

- (1) Elevations (photos, drawings, scale) of the houses on all sides of the subject house, including across the street;
- (2) Photographs of neighboring houses, structures and yards within 200 feet on any side of the subject house, including across the street;
- (3) Floor area ratios of neighboring houses on lots within 200 feet on either side of the subject house; and
- (4) The applicant shall also provide written or verbal testimony addressing the proofs required for variances.

D. Additions to existing structures that exceed allowable FAR. When considering the FAR and out-of-scale components of an application for an addition where the preexisting structure exceeds the allowable FAR as set forth in §98-43, the Zoning Board of Appeals may, in its discretion, consider the increase of that addition over the existing FAR of the preexisting structure, provided that the resulting structure is not out-of-scale with the surrounding neighborhood.

98-46. Effective Date

- A. This article shall apply to any application for a building permit that has not been submitted to the Building Department for consideration or processing as of December 31, 2017.

Section 3. Severability.

If any clause, sentence, paragraph, subdivision, or part of this Local Law or the application thereof to any person, firm or corporation, or circumstance, shall be adjusted by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, or part of this Local Law or in its application to the person, individual, firm or corporation or circumstance, directly involved in the controversy in which such judgment or order shall be rendered.

Section 4. Effective date.

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

As used in this Article, the following terms shall have the meanings indicated, unless the context or subject matter requires otherwise. The definitions contained in Section 98 shall also apply.

DECK – An outdoor platform attached to the principal structure of a building and built above the natural grade. A deck does not have a roof and is exposed to the elements.

FOUNDATION – The supporting structure of a building or structure, including, but not limited to, basements, cellars, basement garages, slabs, sills, posts or frost walls, inclusive of any windows.

GROSS RESIDENTIAL FLOOR AREA – The sum of the gross floor area of all floors of a residence, measured to the exterior of the outside walls. In calculating the gross floor area of houses for the purpose of calculating floor area ratio (FAR), all floor areas of each floor of all principal and accessory structures on the lot shall be included, except for the portion which may be exempted as provided for in §98-44. Any interior space with a floor-to-ceiling height in excess of 12 feet shall be counted twice.

HEIGHT, FLOOR-TO-CEILING – The distance between the finished floor and the finished ceiling of an interior space. The distance shall be equal to the length of a theoretical line drawn from the floor to a point of the highest portion of the ceiling directly above it and is perpendicular to the horizontal plane of the floor.

OUT-OF-SCALE – With regard to a building or any part thereof, the condition of being or appearing to be disproportionately large, bulky, or massive relative to the other buildings in the surrounding neighborhood (particularly, but not limited to, the buildings on contiguous tax lots) and/or relative to the size of the tax lot upon which the building is situated; also, with regard to any one part of a building (or an addition to a preexisting building), the condition of being or appearing to be disproportionately large, bulky, or massive relative to any other part of the same building (or, in the case of an addition, relative to the preexisting building); with regard to an accessory structure, the condition of being or appearing to be disproportionately large, bulky, or massive relative to the principal structure, the other buildings in the surrounding neighborhood, and/or the size of the tax lot upon which the accessory structure is situated.

PORCH, ENCLOSED - A structure attached to a building, with a floor, roof, and structural supports, and permanently, seasonally, or temporarily enclosed with solid materials, such as glass or lexan (a clear, durable, hard plastic material). Screens, curtains, or latticework made of wire-mesh, cloth, paper, strips of wood or metal, or other similar material, shall not be considered "solid" for the purpose of this definition. A porch does not need to be heated or insulated to be considered enclosed.

- Air spaces within buildings such as vaulted ceilings. More specifically, the floor area shall be counted at the actual floor area only and not in the air spaces above.

5. Section ---: Floor Area Ratio in One-Family and Two-Family Residential Districts:

- a. The maximum allowable FAR for lots in ---- zone shall be determined by the following FAR (Floor Area Ratio) schedule set forth below to determine the maximum gross floor area permitted for an individual one- or two-family house. The actual lot size shall be multiplied by the FAR listed in or computed in accordance with the schedule in the approved category.

	SQ FT	MAXIMUM	RESULTING GROSS RESIDENTIAL FLOOR AREA (SQUARE FEET)
Less than	5,000	0.30	
	5,000	0.30	1,500
	6,000	0.28	1,680
	7,000	0.27	1,890
	8,000	0.25	2,000
	9,000	0.24	2,160
	10,000	0.23	2,300
	11,000	0.22	2,420
	12,000	0.21	2,520
	13,000	0.20	2,600
	14,000	0.19	2,660
	15,000	0.18	2,700
	16,000	0.17	2,720
	17,000	0.16	2,720
	18,000	0.155	2,790
	19,000	0.15	2,850
	20,000	0.15	3,000

FAR at 0.15 continues to 10,000 square feet. Then over 10,000 square feet most go to ZBA for approval.

STATE OF NEW YORK }
COUNTY OF ORANGE } ss:
TOWN OF CHESTER }

I, Linda Zappala, Town Clerk, of the Town of Chester, Orange County, New York, DO HEREBY CERTIFY, that the following resolution was adopted at a meeting of the Town of Chester Town Board held on -----, 2017, and is incorporated in the original minutes of said meeting and on file and of record, and that said resolution has not been altered, amended or revoked and is in full force and effect.

IN WITNESS WHEREOF, I have hereunto set my hand and the
Seal of the Town of Chester, this
---nd day of ----, 2017

Linda A. Zappala, Town Clerk

PORCH, UNENCLOSED – A structure attached to a building, which has a floor, a roof and structural supports, but not permanently, seasonally or temporarily enclosed with solid materials such as glass or lexan (a clear, durable, hard plastic material).

98-43. Maximum Floor Area Ratio

A. As illustrated below, the maximum permitted floor area ratio (FAR) and resulting maximum residential floor area for houses shall be as follows:

Lot Size (Square Feet)	Maximum FAR	Residential Floor Area (Square Feet)
5,000*	0.43	2,150
6,000	0.39	2,340
7,000	0.36	2,520
8,000	0.33	2,640
9,000	0.3	2,700
10,000	0.28	2,800
11,000	0.2725	2,998
12,000	0.265	3,180
13,000	0.2575	3,348
14,000	0.25	3,500
15,000	0.2425	3,638
16,000	0.235	3,760
17,000	0.2275	3,868
18,000	0.22	3,960
19,000	0.2125	4,038
20,000	0.2	4,000
21,000	0.198	4,158
22,000	0.196	4,312
23,000	0.194	4,462
24,000	0.192	4,608
25,000	0.19	4,750
26,000	0.188	4,888
27,000	0.186	5,022
28,000	0.184	5,152
29,000	0.182	5,278
30,000	0.18	5,400
31,000	0.178	5,518
32,000	0.176	5,632
33,000	0.174	5,742
34,000	0.172	5,848
35,000	0.17	5,950
36,000	0.168	6,048
37,000	0.166	6,142
38,000	0.164	6,232

39,000	0.162	6,318
40,000	0.1625	6,500
41,000	0.1605	6,581
42,000	0.1585	6,657
43,000	0.1565	6,730
44,000	0.1545	6,798
45,000	0.1525	6,863
46,000	0.1505	6,923
47,000	0.1485	6,980
48,000	0.1465	7,032
49,000	0.1445	7,081
50,000	0.1425	7,125
51,000	0.1405	7,166
52,000	0.1385	7,202
53,000	0.1365	7,235
54,000	0.1345	7,263
55,000	0.1325	7,288
56,000	0.1305	7,308
57,000	0.1285	7,325
58,000	0.1265	7,337
59,000	0.1245	7,346
60,000	0.125	7,500
61,000	0.125	7,625
62,000	0.125	7,750
63,000	0.125	7,875
64,000	0.125	8,000
65,000	0.125	8,125
66,000	0.125	8,250
67,000	0.125	8,375
68,000	0.125	8,500
69,000	0.125	8,625
70,000	0.125	8,750
71,000	0.125	8,875
72,000	0.125	9,000
73,000	0.125	9,125
74,000	0.125	9,250
75,000	0.125	9,375
76,000	0.125	9,500
77,000	0.125	9,625
78,000	0.125	9,750
79,000	0.125	9,875
80,000 and above	0.125	10,000

NOTE: *For lots 5,000 square feet and under, the maximum FAR shall be 0.43.

- B. Any house which exceeds 10,000 square feet of gross floor area shall be required to obtain a variance from the Zoning Board of Appeals.

98-44. Exemptions from Calculation of FAR in Residential Zones