

LOCAL LAW NO. 2 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

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.

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:

Floor Area Ratio Table 20% for 1 acre Scale Town Wide FAR Table			
LOT SIZE(SF)	LOT SIZE (ACRES)	Max FAR Ratio (%)	MAX FAR SF TOTAL
3,000	0.069	0.333333	1,000
4,000	0.092	0.297500	1,190
5,000	0.115	0.276000	1,380
6,000	0.138	0.261667	1,570
7,000	0.161	0.251429	1,760
8,000	0.184	0.243750	1,950
9,000	0.207	0.237778	2,140
10,000	0.230	0.233000	2,330
11,000	0.253	0.229091	2,520
12,000	0.275	0.225833	2,710
13,000	0.298	0.223077	2,900
14,000	0.321	0.220714	3,090
15,000	0.344	0.218667	3,280
16,000	0.367	0.216875	3,470
17,000	0.390	0.215294	3,660
18,000	0.413	0.213889	3,850
19,000	0.436	0.212632	4,040
20,000	0.459	0.211500	4,230
21,000	0.482	0.210476	4,420
22,000	0.505	0.209545	4,610
23,000	0.528	0.208696	4,800
24,000	0.551	0.207917	4,990
25,000	0.574	0.207200	5,180
26,000	0.597	0.206538	5,370
27,000	0.620	0.205926	5,560
28,000	0.643	0.205357	5,750
29,000	0.666	0.204828	5,940
30,000	0.689	0.204333	6,130
31,000	0.712	0.203871	6,320
32,000	0.735	0.203438	6,510
33,000	0.758	0.203030	6,700
34,000	0.781	0.202647	6,890
35,000	0.803	0.202286	7,080
36,000	0.826	0.201944	7,270
37,000	0.849	0.201622	7,460
38,000	0.872	0.201316	7,650

39,000	0.895	0.201026	7,840
40,000	0.918	0.200750	8,030
41,000	0.941	0.200488	8,220
42,000	0.964	0.200238	8,410
43,000	0.987	0.200000	8,600
44,000	1.010	0.197977	8,711
45,000	1.033	0.196044	8,822
46,000	1.056	0.194196	8,933
47,000	1.079	0.192426	9,044
48,000	1.102	0.190729	9,155
49,000	1.125	0.189102	9,266
50,000	1.148	0.187540	9,377
51,000	1.171	0.186039	9,488
52,000	1.194	0.184596	9,599
53,000	1.217	0.183208	9,710
54,000	1.240	0.181870	9,821
55,000	1.263	0.180582	9,932
56,000	1.286	0.179339	10,043
57,000	1.309	0.178140	10,154
58,000	1.331	0.176983	10,265
59,000	1.354	0.175864	10,376
60,000	1.377	0.174783	10,487
61,000	1.400	0.173738	10,598
62,000	1.423	0.172726	10,709
63,000	1.446	0.171746	10,820
64,000	1.469	0.170797	10,931
65,000	1.492	0.169877	11,042
66,000	1.515	0.168985	11,153
67,000	1.538	0.168119	11,264
68,000	1.561	0.167279	11,375
69,000	1.584	0.166464	11,486
70,000	1.607	0.165671	11,597
71,000	1.630	0.164901	11,708
72,000	1.653	0.164153	11,819
73,000	1.676	0.162740	11,880
74,000	1.699	0.161365	11,941
75,000	1.722	0.160027	12,002
76,000	1.745	0.158724	12,063
77,000	1.768	0.157455	12,124
78,000	1.791	0.156218	12,185
79,000	1.814	0.155013	12,246
80,000	1.837	0.153838	12,307
81,000	1.860	0.152691	12,368
82,000	1.882	0.151573	12,429
83,000	1.905	0.150482	12,490
84,000	1.928	0.149417	12,551
85,000	1.951	0.148376	12,612
86,000	1.974	0.147360	12,673
87,000	1.997	0.146368	12,734

88,000	2.020	0.145398	12,795
89,000	2.043	0.144449	12,856
90,000	2.066	0.143522	12,917
91,000	2.089	0.142615	12,978
92,000	2.112	0.141728	13,039
93,000	2.135	0.140860	13,100
94,000	2.158	0.140011	13,161
95,000	2.181	0.139179	13,222
96,000	2.204	0.138365	13,283
97,000	2.227	0.137567	13,344
98,000	2.250	0.136786	13,405
99,000	2.273	0.136020	13,466
100,000	2.296	0.135270	13,527
101,000	2.319	0.134535	13,588
102,000	2.342	0.133814	13,649
103,000	2.365	0.132913	13,690
104,000	2.388	0.132038	13,732
105,000	2.410	0.131190	13,775
106,000	2.433	0.130368	13,819
107,000	2.456	0.129570	13,864
108,000	2.479	0.128796	13,910
109,000	2.502	0.128046	13,957
110,000	2.525	0.127318	14,005
111,000	2.548	0.126613	14,054
112,000	2.571	0.125929	14,104
113,000	2.594	0.125265	14,155
114,000	2.617	0.124623	14,207
115,000	2.640	0.124009	14,261
116,000	2.663	0.123422	14,317
117,000	2.686	0.122846	14,373
118,000	2.709	0.122297	14,431
119,000	2.732	0.121639	14,475
120,000	2.755	0.120992	14,519
121,000	2.778	0.120355	14,563
122,000	2.801	0.119730	14,607
123,000	2.824	0.119114	14,651
124,000	2.847	0.118508	14,695
125,000	2.870	0.117912	14,739
126,000	2.893	0.117325	14,783
127,000	2.916	0.116748	14,827
128,000	2.938	0.116180	14,871
129,000	2.961	0.115620	14,915
130,000	2.984	0.115069	14,959
131,000	3.007	0.114504	15,000

NOTE: No Floor Area any residential zone shall exceed 15,000 square feet.

- B. Any house which exceeds 15,000 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

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, if applicable, 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 March 15, 2018 or upon such time as the instant local law is filed with the Secretary of State, whichever date is sooner.

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.