

VILLAGE OF CHESTNUT RIDGE
LOCAL LAW NO. 7 OF 2021
A LOCAL LAW AMENDING CHAPTER 195, ZONING,
TO ADJUST THE DEFINITIONS OF BASEMENT, CELLAR, GROSS FLOOR AREA,
HEIGHT AND STORY;
TO ADD DEFINITIONS OF FIRST FLOOR, GRADE PLANE, AND STORY ABOVE GRADE;
AND TO EXEMPT CERTAIN BASEMENT AND GARAGE AREAS FROM CALCULATION OF
GROSS FLOOR AREA

Be it enacted by the Village Board of Trustees of the Village of Chestnut Ridge by authority of Article 7 of the Village Law and Article 2, Section 10 of the Municipal Home Rule Law, as follows:

(Note: The symbol “ * * * *” indicates portions of the Code to remain unchanged, which are not shown here for brevity.)*

Section 1: Legislative findings and intent. The Village Board of the Village of Chestnut Ridge hereby finds and declares:

1. The Village periodically reviews its Zoning Code to ensure that the various provisions continue to effectively implement the Purposes of the Code set forth in Section 290-3:
 - A. *The Village's environmental resources are limited; the protection and enhancement of environmental, human and community resources must be fully respected.*
 - B. *The impacts of growth must be controlled to maintain the rural, semirural, and suburban character of the Village consistent with the ability of the Village to provide facilities and services.*
 - C. *Commercial development must not be permitted to cause adverse impacts on the circulation facilities and on community appearance and should meet locally generated needs.*
 - D. *Public facilities and services, including roads, drainage, and recreation, must be planned and implemented consistent with the ability of the community to fund such facilities and the need to provide for an expanded population and not as a response to incremental and disjointed growth.*
 - E. *Housing and employment opportunities should be broadened to the extent possible, by encouraging a wider variety of housing units and employment-producing land uses.*
 - F. *A greater role for the public must be encouraged, both at the community level for policy implementation and at the neighborhood level for land use implementation.*

The Village identified certain definitions in the Zoning Code that require modification in order to effectuate these policies.

2. Changed economic conditions, an influx of residents with larger families, an influx of residents that choose to live with extended families, and real estate market trends since 2017, when definitions were last adjusted, have led to a demand from Village residents to build larger structures than are permitted under the current zoning restrictions.
3. Current zoning restrictions and definitions are such that any below-grade spaces that meet building code requirements for habitability effectively count toward Floor Area Ratio (FAR)

restrictions, which prescribe a maximum floor area of all structures on a lot as a function of the lot area of the site multiplied by a percentage and which is intended to prevent incompatibly-sized residential structures within neighborhoods, and to require larger structures be located on larger lots.

4. The Village Board finds that current FAR restrictions allow structures that are already at the maximum size that can reasonably be anticipated to be compatible with the character of existing neighborhoods.
5. The current exemption of basement areas with ceiling heights of less than six feet, three inches from the definition of “gross floor area,” results in a regulatory environment that encourages low ceiling heights that do not meet building code requirements. The Village finds that such areas can be easily occupied in a manner contrary to the building code, without any indication apparent from the outside of the building, leading to potentially dangerous conditions.
6. If designed appropriately, residential floor area located predominantly below grade will not be evident from surrounding properties and will not impact neighborhood character. In order to accommodate Village residents choosing to live with larger households, it is believed that allowing habitable, below-grade spaces that do not count toward FAR standards will allow for larger living spaces without impacting the look of residential structures.
7. The Village Board further finds that below-grade spaces may be developed with ceiling heights of seven feet or greater, the minimum required height for habitability under State-mandated building codes, without any appreciable impact on the character or aesthetics of Chestnut Ridge residential neighborhoods and business districts, so long as certain controls are implemented that prevent grades from being manipulated in a way that will lead to awkwardly appearing sites and structures.
8. The Village Board further finds that non-residential floor area within a basement located predominantly below grade can provide additional usable floor area without resulting in impacts to the community or the environment, so long as such areas are limited in use to storage, or for uses that do not occur concurrently with areas that are counted toward floor area ratio, so long as parking requirements are based on the most intensive use.

Section 2: Amend Chapter 290, Zoning, §290-116 Definitions, by modifying existing definitions or adding new definitions in alphabetical order, as follows:

§ 290-116 Definitions.

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

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BASEMENT

A story that is not a story above grade.

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CELLAR

See basement.

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FLOOR AREA RATIO (FAR)

The gross floor area of all buildings on a lot divided by the gross area of the lot, as adjusted pursuant to 290-26.

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GRADE PLANE

A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane shall be established by the average of the lowest points within the area between the building and the lot line or, where the lot line is more than 6 feet from the building, between the building and a point 6 feet from the building.

GROSS FLOOR AREA

- A. The sum of the gross horizontal area of every floor of a building, measured from the exterior faces of exterior walls or from the center line of party walls separating the two buildings, including:
 - (1) Basement space.
 - (2) Attic space, whether or not a floor has been laid, over which there is structural headroom of six feet three inches or more.
 - (3) Roofed porches, and breezeways.
 - (4) Garages.

- B. Regardless of the internal arrangement of a building, it shall be deemed to have at least one floor for each 20 feet of height or a major fraction thereof. However, a floor area does not include:
 - (1) Terraces, unroofed open porches, and steps.
 - (2) Interior loading berths.
 - (3) Crawl space.

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HEIGHT

The vertical distance from the grade plane to the highest point of the roof for flat roofs and to the mean height between eaves and ridge for gable, hip and gambrel roofs of such building (or nonbuilding uses), except as specifically exempted in Article VI, § 290-21.

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STORY

That part of any building, including cellars and basements, comprised between the level of one finished floor and the level of the next higher finished floor or, if there is no higher finished floor, then that part of the building comprised between the level of the highest finished floor and the top of the roof beams. Each 10 feet or fraction thereof of height shall be deemed a story in absence of

finished floors. A crawl space does not count as a story.

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STORY ABOVE GRADE

Any story having its finished floor surface entirely above grade plane, or in which the finished surface of the floor next above is (1) more than 6 feet above grade plane; or (2) in which the finished surface of the floor next above is more than 12 feet above the finished ground level at any point.

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Section 3: Amend Chapter 290, Zoning, §290-26 Supplementary Regulations, as follows:

§ 290-26 Exemption of certain basement areas from calculation of gross floor area.

The following areas shall not be counted toward gross floor area. Any floor area in a structure added pursuant to the provisions of this section must fully comply with the provisions of the New York State Uniform Fire Prevention and Building Code,

- A. Up to 500 square feet of an unheated garage area accessory to a one-family detached residence, used for storage of automobiles and other goods and equipment customarily stored in a one-family residential garage.
- B. All or a portion of a basement that:
 - (1) Is located entirely below a story above grade; and
 - (2) Does not exceed 40% of the total gross floor area; and
 - (3) Meets one or more of the following:
 - (a) Is located within a one-family detached residence; or
 - (b) Is used exclusively for storage; or
 - (c) Is not used or occupied concurrently with an equivalent area of the structure located in a story above grade, which restriction shall be made a condition of site plan, special permit and/or conditional use approval and referenced in the certificate of use or occupancy. In calculating the parking requirement for non-concurrently used spaces that have differing parking requirements under this code, only the area subject to the greater parking requirement shall be considered and the other non-concurrently used space shall not be counted.

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Section 4: Separability. If any section, subsection, clause, or provision of this Local Law shall be deemed by any court of competent jurisdiction to be unconstitutional, ineffective, or otherwise legally invalid or unenforceable, in whole or in part, to the extent that it is not unconstitutional, ineffective, or otherwise legally invalid or unenforceable, it shall be valid and effective and no other section, subsection, clause or provision shall, on account thereof, be deemed invalid or ineffective.

Section 5: This local law shall take effect immediately upon filing with the Secretary of State.